

NOTICE OF REPRIMAND WITH CONDITIONS

Case No. 96-41-GA

Walter L. Baumgardner, Jr., P-28935, St. Clair Shores, MI,
by Attorney Discipline Board Tri-County Hearing Panel #107.

- 1) Reprimand;
- 2) Effective February 18, 1997.

Respondent was retained by a group of insurance agents to institute civil proceedings against their insurance company for breach of contract, and agreed to represent the group on a one-third contingency fee basis. Respondent agreed to accept \$20,000 to be used solely for expenses of the litigation and not as part of a fee or compensation; that sum was received and deposited in respondent's client trust account. Respondent filed a civil complaint on his clients' behalf. The complaint was later dismissed on a motion for summary disposition filed by the defendant. Respondent appealed the dismissal to the U.S. Court of Appeals. The Court of Appeals later affirmed the dismissal of the case by summary disposition. The clients thereafter made two requests for an accounting of the funds on deposit with respondent.

The panel found that respondent accounted in part for the clients' funds but failed to keep funds subject to a valid dispute as to ownership of the funds separate from his own funds; and that, without prior authorization of his clients and while conflicting claims to the ownership of the monies remained unresolved, he removed funds from the trust account to his attorney fee account and that he failed to obtain from his clients authority to do so.

Respondent's conduct was found to be in violation of MCR 9.104(1)-(4); and Michigan Rule of Professional Conduct 1.15(c).

The panel ordered that respondent be reprimanded, subject to conditions relevant to the established misconduct. Costs were assessed in the amount of \$2,646.52.