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**NOTICE OF SUSPENSION AND RESTITUTION WITH CONDITIONS**

Case No. 06-06-GA

**Notice Issued: January 17, 2008**

Russell L. Swarthout, P 21193, Detroit, Michigan, by Attorney Discipline Board Tri-County Hearing Panel #9.

1. Suspension - 18 Months
2. Effective July 18, 2006<sup>1</sup>

Pursuant to MCR 9.115(H), the hearing panel originally entered an interim order that suspended respondent's license to practice law in Michigan for a period of three years, effective July 18, 2006.

The panel found respondent in default for failing to file an answer to the formal complaint. Based on that default, the panel found that respondent, in a class action suit, failed to promptly deliver funds to which his client was entitled; and misappropriated client funds. Respondent also engaged in conduct involving dishonesty, fraud, deceit, misrepresentation, or violation of the criminal law, where such conduct reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer; engaged in conduct that is prejudicial to the administration of justice; and exposes the legal profession or the courts to obloquy, contempt, censure, or reproach. In a criminal matter, respondent neglected the matter; failed to act with reasonable diligence and promptness in representing his client; failed to provide a full accounting of client funds upon request; failed to surrender a copy of the client file; and failed to refund the unearned portion of the attorney fee. Additionally, respondent made false statements in his answer to a request for investigation served upon him by the Grievance Administrator.

Respondent's conduct was in violation of MCR 9.104(A)(1)-(4) and (7); MCR 9.113(A) and (B); and Michigan Rules of Professional Conduct 1.1(c); 1.3; 1.15(b); 1.15(d); 1.16(d); 8.1(b); and 8.4(a)-(c).

Following further proceedings to determine discipline, the panel vacated respondent's interim suspension and ordered a suspension of 18 months, retroactive to July 18, 2006. The panel also ordered that respondent pay restitution in the amount of \$11,100.00 and ordered conditions relevant to the established misconduct.

Respondent filed a timely petition for review and the Grievance Administrator filed a cross-petition for review. On September 17, 2007, the Board affirmed the hearing panel's order and respondent filed a motion for reconsideration, which was denied by the Board on December 17, 2007. Total costs were assessed in the amount of \$2,837.64.

John F. Van Bolt

Dated: JAN 17 2008

<sup>1</sup> Respondent has been continuously suspended from the practice in law in Michigan since July 18, 2006. See Notice of Interim Suspension issued July 19, 2006.