

IN THE MATTER OF THOMAS S. HALPIN, III,
A Member of the State Bar of Michigan,
Respondent
No. 35055-A

Decided: September 26, 1980

OPINION OF THE BOARD

Respondent was employed by Complainant Krell as an associate. Respondent received a salary and half the fees of all clients he brought into the law office. He was responsible for interviewing and dealing with many of the clients himself. In many cases handled by Respondent, Krell had no association or contact with the client. After a period of time, Respondent decided to seek new employment, and parted amicably with Mr. Krell. Complainant Krell later discovered that Respondent had taken with him many files and index cards relating to clients from Krell's office. Respondent was charged by the Grievance Administrator with dishonesty and conduct involving moral turpitude. A hearing panel suspended him for one year. Both parties petitioned for review. Respondent argued that no clients were harmed; that it was uncontested that his relationship with Krell included the freedom to independently maintain his own clients; that he relied on his belief in good faith; that Krell rejected an accounting through arbitration and is motivated by revenge; that the discipline is excessive under the circumstances; and that the Panel found Respondent had violated GCR 953, which was not in existence at the time of misconduct. The Grievance Administrator asks for a disbarment. We think the record supports nothing more than a reprimand.

Respondent was employed by Krell from February, 1975, to June, 1976. He received about \$200 salary per week and 50% of fees from clients he brought in. Krell charged that when Respondent left his employ, he took with him many files and index cards listing clients; also that Respondent did not account for the fees paid by these clients. The Hearing Panel found that Respondent was given the authority to deal exclusively with many of the clients that came into, or were referred to Krell's office, as long as their cases were periodically reported to Krell. Respondent mistakenly came to believe that these clients were his, not his employer's. The Panel also found that Respondent did take certain files and index cards of Krell's, and that Respondent, while employed at the office, collected fees from at least two clients whose files he eventually took. No accounting of these fees has been made to Complainant. The Panel noted that Respondent handled these cases competently, and that no client complaints have been filed against him.

The Grievance Administrator argued that a substantial portion of Krell's practice originated in referrals from the Detroit Bar Referral Service. Krell, but not Respondent, was listed as a referral attorney. Even though Respondent alone dealt with many of the referral clients, they "belonged" to Krell. Respondent in argument emphasized the absence of harm to any client, and the lack of evidence contradicting a reasonable belief by Respondent that he could develop his own practice with such clients. The nature of the employment contract between Respondent and Complainant seems to have been misunderstood.

Although the record shows some misconduct on Respondent's part, we do not think he

should receive discipline more severe than a reprimand. Respondent should have communicated with Krell more fully before leaving Krell's office about the posture of the cases he believed were his. The record, however, does not show willful misrepresentation or fraud. There was some overreaching on Respondent's part, and he should have clarified the nature of his relationship with Krell. Such matters as to whom clients "belong" should not be left in doubt. Krell, too, should have filled in the details of his vague contract with Respondent. Respondent was less than candid with his employer, but apparently felt no need to explain his actions in advance. It is further noted that the lesser experienced of the two attorneys, Respondent, was misled by at least two Detroit Bar Association referral slips which bore his name and not that of his employer, Attorney Krell.

The Grievance Administrator's urging for a disbarment is actually quite baffling; it is not supported by the Panel findings or the record and, indeed, perhaps not even by the facts alleged in the Complaint. This is especially true considering Respondent's youth and inexperience, and the fact that his misconduct is largely attributable to his unfamiliarity with the etiquette of practice.

Respondent's suspension is reduced to a reprimand.