

2023-May-18

## Attorney Discipline Board

GRIEVANCE ADMINISTRATOR,  
Attorney Grievance Commission,

Petitioner,

v

Case No. 14-80-GA

TIMOTHY BARKOVIC P 29797,

Respondent  

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**ORDER DENYING RESPONDENT'S MOTION TO VACATE ORDER AND FOR REMAND**Issued by the Attorney Discipline Board  
333 W. Fort St., Ste. 1700, Detroit, MI

On August 1, 2014, the Grievance Administrator filed a four-count formal complaint against respondent alleging that he committed professional misconduct. The matter was assigned to Tri-County Hearing Panel #76. On September 15, 2015, the parties filed a stipulation for resignation and dismissal of formal complaint. The stipulation noted that respondent admitted the misconduct alleged in Counts Two and Three of the formal complaint, that the parties had agreed that the formal complaint would be dismissed in its entirety, that respondent would submit a letter of resignation to the State Bar of Michigan within seven days of the date of the order, and that respondent's resignation would be effective 90 days from date of the order.

Thereafter, the hearing panel accepted the parties' stipulation and an order to that effect was entered on November 30, 2015. On December 1, 2015, respondent sent a letter to the State Bar of Michigan that stated "Pursuant to the provisions of the Rules Concerning the State Bar, Rule 3(E), I hereby resign from membership in the State Bar of Michigan, *effective immediately*." (Emphasis added.) Respondent's letter of resignation was received by the State Bar on December 8, 2015.

In January 2017, respondent attempted to challenge his resignation in an action filed with the U.S. District Court for the Eastern District of Michigan in a matter titled *Timothy Barkovic v Attorney Grievance Commission, et al*, Case No. 2:17-cv-10281. In an order dated December 22, 2017, respondent's complaint was dismissed in its entirety by the U.S. District Court.

Four and a half years later, on July 19, 2021, respondent filed a motion requesting that the Board set aside his resignation and reinstate his license to practice law in Michigan. On October 27, 2021, the Board issued an order denying respondent's motion. Approximately, one year and five months later, on March 6, 2023, respondent filed a motion to vacate the Board's October 27, 2021 order and for remand to Tri-County Hearing Panel #76 arguing that the Attorney Discipline Board had no authority to decide his earlier motion to set aside his resignation and reinstate his license to

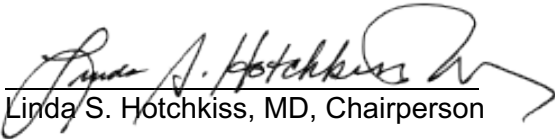
practice law because Tri-County Hearing Panel #76 retained jurisdiction over this matter. On March 20, 2023, the Grievance Administrator filed a response objecting to respondent's request for relief and requesting that the Board deny the motion in its entirety. Respondent filed a reply to the Administrator's response maintaining that the Board's order must be vacated and that this matter must be remanded to the hearing panel.

The Board has considered respondent's motion, the Administrator's response, and respondent's reply; and is otherwise fully advised;

**NOW THEREFORE,**

**IT IS ORDERED** that respondent's motion to vacate the Board's October 27, 2023 order and for remand to Tri-County Hearing Panel #76 is **DENIED**. Pursuant to MCR 9.111(C)(3), a hearing panel exercises continuing jurisdiction over its orders of discipline and reinstatement. Neither was entered in this matter. Rather, the hearing panel entered an order granting the parties' stipulation for resignation and for dismissal of the formal complaint. Under MCR 9.110(E)(4), the Board has the power and duty to review a final order of discipline or dismissal by a hearing panel. Therefore, the Board had the authority to review and decide respondent's earlier motion.

ATTORNEY DISCIPLINE BOARD

By:   
Linda S. Hotchkiss, MD, Chairperson

Dated: May 18, 2023

Board members Linda S. Hotchkiss, MD, Rev. Dr. Louis J. Prues, Peter A. Smit, Linda M. Orlans, Jason M. Turkish, Andreas Sidiropoulos, MD, Katie Stanley, and Tish Vincent concur in this decision.

Board Member Alan Gershel recused himself and did not participate.