

NOTICE OF REVOCATION AND RESTITUTION

Case No. 96-123-GA

Howard J. Wittenberg, P-22486, Royal Oak, Michigan, by
Attorney Discipline Board Tri-County Hearing Panel #67.

- 1) Revocation;
- 2) Effective April 16, 1998.

Respondent was retained to represent the complainant in a federal criminal forfeiture action arising out of the seizure of goods and cash from his home. Respondent contacted the prosecution authorities and negotiated for return of the seized items and money belonging to the complainant. Six months later, respondent received and signed receipts acknowledging that the prosecution had turned over to him \$40,703 in monies which had been the subject of the forfeiture action.

The panel found that respondent received \$40,683 of the seized \$40,703; failed to advise the complainant of his receipt of the funds, and represented to the complainant that he was continuing to negotiate with the prosecution to have the money returned; commingled and misappropriated funds rightfully belonging to the complainant; failed to advise the court that he had received the forfeited funds from the authorities more than five months prior to the complainant's trial, which was relevant to the complainant's defense on the criminal charges; and made representations in his answer to the Request for Investigation which were false and were known by him to have been false at the time they were made.

Respondent's conduct was found to be in violation of MCR 9.103(C); MCR 9.104(1)-(4) and (6); MCR 9.113(A); and Michigan Rules of Professional Conduct 1.15(a)-(c); 8.1(a); and 8.4(a)-(c).

The panel ordered that respondent's license to practice law in Michigan be revoked and that he make restitution to the complainant in the amount of \$10,963. Costs were assessed in the amount of \$2,283.13.1.

1. 1. Respondent was also suspended from the practice of law for failure to pay his annual dues to the State Bar of Michigan, effective January 28, 1997. That suspension remains in effect.

