

STATE OF MICHIGAN
Attorney Discipline Board

FILED
ATTORNEY DISCIPLINE BOARD

2021-Aug-24

GRIEVANCE ADMINISTRATOR,
Attorney Grievance Commission,

Petitioner/Appellee,/Cross-Appellee,

v

Case No. 18-19-GA

GARY D. NITZKIN, P 41155,

Respondent/Appellant/Cross-Appellee

v

STEPHAN WILSON,

Complainant/Appellee/Cross-Appellant.

ORDER DENYING RESPONDENT'S MOTION FOR RECONSIDERATION

Issued by the Attorney Discipline Board
333 W. Fort St., Ste. 1700, Detroit, MI

Respondent, Gary D. Nitzkin, filed a motion seeking reconsideration of the Attorney Discipline Board's April 27, 2021 order affirming the hearing panel's order imposing a 90 day suspension and restitution with condition and ordering additional restitution. The Board has considered respondent's motion, and is otherwise fully advised;

NOW THEREFORE,

IT IS ORDERED that respondent's motion for reconsideration is **DENIED** for the reason that respondent has failed to demonstrate a palpable error by which the Board has been misled or to otherwise demonstrate that the April 27, 2021 decision of the Board was entered erroneously.

IT IS FURTHER ORDERED that the automatic stay pursuant to MCR 9.118(E) shall remain in effect for a period of 28 days from the date of this order.

IT IS FURTHER ORDERED that respondent's license to practice law in Michigan is **SUSPENDED FOR 90 DAYS, EFFECTIVE SEPTEMBER 22, 2021**, and until the respondent's filing of an affidavit of compliance in accordance with MCR 9.123(A).

IT IS FURTHER ORDERED that, in accordance with the hearing panel's August 6, 2020 Order of Suspension and Restitution with Condition, respondent shall, on or before **September 22, 2021**, pay restitution as follows:

1. Restitution to Elwyn T. McAfee, Kara Gamboa, and Todd Ivey, Sr. in the amount of \$1,000 per defendant from their underlying civil cases (3-4 defendants per case).

2. Restitution to Stacey R. Nathanson and Keith M. Nathanson for the entire settlement, split evenly between Mr. and Mrs. Nathanson.

IT IS FURTHER ORDERED that respondent shall, on or before **September 22, 2021**, and in addition to the restitution specifically set forth above, pay restitution of \$3,500 to Stephan Wilson.

Respondent shall file written proof of payment with the Attorney Grievance Commission and the Attorney Discipline Board within 10 days of the payment of restitution to each person.

IT IS FURTHER ORDERED that, in accordance with the hearing panel's August 6, 2020 Order of Suspension and Restitution with Condition, respondent is subject to the following condition:

1. Full review and approval by the Grievance Administrator of respondent's advertisements, brochures, and fee agreements.

IT IS FURTHER ORDERED that respondent shall not be eligible for reinstatement in accordance with MCR 9.123(A) unless respondent has fully complied with the restitution provision of this order.

IT IS FURTHER ORDERED that from the effective date of this order and until reinstatement in accordance with the applicable provisions of MCR 9.123, respondent is forbidden from practicing law in any form; appearing as an attorney before any court, judge, justice, board, commission or other public authority; or holding himself out as an attorney by any means.

IT IS FURTHER ORDERED that, in accordance with MCR 9.119(A), respondent shall, within seven days after the effective date of this order, notify all of his active clients, in writing, by registered or certified mail, return receipt requested, of the following:

1. the nature and duration of the discipline imposed;
2. the effective date of such discipline;
3. respondent's inability to act as an attorney after the effective date of such discipline;
4. the location and identity of the custodian of the clients' files and records which will be made available to them or to substitute counsel;
5. that the clients may wish to seek legal advice and counsel elsewhere; provided that, if respondent was a member of a law firm, the firm may continue to represent each client with the client's express written consent;
6. the address to which all correspondence to respondent may be addressed.

IT IS FURTHER ORDERED that, in accordance with MCR 9.119(B), respondent must, on or before the effective date of this order, in every matter in which respondent is representing a client in litigation, file with the tribunal and all parties a notice of respondent's disqualification from the practice of law.

IT IS FURTHER ORDERED that, respondent shall, within 14 days after the effective date of this order, file with the Grievance Administrator and the Attorney Discipline Board an affidavit of compliance as required by MCR 9.119(C).

IT IS FURTHER ORDERED that respondent's conduct after the entry of this order but prior to its effective date, shall be subject to the restrictions set forth in MCR 9.119(D); and respondent's compensation for legal services shall be subject to the restrictions described in MCR 9.119(F).

IT IS FURTHER ORDERED that respondent shall, on or before **September 22, 2021**, pay costs in the amount of **\$7,935.88** consisting of costs assessed by the hearing panel in the amount of \$7,780.88 and court reporting costs incurred by the Attorney Discipline Board in the amount of \$155.00 for the review proceedings conducted on December 9, 2020. Refer to the attached cost payment instruction sheet for method and forms of payment accepted.

ATTORNEY DISCIPLINE BOARD

By:


Jonathan E. Lauderbach, Chairperson

Dated: August 24, 2021

Board members Jonathan E. Lauderbach, Michael B. Rizik, Jr., Barbara Williams Forney, Karen O'Donoghue, Linda Hotchkiss, MD, Michael Hohausser, Peter A. Smit and Linda Orlans concur in this decision.

Board Member Alan Gershel was recused from this matter and did not participate.