

IN THE MATTER OF WOODROW H. FLOYD,
A Member of the State Bar of Michigan,
Respondent.
File No. DP-112/81

Decided: June 8, 1983

OPINION OF THE BOARD

Respondent neglected a probate matter and failed to preserve and identify client funds properly. The Hearing Panel suspended him for 30 days. The Grievance Administrator appealed, claiming the discipline imposed was insufficient. Respondent did not request a stay of discipline and has served the suspension. We conclude that greater discipline is necessary in this case. Respondent will be suspended for 121 days, requiring a hearing on a petition for reinstatement. GCR 1963, 972.

In January 1974, Respondent was appointed executor of a certain estate. Pursuant to the Will, Respondent was appointed and qualified as Special Administrator of the estate on January 15, 1974. He was suspended as Special Administrator by the Probate Court in May, 1974, then reinstated in response to a petition in October 1974.

The will was admitted to probate on November 27, 1974 and Respondent was granted letters of authority as executor in December 1974. The first Inventory filed in February, 1975 listed \$709.28 in cash and the decedent's home as assets of the estate.

Respondent never placed the assets of the estate in a separate identifiable trust² account, but instead commingled them with his own personal property. In fact, the home was not an asset of the estate because it had been forfeited to the State of Michigan in 1967 for failure to pay taxes.³ Because he was unaware of this fact (which a check of the Wayne County Register of Deeds Tract Index would have revealed, Respondent arranged a tentative sale of the house to a third party.⁴ The parties discovered that the property had been forfeited when they attempted to close the sale.⁵

In April 1975, a check for \$24.16 was issued to decedent by her bank. The check was improperly issued to decedent instead of her estate. Respondent did not maintain a trust account and therefore could not negotiate the check. The debt is no longer collectable because the statute of limitations has run.⁶

In May 1976, Respondent was again suspended as Special Administrator. As of the panel hearing on October 11, 1982 the last action taken by Respondent on the estate was the filing of an Amended Inventory on July 16, 1982. No accounting had been filed,

We are persuaded that the extended period of neglect and the conversion of funds require a longer suspension, in part because of the prior record of discipline. Respondent's discipline history, including three reprimands and a prior suspension of 30 days, indicates a continuing pattern of carelessness and neglect. His most recent misconduct indicates that he still lacks a clear understanding of his responsibilities to his clients. While this Respondent makes a compelling plea

of regret and remorse, we cannot ignore the continuing pattern of similar past offenses and must impose a more severe sanction in the interest of public protection. A suspension of 121 days will require Respondent to show a clear understanding of the standards of conduct required by the profession. GCR 1963, 972.2(6). The mishandling and neglect of the client matters in this case is exacerbated by a failure to properly identify and segregate client assets from his personal assets. This, of course, can be an extremely serious breach of duty where an intent to deprive the client of property is demonstrated; but here, we see a pattern of neglect and carelessness calling for re-evaluation which is the purpose of the reinstatement procedure.

The suspension is increased to 121 days, Respondent will be credited with the 30 days suspension already served but will be required to issue an additional `notice to his clients of his change in status. GCR 1963, 968.

FOOTNOTES

1. Grievance Administrator's Exhibit #1, Wayne County Probate Court File 646, 415.
2. Transcript, page 16.
3. Transcript, page 13.
4. Panel Report, page 4; Transcript pages 11-15.
5. Transcript, pages 11-13.
6. Transcript, pages 13, 14.