

NOTICE OF SUSPENSION

Case No. 93-116-GA

James J. Rostash, P-19685, Monroe, Michigan, by the Michigan Supreme Court, increasing the 90-day suspension imposed by Washtenaw County Hearing Panel #1 and affirmed by the Attorney Discipline Board.

- 1) Suspension - 180 Days;
- 2) Effective May 19, 1998.

The panel found that respondent aided and abetted an elected prosecutor in violating his office, agreed to split attorney fees, and made material misrepresentations about the prosecutor's involvement during the course of the AGC investigation. The panel concluded that respondent's conduct violated Michigan Rules of Professional Conduct 1.16(a)(1); 8.1(a) and 8.4(a)-(c); and Canons 1 and 7 of the former Code of Professional Responsibility, DR 1-102(A)(4)-(6) and DR 7-102(A)(8). On July 16, 1996, the panel entered an order of suspension for 90 days.

The Grievance Administrator and respondent each filed a petition for review, and respondent received an automatic stay of discipline. In an order entered January 3, 1997, the Board affirmed the 90-day suspension. Respondent filed a motion for reconsideration, which was denied by the Board on February 20, 1997. The Administrator and respondent each filed an application for leave to appeal, and the stay of discipline continued. On May 19, 1998, the Supreme Court entered an order denying respondent's application for leave to appeal, and an opinion increasing discipline to an 180-day suspension in lieu of granting the Administrator's application for leave to appeal. In an unanimous opinion, the Court held:

The respondent's involvement in the violating of the public trust was sufficiently egregious to warrant an increase of the term of suspension to 180 days.

Where, as in this case, the proven misconduct was connected to a violation of the public trust by an official who was elected, in part, specifically to safeguard that trust, the respondent should be required to prove by clear and convincing evidence his entitlement to resume practicing law.

The parties agreed that the suspension should commence on May 19, 1998, the date the Supreme Court's opinion was entered. Costs were assessed in the amount of \$3,544.40.

