

FINAL NOTICE OF REVOCATION AND RESTITUTION

Case No. 98-50-GA

Issued: October 23, 2000

Peter C. Schaberg, P-19946, Saline, Michigan by the Attorney Discipline Board affirming an order of revocation and restitution issued by the Washtenaw County Hearing Panel #1.

- 1) Revocation;
- 2) Effective February 4, 2000.

Respondent drafted a will for a client which was executed in April 1985. The will nominated respondent as personal representative, to serve without bond and without supervision by the court. Following the client's death in July 1990, respondent was appointed independent personal representative by the Washtenaw County Probate Court. With regard to the charges in Count One, the hearing panel found that respondent neglected the matter and violated his professional obligations by failing to timely notify all interested parties of his appointment as personal representative; failing to timely file an inventory, annual accounts or other pleadings; failing to keep the interested parties reasonably informed about the estate and its administration and failing to take reasonable and necessary action to conclude the administration of the estate which had not been concluded at the time of the filing of the formal complaint in March 1998. With regard to Count Two, the panel found that respondent commingled and misappropriated estate funds by writing a check for \$20,000.00 from his firm's IOLTA account, depositing the check in his personal checking account and using those funds to pay personal expenses. As to Count Three, the panel found that respondent commingled and misappropriated estate funds by writing a check for \$45,000.00 from his firm's IOLTA account, depositing the check in his personal checking account and using those funds to pay personal expenses. Respondent's conduct was deemed to be in violation of MCR 9.104(1)-(4) and Michigan Rules of Professional Conduct 1.1(a)-(c); 1.2(a); 1.3; 1.4(a); 1.15(a)-(c); 3.2; 3.4(c); and 8.4(a)-(c).

The hearing panel ordered the revocation of respondent's license to practice law in Michigan. The panel further ordered the respondent to make restitution of \$4,167.00 to a church named as a beneficiary in the will, representing 50 months of interest on a \$20,000.00 bequest from the time funds were available to pay the bequest until the bequest was paid. The panel ordered that the \$2,000.00 remaining in the estate be paid to the residuary beneficiary, a retirement home, together with restitution of \$39,501.30 representing attorney fees which the panel found to be excessive. Costs were assessed in the amount of \$1,825.91. By stipulation of the parties, the effective date of revocation was modified from December 16, 1999 to February 4, 2000.

Respondent filed a petition for review, limited to issues relating to the panel's award of restitution. Respondent did not seek review of the discipline imposed. A review hearing was held on May 18, 2000 pursuant to MCR 9.118. The Attorney Discipline Board affirmed the hearing panel's order of revocation and restitution but vacated the finding that respondent claimed an excessive fee for the services performed. Additional costs were assessed in the amount of \$106.34.