

STATE OF MICHIGAN

Attorney Discipline Board

GRIEVANCE ADMINISTRATOR,
Attorney Grievance Commission,

Petitioner,

v

Case No. 15-120-GA

MARK W. STEPEK, P 40976

Respondent.

ORDER AFFIRMING HEARING PANEL ORDER OF SUSPENSION

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

Tri-County Hearing Panel #106 of the Attorney Discipline Board issued an order on August 17, 2016, suspending respondent's license to practice law in Michigan for a period of 30 days. The Grievance Administrator filed a petition for review arguing that the hearing panel imposed insufficient discipline. The Administrator specifically requested that the Board increase respondent's suspension to 179 days. Respondent's 30-day suspension became effective September 8, 2016. Respondent filed an affidavit of compliance pursuant to MCR 9.123(A) on October 10, 2016, and his license to practice law was reinstated that same date.

The Attorney Discipline Board has conducted review proceedings in accordance with MCR 9.118, including review of the evidentiary record before the panel and consideration of the brief and arguments presented by the parties at a review hearing conducted on December 14, 2016.

Although the hearing panel found, pursuant to respondent's no contest plea, that respondent's improper deposits of personal funds into his IOLTA was an intentional act to avoid creditors, (the IRS, with whom respondent has entered into an installment payment plan, and the State of Michigan), the hearing panel did not go so far as to find that respondent's actions amounted to dishonest conduct. In fact, the panel specifically found that respondent "did not act dishonestly with any intention to take or use funds which were to be held in trust for his clients," and appropriately considered this a mitigating factor under Standard 9.32(b). Furthermore, we find that the hearing panel correctly assessed the gravamen of respondent's conduct in this matter; funds that were meant to be held in trust, could have been depleted if a lien had been executed by the taxing authorities to whom respondent owed funds.

The hearing panel's report references and analyzes each component of the theoretical framework set forth in the ABA Standards. Additionally, the panel accepted the Administrator's argument that the suspension level standard found in ABA Standard 4.12 was the applicable Standard to consider, and analyzed all of the aggravating and mitigating factors the parties argued

were applicable. Finally, the hearing panel reviewed and considered prior precedent of the Board as presented by the Administrator, before determining the discipline to impose. Upon careful consideration of the whole record, the Board is not persuaded that the hearing panel's decision to order a 30-day suspension was inappropriate.

NOW THEREFORE,

IT IS ORDERED that the hearing panel's order of suspension issued August 17, 2016, is **AFFIRMED**.

ATTORNEY DISCIPLINE BOARD

By:  _____
Louann Van Der Wiele, Chairperson

DATED: December 20, 2016

Board members Louann Van Der Wiele, Rev. Michael Murray, Dulce M. Fuller, James A. Fink, John W. Inhulsen, Jonathan E. Lauderbach, Barbara Williams Forney, Karen O'Donoghue, and Michael B. Rizik, Jr., concur in this decision.