

NOTICE OF REVOCATION AND RESTITUTION

Case No. 94-176-GA

Peter B. Spivak, P-20852, Birmingham, Michigan, by Attorney Discipline Board Tri-County Hearing Panel #6.

- 1) Revocation;
- 2) Effective January 4, 1996.

Respondent entered into an agreement with a company and its principal to serve as an escrow agent. Pursuant to the escrow agreement, the principal wire-transferred the sum of \$40,000 to respondent to be held in escrow in respondent's client trust account. Respondent deposited the \$40,000 into his client trust account. The panel found, by a preponderance of the evidence, that respondent failed to maintain the funds in escrow; misappropriated the \$40,000; and failed to make restitution to the principal despite his repeated requests.

Respondent entered into an agreement with another company and its principals to serve as an escrow agent. Pursuant to the escrow agreement, the sum of \$50,000 was wire-transferred to the respondent to be held in escrow in the respondent's client trust account. Pursuant to the terms of the escrow agreement, upon his receipt of the monies, the respondent was to notify the "suppliers, bank and collateral owner to issue the Collateral Commitment" and was not to release the funds until he had received a "standard acceptable ICC 400 format" as the "Collateral Commitment". The panel found, by a preponderance of the evidence, that respondent released \$49,996 from his escrow account without having obtained the requisite collateral commitment in the approved form, which resulted in the complete loss of the funds. Respondent also failed to appear at two of the disciplinary hearings.

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) 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 complainants in the total amount of \$90,000 plus interest. Costs were assessed in the amount of \$3,003.62.

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