

NOTICE OF REVOCATION AND RESTITUTION

Case No. 95-117-GA

Peter B. Spivak, P-20852, Birmingham, Michigan, by Attorney Discipline Board Tri-County Hearing Panel #67.

- 1) Revocation;
- 2) Effective February 8, 1996.

Respondent was retained to represent the seller in a real estate transaction. In connection with that transaction, he received three checks made payable to his client trust account, totalling \$56,514.39, from the purchasers, which represented the proceeds of the transaction. Respondent deposited the funds into his client trust account. After making disbursements to his client, respondent retained \$30,715.09 in trust as proceeds from the transaction. Approximately one month later, respondent sent a letter to the purchaser, with a copy to his client, stating that he "will continue to hold in escrow \$25,000 until the final approval from the DNR." Approximately three months later, the purchaser informed respondent that he had received approval from the Department of Natural Resources and that the funds could be disbursed.

The panel found, by default, that respondent failed to maintain the funds in trust and misappropriated \$28,994.14; commingled client funds with his personal funds; and failed to make prompt, full restitution to his client despite repeated requests. Respondent later sent a fee statement to his client, claiming fees and costs due of \$19,009.55, which his client disputed. Respondent's conduct was found to be in violation of MCR 9.104(1)-(4) and Michigan Rules of Professional Conduct 1.15(a)-(c).

The panel ordered that respondent's license to practice law be revoked and that he make restitution to the complainant in the amount of \$5,715.09 plus interest. Costs were assessed in the amount of \$390.48.

NOTE: Respondent has been suspended from the practice of law in Michigan continuously since February 15, 1995.