

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. 14-6-JC

CHARLES D. DAVENPORT, P 22768,

Respondent/Appellee.
_____ /

ORDER AFFIRMING HEARING PANEL ORDER OF SUSPENSION

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

On May 7, 2014, Washtenaw County Hearing Panel #4 of the Attorney Discipline Board entered an order suspending respondent's license to practice law in Michigan for a period of one year, effective May 29, 2014.¹ Respondent petitioned for review seeking a decrease in the discipline imposed. The Grievance Administrator filed a cross-petition for review seeking an increase in the discipline imposed.

The Attorney Discipline Board has conducted review proceedings in accordance with MCR 9.118, including a review of the record before the hearing panel and consideration of the briefs and arguments presented by the parties at a public review hearing conducted on July 16, 2014.²

In this review proceeding, respondent contends that the panel erred by failing to rely upon a finding made by an administrative law judge in a hearing before the State of Michigan Administrative Hearing System that reversed a requirement that respondent pay restitution to the Michigan Department of Labor and Economic Growth. However, the Board is not persuaded that the hearing panel should have relied upon the administrative law judge's factual findings. As the panel correctly pointed out, that decision did not address respondent's intentional failure to report income to the Michigan Department of Licensing and Regulatory Affairs Unemployment Insurance Agency at a time in which he also received unemployment benefits; the sole subject of the criminal proceedings against respondent and which formed the basis of his subsequent conviction. The certified copy of the judgment of conviction filed by the Grievance Administrator to initiate this matter is, pursuant to MCR 9.120(B)(2), conclusive proof of respondent's commission of the criminal offense.

The record below reflects that respondent paid the restitution and fines imposed in the criminal matter in full, and there was no indication that respondent failed to comply with the terms of his probation. The panel's report indicates that it carefully considered the applicable ABA Standard, the aggravating factors present, prior precedent of this Board as cited by the parties, as well as the penalty imposed in the criminal proceedings before determining the discipline to impose.

¹ Respondent's request for a stay of discipline under MCR 9.115(K) was denied by the Board on June 19, 2014.

² On June 17, 2014, the Grievance Administrator filed a motion to strike attachments "B" and "C" attached to respondent's brief in support of his petition for review. Because respondent's attachments "B" and "C" were not offered and/or admitted as exhibits in the underlying proceedings, they were not reviewed and/or relied upon by the Board in this review proceeding. A separate order granting the Grievance Administrator's motion will therefore not be issued as the matter is moot.

The Grievance Administrator requests that discipline be increased to a two year suspension, but does not sufficiently explain why a two year suspension is more appropriate than the one year suspension imposed by the panel.

Upon careful consideration of the whole record and the authorities and precedent cited by the parties, the Board is not persuaded that the hearing panel's decision to order a one year suspension was inappropriate.

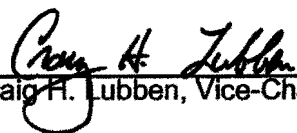
NOW THEREFORE,

IT IS ORDERED that the hearing panel Order of Suspension entered May 7, 2014, is **AFFIRMED**.

IT IS FURTHER ORDERED that respondent shall pay court reporting costs incurred by the Board for the review hearing conducted on July 16, 2014 in the amount of **\$106.50**. This cost shall be added to the payment plan currently in effect. Respondent's final payment shall now be due on or before March 27, 2016, in the amount of \$26.20. Costs may be paid by check or money order made payable to the State Bar of Michigan but submitted to the Attorney Discipline Board, 211 West Fort St., Ste. 1410, Detroit, MI 48226, for proper crediting.

ATTORNEY DISCIPLINE BOARD

By:


Craig H. Lubben, Vice-Chairperson

DATED: August 29, 2014

Board members Craig H. Lubben; Sylvia P. Whitmer, Ph.D.; Rosalind E. Griffin, M.D.; Carl E. Ver Beek; Lawrence G. Campbell; Dulce M. Fuller; Louann Van Der Wiele; and Michael Murray concur in this decision.

Board Chairperson James M. Cameron, Jr., was absent and did not participate.