

ARGUMENT

PROBATION AND REQUIRED EDUCATION IS THE APPROPRIATE SANCTION IN THIS CASE WHERE RESPONDENT'S ACTIONS WERE ONLY OF A PROCEDURAL MANNER WHICH WAS APPROPRIATE UP UNTIL THE AMENDMENT IN THE YEAR 2011. RESPONDENT'S ACTIONS WERE NOT MISLEADING OR DECEITFUL AND/OR DISHONEST NOR DID ANY CLIENT MAKE A COMPLAINT AS TO THE PRESENT ACCUSATION OF THE RESPONDENT.

Respondent's actions of placing moneys within his working account rather than his IOLTA "trust account" was a normal practice for attorneys up until a recent change just a few years ago. The practice of Respondent is *not* one of maintaining large amounts of moneys from clients as what would come from personal injury claims, civil court awards or maintaining probate accounts. Respondent's practice consisted of smaller matters of simpler criminal and domestic cases. Such practice also exercised the use of "flat-rate" fees as opposed to hourly rates, which also kept the fees exceedingly low for his clients. All of which was explained with each potential client and with the majority if not all of Respondent's clients agreeing to the "flat-rate" fee with the understanding otherwise their fees would be substantially larger at a minimum of \$200.00 per hour.

At most Respondent failed at continuing to educate himself on the new requirements of maintaining an IOLTA as well as the necessity of each and every dollar to be placed into the trust account and then being released into his working account. No deceit was ever performed, let alone provided by any client of Respondent. There was never a mindset of Respondent to "take advantage" of any client with the method of payment and handling moneys of any single client.

Respondent is a sole-practitioner with a small-town practice for the majority of his twenty-two years of practice. Although there have been complaints against Respondent in the past such first is to be expected in light of his heavy domestic load of cases which statistics show provide four-times the likelihood of a compliant filing due to such an extreme emotional mindset. Respondent has been sanctioned only twice in his practice of law, both within the State of Missouri, but never within his previous State of Michigan where he practiced for approximately seven years. The two sanctions were admonishments but neither with regard to deceit or misleading a client. One of those two was shown to be a false accusation within a later trial by the Honorable Judge Carter (Brenda Wetta vs. Hinote Law Firm, Christian County Case Number 10CT-AC00921-01.)

Within the lower hearing Respondent acknowledged and took full responsibility of the fact he had not kept up to date with the new responsibilities of handling the funds of his clients. Other aggravating circumstances which Respondent would like this Court to note is the fact for the last few years Respondent has had other major responsibilities outside of his law practice both of which noted to the lower panel. The first is that his one and only child has been diagnosed with Autism. Incredible amount of time is

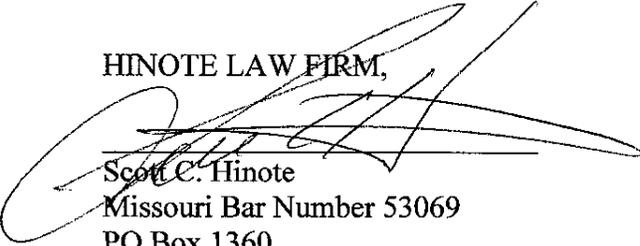
required to care for and assist his child and although he has incredible and wonderful support from his wife, said wife has been battling her own issues with breast cancer issues. Respondent has attempted to keep his practice, which would include his bookkeeping, to bare minimum requirements due to the strain of everyday life. Respondent cares for his clients and maintains a very high degree of professional responsibility to his clients, which results in positive outcomes for the majority of his clients who place their needs, their children's needs and sometimes their very lives in Respondent's hands.

CONCLUSION

Respondent is a poor bookkeeper and perhaps a poor businessman. He acknowledges the fact, duty and necessity to become better at such. He cares greatly however for his clients and performs his legal duties for them quite successfully. Respondent cares even more for his wife and child and tries to balance off these separate worlds but naturally comes up short on both sides at times. Respondent implores this Court to not implement the suspension as requested by the lower panel but rather a probationary period with the further education.

Respectfully Submitted,

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Respondent

Certificate of Service

A copy of this pleading has been provided to the following by way of the court's e-filing system on this date of August 22, 2016:

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