

NOTICE OF REPRIMAND WITH CONDITIONS

Case No. 96-68-GA

Thomas D. Wininger, P-29843, St. Clair Shores, Michigan, by
Attorney Discipline Board Tri-County Hearing Panel #102.

- 1) Reprimand;
- 2) Effective August 16, 1996.

Respondent represented the plaintiff in wrongful death litigation against multiple defendants. In April 1993, a settlement was placed on the record whereby the defendants agreed to pay a total of \$118,000. Pursuant to the terms of the settlement, \$100 from the proceeds was to be used to satisfy a Blue Cross/Blue Shield lien for payment of medical services. By August 1993, respondent had received checks from the defendants totalling \$117,000.

The panel found, by a preponderance of the evidence, that respondent failed to deposit settlement checks totalling \$117,500 into an account identified as a client trust account; commingled trust funds with personal funds; failed to maintain sufficient funds in his account to reserve intact \$100 due to Blue Cross/Blue Shield pursuant to its lien; failed to notify Blue Cross/Blue Shield of his receipt of the funds; and failed to make restitution to Blue Cross/Blue Shield until after a Request for Investigation was filed through its counsel. Respondent's conduct was found to be in violation of MCR 9.104(1)-(4); and the Michigan Rules of Professional Conduct, 1.15(a)-(c) and 8.4(a)-(c).

The panel ordered that respondent be reprimanded, subject to conditions including completion of an ethics course or seminar and monitoring of his office practice and procedures, particularly in regard to the establishment of a client trust and/or IOLTA account. Costs were assessed in the amount of \$531.93.