

NOTICE OF SUSPENSION AND RESTITUTION

Case No. 97-202-GA

Joseph A. Fisher, P-32051, Muskegon, Michigan, by Attorney Discipline Board Muskegon County Hearing Panel #2.

- 1) Suspension - Thirty (30) Days;
- 2) Effective June 23, 1998.

Respondent was retained to defend the complainant, who was charged with two counts of First Degree Criminal Sexual Conduct. Following trial, the complainant was convicted of one count of First Degree Criminal Sexual Conduct for which he was sentenced to serve 12 to 50 years incarceration. The panel found that respondent failed to raise a statute of limitations defense on the complainant's behalf at any time prior to the entry of a judgment of conviction; and failed to maintain reasonable communication with the complainant by his failure to explain the matter to the extent reasonably necessary to permit the complainant to make informed decisions regarding the representation.

The complainant also retained respondent to represent him on appeal of his criminal conviction. The panel found that respondent failed to raise as an issue on appeal that he was ineffective as trial counsel due to his failure to raise the statute of limitations as a defense; failed to seek a remand to the trial court for a hearing on the issue of the ineffective assistance of trial counsel; and, failed to move to withdraw from the representation of the complainant on appeal, after he knew or should have known that his continued representation would result in the violation of a disciplinary rule.

Respondent's conduct was found to be in violation of MCR 9.104(1)-(4); and Michigan Rules of Professional Conduct 1.1(b) and (c); 1.2(a); 1.3; 1.4(b); 1.16(a)(1); 3.7; and 8.4(a) and (c).

The panel ordered that respondent be suspended from the practice of law in Michigan for a period of 30 days, and make restitution to the complainant in the amount of \$23,500 plus interest. Costs were assessed in the amount of \$992.99.

