

# Attorney Discipline Board

GRIEVANCE ADMINISTRATOR,  
Attorney Grievance Commission,

Petitioner,

v

Case No. 07-168-GA

SUE E. RADULOVICH, P 33346

Respondent.

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10 JUN 25 AM 11:50  
ATTORNEY DISCIPLINE BOARD

## **ORDER AFFIRMING HEARING PANEL ORDER OF SUSPENSION WITH CONDITION AND MODIFYING EFFECTIVE DATE**

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

Tri-County Hearing Panel #5 of the Attorney Discipline Board issued an order on November 11, 2009, suspending respondent's license to practice law in Michigan for a period of 180 days and requiring her to pass the Multi-State Professional Responsibility Exam (MPRE) before becoming eligible to petition for reinstatement.

The hearing panel found that respondent committed acts of professional misconduct, including: charging an excessive fee in violation of MRPC 1.5(a); improperly acquiring a pecuniary interest adverse to the client in violation of MRPC 1.8(a); and revealing or using client confidences to the disadvantage of the client, in violation of MRPC 1.6(b)(3), 1.8(b) and 1.9(c). The hearing panel ordered a suspension of 180 days, later clarifying at the Board's request that the suspension was intended to run consecutive to a suspension currently in effect.<sup>1</sup> Respondent petitioned for review arguing that the panel erred in finding misconduct, should not have imposed the requirement that respondent take the Multistate Professional Responsibility Examination, and that a 180-day suspension is excessive. The Grievance Administrator cross-petitioned and argued that a one year suspension should be imposed.

The Attorney Discipline Board has conducted review proceedings in accordance with MCR 9.118 and has considered the briefs and arguments submitted by the parties, including the petitioner's cogent and persuasive brief in response to respondent's brief on review.

We review the hearing panel's findings of fact for "proper evidentiary support on the whole record." *Grievance Administrator v August*, 438 Mich 296, 304 (1991); *Grievance Administrator v Lopatin*, 462 Mich 248 n12 (2000). Respondent has not established that the panel's decision lacks proper evidentiary support or is otherwise erroneous.

After entry of the order of discipline in this matter, the petitioner filed a motion seeking clarification of the effective date of the suspension in this matter. Because respondent was suspended for 120 days in an earlier case (Case No. 06-50-GA), the petitioner sought clarification, and if necessary modification, as to the effective date of the 180-day suspension ordered in this

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<sup>1</sup> A suspension of 120 days was imposed in *Grievance Administrator v Sue E. Radulovich*, ADB No. 06-50-GA and became effective on October 3, 2009.

case. Essentially, the question came down to whether the panel intended the suspension to commence 21 days after the issuance of its order (i.e., on December 3, 2009), or whether the panel desired the suspension in this case to become effective after respondent became eligible to seek reinstatement pursuant to MCR 9.123(A) in Case No. 06-50-GA (i.e., on February 1, 2010). On remand from this Board to the hearing panel for consideration of petitioner's motion, the hearing panel issued a supplemental report on discipline stating its "unanimous intention that no portion of the 180-day period of suspension . . . imposed [in this case] run concurrently with the much-earlier imposed 120-day term of suspension in Case No. 06-50-GA." We find no error in the hearing panel's determination that there is good cause for the order of discipline to take effect on February 1, 2010.

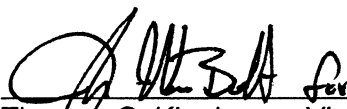
Also before us is the petitioner's request for an increase in discipline from a suspension of 180 days to one year. As we stated in *Grievance Administrator v David A. Woelkers*, 97-214-GA (ADB 1998), pp 6-7, lv den 602 NW2d 579 (1999), "the Board possesses, of necessity, a relatively high measure of discretion with regard to the appropriate level of discipline. . . to carry out what the Court has described as the Board's overview function of continuity and consistency in discipline imposed." However, if the discipline ordered is not inappropriate, we frequently defer to the hearing panel's assessment of the proper level of discipline to be imposed. *Cf.*, *Grievance Administrator v Lopatin*, 462 Mich 235, 247 n12 (2000). In this case, the panel has imposed a 180-day suspension to run consecutive to respondent's previous suspension and has also ordered that respondent pass the MPRE before petitioning for reinstatement pursuant to MCR 9.123(B) and MCR 9.124. In light of the panel's careful consideration of this matter at the misconduct and discipline phases, we see no reason to disturb the panel's determination as to the discipline imposed.

**NOW THEREFORE,**

**IT IS ORDERED** that the hearing panel order of suspension and restitution issued by Tri-County Hearing Panel #5 on November 11, 2009 is **AFFIRMED**, except that the order shall be **MODIFIED** to reflect that the 180-day suspension herein shall be deemed to have commenced on **February 1, 2010**.

**IT IS FURTHER ORDERED** that respondent shall, on or before **July 24, 2010**, pay costs in the amount of **\$4,621.48**, consisting of costs assessed by the hearing panel in the amount of \$4,504.98 and court reporting costs incurred by the Attorney Discipline Board in the amount of \$116.50 for the review proceedings conducted on May 12, 2010. Check or money order shall be 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. (See attached instruction sheet).

ATTORNEY DISCIPLINE BOARD

By:   
Thomas G. Kienbaum, Vice-Chairperson  
(w/permission)

DATED: June 25, 2010

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

Board member William J. Danhof was absent and did not participate.