

FINAL NOTICE OF REVOCATION WITH CONDITIONS

Case No. 04-155-GA

Notice Issued: October 31, 2005

Mark C. Matheny, P 53471, Flint, Michigan, by the Attorney Discipline Board vacating Genesee County Hearing Panel #3's order of suspension and increasing discipline to a revocation.

1. Revocation
2. Effective May 24, 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, when his client was assessed mediation sanctions in a civil litigation matter, accepted \$55,359.80 from his client which he failed to deposit in a client trust account; commingled the funds with personal funds; misappropriated the funds; falsely testified that some of the \$55,359.80 was maintained in his account; and that he withdrew the remaining funds in cash and was maintaining those funds in a safe in his office. Additionally, respondent failed to notify his client of court dates and subsequent orders that were filed against her; filed an incomplete voluntary bankruptcy petition on his client's behalf for no other reason than to delay the circuit court proceeding; falsely advised opposing counsel that his client had provided him with \$32,100.00 and was offering and/or needing to pay the remainder of the judgment in monthly \$1,000.00 installment payments; falsely advised opposing counsel and defendant that he received \$1,000.00 from his client which he was forwarding as her "monthly installment payment," and falsely advised successor counsel that his client was aware of his actions, including the disbursement of installment payments to the defendants.

Respondent's misconduct was in violation of MCR 9.104(A)(1)-(4); and Michigan Rules of Professional Conduct 1.4(b); 1.15(a)-(b); 3.1; 3.2; 3.3(a)(1); 4.1; 8.1(a)(1); and 8.4(a)-(c). The panel ordered that respondent's license be suspended for 30 months with conditions relevant to respondent's ability to petition for reinstatement.

On May 17, 2005, the Grievance Administrator filed a timely conditional petition for review and respondent filed a timely cross-petition on May 20, 2005, along with a motion for stay of discipline. On May 23, 2005, the Board issued an order denying respondent's motion for a stay of discipline. Prior to the review hearing conducted by the Board, the Administrator withdrew his request for increased discipline when the conditional petition for review was not ratified by the Attorney Grievance Commission. On September 30, 2005, the Board issued its order and opinion vacating Genesee County Hearing Panel #3's order of suspension and increasing discipline to a revocation of respondent's license. Total costs were assessed in the amount of \$2,395.11.