

Attorney Discipline Board

2021-Nov-30

GRIEVANCE ADMINISTRATOR,
Attorney Grievance Commission,

Petitioner/Appellee,

v

Case No. 20-63-GA

ANONYMOUS ATTORNEY,

Respondent/Appellant.

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**ORDER GRANTING PETITION FOR INTERLOCUTORY REVIEW,
DISMISSING FORMAL COMPLAINT WITHOUT PREJUDICE, GRANTING
MOTION TO PERMANENTLY SEAL RECORD, AND DISMISSING MOTION TO
DISQUALIFY HEARING PANEL**

Pursuant to MCR 9.118(A)(1), respondent petitioned for interlocutory review of the Order Denying Respondent's Motion for Summary Disposition entered in this matter by Tri-County Hearing Panel #54 on March 5, 2021. Respondent also requested that the Board disqualify the hearing panel and order the record of these proceedings permanently sealed. The Attorney Discipline Board has considered respondent's petition for interlocutory review and reply, the Grievance Administrator's response, the briefs before the panel, and is otherwise fully advised.

In the instant petition for interlocutory review, respondent argues that the Grievance Administrator improperly referred to nonpublic information in the formal complaint. We agree. Under the statute applicable here, the information should not have been set forth in the formal complaint.

NOW THEREFORE,

IT IS ORDERED that respondent's petition for interlocutory review is **GRANTED**.

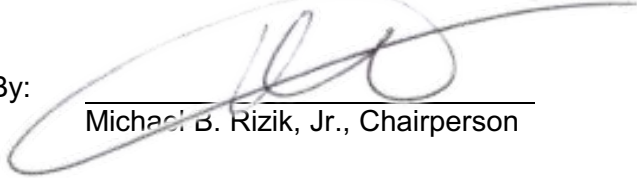
IT IS FURTHER ORDERED that the formal complaint is **DISMISSED** without prejudice to the refiling of a formal complaint that does not refer to the nonpublic information. See *In re Woll*, 401 Mich 155, 161; 257 NW2d 650 (1977) ("The Board has, within its discretion, the authority to dismiss a complaint with prejudice or without prejudice"). See also *Grievance Adm'r v Attorney Discipline Bd*, 447 Mich 411; 522 NW2d 868 (1994) (Board "may enter a discontinuance without prejudice to further proceedings if, in the particular circumstances of an individual case, that is the appropriate order"); *Grievance Adm'r v Hibler*, 457 Mich 258; 577 NW2d 449 (1998); *Grievance Adm'r v David G. Lutz*, 18-114-GA (ADB 2018).

IT IS FURTHER ORDERED that respondent's motion to permanently seal the records in this case is hereby **GRANTED**.

IT IS FURTHER ORDERED that respondent's motion to disqualify the hearing panel is **DISMISSED** for the reason that the respondent's request is rendered moot upon dismissal of the formal complaint. Furthermore, the filing of a new formal complaint will automatically generate a new panel assignment.

ATTORNEY DISCIPLINE BOARD

By:



Michael B. Rizik, Jr., Chairperson

Dated: November 30, 2021

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

Board Member Alan Gershel recused himself and did not participate.