

SUBSEQUENT HISTORY

The 30 day suspension scheduled to go into effect on 12/14/11 has been **STAYED** based on Respondent's filing of an Application for Leave to Appeal with the Michigan Supreme Court on 11/30/11.

STATE OF MICHIGAN

Attorney Discipline Board

GRIEVANCE ADMINISTRATOR,
Attorney Grievance Commission,

Petitioner/Appellant,

v

Case No. 11-6-GA

PAUL J. PEMBERTON, P 18760,

Respondent/Appellee.

FILED
ATTORNEY DISCIPLINE BOARD
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ORDER INCREASING DISCIPLINE TO SUSPENSION OF 30 DAYS

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

The Grievance Administrator petitioned the Attorney Discipline Board for review of the order of reprimand entered in this matter by Tri-Valley Hearing Panel #1 on June 10, 2011. The Board has conducted review proceedings in accordance with MCR 9.118, which included a review of the record before the hearing panel and consideration of the briefs and arguments submitted by the parties.

The Administrator argues that the panel erred in failing to find certain misconduct based on the record before it. We do not find a basis to disturb the panel's factual findings or its conclusions regarding misconduct, with one exception. We conclude that the facts as found by the panel clearly establish a violation of MRPC 5.5(a) which directs that:

5.5(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

The hearing panel's factual finding that respondent appeared before the 80th District Court as an attorney at a time when his license was suspended for failure to pay his annual dues to the State Bar of Michigan was sufficient to establish a violation of MRPC 5.5(a).

The Administrator also argues that a reprimand is insufficient discipline under the circumstances of this case. We agree. In light of respondent's knowing decision to appear in court after suspension of his license to practice law for nonpayment of dues, and his record of previous misconduct, a suspension of 30 days is appropriate. See Standard 7.2 of the American Bar Association's Standard for Imposing Lawyer Sanctions.

NOW THEREFORE,

IT IS ORDERED that, the hearing panel's findings and conclusions regarding misconduct are **MODIFIED** to include a finding that respondent's unauthorized practice of law at a time when his license was suspended for failure to pay annual bar dues was in violation of MRPC 5.5(a).

IT IS FURTHER 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 December 14, 2011**, 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 respondent shall pay court reporting costs incurred by the Board for the review hearing conducted on September 14, 2011, in the amount of \$119.00. This cost shall be added to the payment plan currently in effect. Respondent's final payment shall now be due on or before March 15, 2013, in the amount of \$119.00. 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:


Thomas G. Kienbaum, Chairman

DATED: November 15, 2011

Board members William J. Danhof, Thomas G. Kienbaum, William L. Matthews, C.P.A., Andrea L. Solak, Rosalind E. Griffin, M.D., Carl E. Ver Beek, Craig H. Lubben and Sylvia P. Whitmer, Ph.D, concur in this decision.

Board member James M. Cameron, Jr., did not participate.