

Attorney Discipline Board

FILED
ATTORNEY DISCIPLINE BOARD

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In the Matter of the Reinstatement Petition of
JOEL S. GEHRKE, P 39871,

Petitioner/Appellant,

Case No. 08-107-RP

**ORDER AFFIRMING HEARING PANEL ORDER
DENYING PETITION FOR REINSTATEMENT**

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

Petitioner, Joel S. Gehrke, petitioned the Attorney Discipline Board for review of a hearing panel order entered January 12, 2010, denying his petition for reinstatement. The Attorney Discipline Board has conducted review proceedings in accordance with MCR 9.118, including review of the record before the hearing panel and consideration of the briefs and arguments presented to the Board at a review hearing conducted on March 17, 2010, and the Board is otherwise fully advised,

NOW THEREFORE,

IT IS ORDERED that the hearing panel order denying petition for reinstatement entered by Kent County Hearing Panel #4 on January 12, 2010 is **AFFIRMED**.

In response to petitioner's February 2009 motion to abate or modify the restitution and cost provisions in the underlying discipline order,¹ the Board entered an order in that matter on July 30, 2009 which provided, in part,

Additionally, we agree with the Administrator's observation that the reinstatement panel may, in any event, hear the pertinent facts, including petitioner's financial condition, and determine, without re-litigating the restitution obligation, whether petitioner's efforts at restitution are reasonable in the course of determining petitioner's eligibility for reinstatement in all other respects.

We are not persuaded that the hearing panel erred in its determination that petitioner has not made a reasonable effort to discharge his obligation to make restitution to Julie Winnie in the amount of \$40,550.12, as ordered in the order of suspension and restitution issued August 13, 2007. Moreover, regardless of whether petitioner filed his petition for reinstatement before or after the term of suspension ordered had fully elapsed, petitioner was subject to that portion of MCR 9.124(B)(4) which directs:

¹*Grievance Administrator v Joel S. Gehrke*, Case No. 05-29-GA, HP Order of Suspension and Restitution dated August 13, 2007.

All petitioners remain under a continuing obligation to provide updated information bearing upon the petition or the personal history affidavit. (Emphasis added).

Petitioner has failed to provide the hearing panel, or the Board, with a reasonable explanation for his failure to provide updated information to the panel prior to the reinstatement hearing on December 1, 2009, regarding his receipt of a check in the amount of \$90,320.67 from his former employer in July 2009.

IT IS FURTHER ORDERED that respondent shall, on or before, **June 3, 2010**, pay costs in the amount of **\$1,955.81**, which total represents \$1,845.06 in costs previously assessed in the hearing panel order of January 12, 2010, and \$110.75 for transcript fees incurred at the review hearing conducted March 17, 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:



William J. Danhof, Chairperson

DATED: May 3, 2010

Board members William J. Danhof, Thomas G. Kienbaum, Craig H. Lubben, James M. Cameron, Jr., and Sylvia Whitmer, Ph.D, concur in this decision.

Board members William L. Matthews, C.P.A., and Rosalind E. Griffin, M.D. did not participate.

Board members Andrea L. Solak and Carl E. Ver Beek were voluntarily recused.