

STATE OF MICHIGAN

Attorney Discipline Board

GRIEVANCE ADMINISTRATOR,
Attorney Grievance Commission,

Petitioner,

v

Case No. 19-130-GA

DAVID CHARRON, P 39455,

Respondent.

ORDER AFFIRMING HEARING PANEL ORDER OF SUSPENSION WITH CONDITION

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

Kent County Hearing Panel #4 of the Attorney Discipline Board issued an order on February 28, 2022, suspending respondent's license to practice law in Michigan for a period of 60 days with conditions, effective March 22, 2022. The Grievance Administrator filed a petition for review on March 17, 2022, seeking reversal of the hearing panel's finding that respondent did not violate Michigan Rule of Professional Conduct (MRPC) 3.4(c) and an increase in the discipline imposed to disbarment or at least a 180-day suspension. Respondent filed a timely cross-petition for review seeking dismissal of the formal complaint or a reversal of the findings of misconduct, and a reduction in the discipline imposed to a reprimand.

Respondent also filed a petition for stay, which resulted in an automatic stay of the hearing panel's February 28, 2022 order in accordance with MCR 9.115(K).

The Attorney Discipline Board has conducted review proceedings in accordance with MCR 9.118, including review of the record before the hearing panel and consideration of the briefs and arguments presented to the Board at a review hearing conducted on June 15, 2022.

NOW THEREFORE, for the reasons set forth in the accompanying opinion,

IT IS ORDERED that the hearing panel's Order of Suspension with Conditions, issued February 28, 2022, is **AFFIRMED**.

IT IS ORDERED that respondent's license to practice law in Michigan is **SUSPENDED FOR 60 DAYS, EFFECTIVE OCTOBER 25, 2022**, and until respondent's filing of an affidavit of compliance with the Attorney Discipline Board and the Attorney Grievance Commission in accordance with MCR 9.123(A).

IT IS FURTHER ORDERED that respondent is subject to the follow conditions, and within 60 days from the effective date of this order (on or before December 27, 2022), respondent shall:

1. Provide to the Grievance Administrator and the Attorney Discipline Board evidence from a qualified medical provider either (a) that respondent has and is under treatment for Type II diabetes; that symptoms of brain fog and failure of judgment - conditions to which respondent has testified under oath that could be attributable to that disease - are controlled by medication and other treatment that is being consistently administered; and that he is not prone to suffer these effects; or (b) that he does not have Type II diabetes.
2. Provide to the Grievance Administrator and the Attorney Discipline Board evidence from Glenn R. Morris that he has agreed to accept monthly payments of a stated obligation, and that payments have been and are being made by respondent as promised.
3. Provide to the Grievance Administrator and the Attorney Discipline Board evidence of consultation with either (a) a licensed counselor satisfactory to the Administrator or (b) the Lawyers and Judges Assistance Program to review respondent's unwillingness to take responsibility for his actions, and blaming of others for the consequences of his own conduct as evidenced by the record in this proceeding, and ability to accept responsibility for his conduct. The consultant shall provide to the Grievance Administrator and the Attorney Discipline Board a report of consultation and recommendations for further consultation or action.
4. Enter into, and provide to the Grievance Administrator and the Attorney Discipline Board a signed copy of, an agreement for mentorship with a mentor to be selected by respondent in collaboration with Judge Yates or a Circuit Court or Federal District Judge serving in Kent County and acceptable to this panel for consistent and regular consultation about respondent's practice and responses to challenges and situations demanding exercise of discretion and choice, including respecting others in the process of practicing law and ethical obligations in decision making. Among the subjects for mentoring is, was the misconduct in this proceeding an aberration or is he likely to take a similar approach to facts and circumstances as they challenge respondent; and how can this risk, if any, be managed and avoided. The terms of the mentoring agreement shall provide:
 - (a) The mentorship shall continue for one year from the date of agreement, subject to extension by reason of hiatus in mentoring availability. Respondent and the mentor shall meet at least once per month. All reasonable expenses of the mentor shall be paid by respondent.

- (b) Respondent shall provide the name and address of the selected mentor to the Grievance Administrator and the Attorney Discipline Board, and advise each of any change in the relationship promptly. A substitute mentor shall be identified as soon as possible in the same manner as the former mentor. The term of mentorship shall be extended by the amount of time between engagement of mentors.
- (c) Respondent shall provide a monthly written report of the mentor to the Grievance Administrator and the Attorney Discipline Board concerning the mentoring and how it is addressing the specific subjects of this Order as well as other matters affecting respondent's conduct as a lawyer.
- (d) The Grievance Administrator and the Attorney Discipline Board shall have the right to communicate with the mentor concerning the mentorship and its effect.

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 October 25, 2022, pay costs in the amount of **\$3,039.65** consisting of costs assessed by the hearing panel in the amount of \$2,840.65 and court reporting costs incurred by the Attorney Discipline Board in the amount of \$199.00 for the review proceedings conducted on June 15, 2022. Please refer to the attached cost payment instruction sheet for method and forms of payment accepted.

ATTORNEY DISCIPLINE BOARD

By: 

Michael B. Rizik, Chairperson

Dated: September 27, 2022

Board members Michael B. Rizik, Jr., Linda S. Hotchkiss, M.D., Rev. Dr. Louis Prues, Karen D. O'Donoghue, Michael S. Hohausser, and Jason M. Turkish concur in this decision.

Board members Peter A. Smit and Alan Gershel concur in the majority's decision to affirm the hearing panel's findings of misconduct, but dissent with regard to the majority's decision to affirm the discipline imposed by the hearing panel. They would increase discipline to a 180-day suspension with conditions.

Board member Linda M. Orlans was recused and did not participate.