

# **FINAL NOTICE OF SUSPENSION AND RESTITUTION**

**AND**

## **AUTOMATIC REINSTATEMENT**

Case No. 04-46-GA

**Notice Issued: October 31, 2005**

Gary L. Davis, P 30208, Imlay City, Michigan, by the Attorney Discipline Board affirming in part and modifying in part St. Clair County Hearing Panel #2's order of suspension.

1. Suspension - 90 Days
2. Effective April 14, 2005

and

3. Reinstated
4. July 14, 2005

The respondent appeared at the hearing but was found to be in default for his failure to file an answer to the formal complaint. Based on that default, the panel found that respondent, in a civil suit, failed to advise his client, a business entity, that the trial had been rescheduled; that the plaintiff had filed two motions for default judgment; and that the court had ordered the client to pay \$1,000.00 in costs to the plaintiff. Respondent also failed to appear for a hearing; failed to file an objection to the plaintiff's notice of entry of default judgment; failed to advise his client that a default judgment had been entered against it; failed to file a motion to set aside the default; failed to adequately communicate with his client and respond to its reasonable requests for information regarding the status of the matter. Finally, respondent misrepresented to the client's representative and successor counsel that he was unaware that a default judgment had been entered and that the plaintiff had requested a writ of garnishment to satisfy the judgment.

Respondent's misconduct was in violation of MCR 9.104(A)(1)-(4); and Michigan Rules of Professional Conduct 1.1(c); 1.3; 1.4(a) and (b); 3.2; and 8.4(a)-(c). The panel ordered that respondent's license be suspended for 90 days and, if he provided proof within 20 days of the commencement of his suspension that he has paid at least \$10,000.00 to his former client, the panel would entertain a motion to vacate its order and issue a supplemental order suspending his license for 30 days.

On April 11, 2005, the Grievance Administrator filed a timely conditional petition for review and the respondent filed a cross-petition which was subsequently voluntarily withdrawn. Upon review, the Board issued its order on September 30, 2005 affirming the hearing panel's order of suspension but vacating the condition that would have reduced respondent's suspension to 30 days if \$10,000.00 was paid his former client within 20 days of the commencement of the suspension period. Total costs were assessed in the amount of \$1,872.86.