

NOTICE OF REPRIMAND
(By Consent)

Case No. 96-185-GA

Kelly R. Page, P-24787, Paw Paw, Michigan, by Attorney Discipline Board Kalamazoo County Hearing Panel #2.

- 1) Reprimand;
- 2) Effective April 25, 1997.

The Formal Complaint alleged that respondent failed to timely answer a Request for Investigation, in violation of MCR 9.103(C); MCR 9.104(1)-(4) and (7); MCR 9.113(A) and (B)(2); and Michigan Rules of Professional Conduct 8.1(b) and 8.4(a) and (c).

In proceedings before Kalamazoo County Hearing Panel #1, composed of a quorum of two members, the panel concluded that respondent was served with a Request for Investigation by certified mail on November 9, 1995 and the respondent did not return an answer until July 22, 1996. The respondent argued that he did not have actual notice of the original Request for Investigation and that his answer was submitted within twenty-one days of a letter from the Grievance Administrator dated July 3, 1996.

The Grievance Administrator's counsel argued that even if the panel accepted the testimony of respondent's secretary that she misplaced the Request for Investigation and secreted further correspondence from the Attorney Grievance Commission, respondent's lack of personal notice would not constitute a defense in light of MCR 9.115(C) [service is effective at the time of mailing, and non-delivery does not affect the validity of the service].

The two members of the hearing panel split on the issues of whether the Grievance Administrator's letter of July 3, 1996 constituted an extension of time within which to answer the Request for Investigation and whether discipline should be imposed. Following reassignment to a new panel in accordance with MCR 9.111(A), the respondent and the Grievance Administrator submitted a stipulation for consent discipline in which the respondent offered a plea of no contest to the charge that he failed to file a timely answer to a Request for Investigation and the parties agreed to the entry of an order of reprimand. The stipulation was approved by the Attorney Grievance Commission and accepted by a hearing panel. Costs were assessed in the amount of \$1292.76.