

14 FEB 19 AM 10:24

Attorney Discipline Board

GRIEVANCE ADMINISTRATOR,
Attorney Grievance Commission,

Petitioner/Appellee,

v

Case No. 13-25-GA

KEVIN J. KOZMA, P 31989,

Respondent/Appellee.

ORDER AFFIRMING HEARING PANEL ORDER OF REPRIMAND

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

The Attorney Discipline Board has considered a petition for review filed by the complainant, Charles S. Rominger, on the grounds that the stipulation for consent order of reprimand approved by the Attorney Grievance Commission and accepted by the hearing panel resulted in insufficient discipline. The Attorney Discipline Board has conducted review proceedings in accordance with MCR 9.118.

On February 19, 2013, the Grievance Administrator filed a two-count formal complaint against respondent. The formal complaint was subsequently amended by stipulation of the parties to dismiss the original charges of misconduct and to add a new charge of failing to timely make payment of judgments entered against respondent, in violation of MRPC 3.4(c). As a result, the issue before Kent County Hearing Panel #4 when it considered whether to accept the stipulation for consent order of discipline submitted by the parties, was whether a reprimand is the appropriate level of discipline to impose for respondent's no contest plea to the new charge.

The stipulation submitted by the parties further cited in support of a reprimand, ABA Standard 6.23 and the mitigating factors referenced in ABA Standard 9.23(a) (absence of a prior disciplinary record), and 9.23(k) (imposition of other penalties and sanctions). The panel's order and accompanying report noted that the panel saw its role as "passing on the appropriateness of the agreed-upon discipline in light of the amended complaint and the stipulated misconduct" and that an order of reprimand fell within the scope of appropriate discipline. The Board is satisfied that the panel made an informed decision to accept the stipulation for consent order of reprimand in this matter.

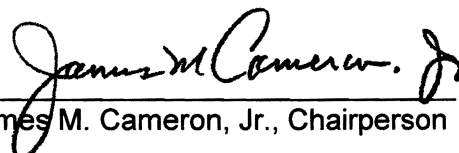
With regard to Mr. Rominger's objection to the dismissal of the original charges, and request that we reverse the panel's acceptance of the stipulation for consent order of reprimand and remand to a different hearing panel to "fully investigate respondent's conduct and determine the appropriate discipline," we have previously and consistently held, that this Board will not review

the inherently prosecutorial decisions of the Attorney Grievance Commission or the Grievance Administrator to voluntarily dismiss a particular charge of misconduct. Such decisions are beyond the scope of the Board's review. See *Grievance Administrator v Frederick L. McDonald*, 06-3-GA (2007), citing *Matter of Bufalino*, 36580-A (1981); *Grievance Administrator v Richard Durant*, 208-88 (1990); *Grievance Administrator v Kurt A. O'Keefe*, 90-13-GA (1992); and *Grievance Administrator v Mark L. Brown*, 95-68-GA (1996).

NOW THEREFORE,

IT IS ORDERED that the consent order of reprimand issued by Kent County Hearing Panel #4 on August 2, 2013 is **AFFIRMED**.

ATTORNEY DISCIPLINE BOARD

By: 
James M. Cameron, Jr., Chairperson

DATED: February 19, 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 and Michael Murray concur in this decision.

Louann Van Der Wiele did not participate in this decision.