

## NOTICE OF REPRIMAND

Case Nos. 93-266-GA; 94-1-FA

Gail R. Shifman, P-36216, San Francisco, California, by the Attorney Discipline Board affirming Tri-County Hearing Panel #105's Order of Reprimand and vacating the panel's Order of Restitution.

- 1) Reprimand;
- 2) Effective December 29, 1995.

Respondent was retained and paid a \$3,500 fee to institute probate proceedings for the estate of her client's deceased husband, and filed a petition for commencement of proceedings in Oakland County Probate Court. The panel found, by default, that respondent neglected the matter; failed to refund the unearned fee or turn over the client file upon demand; and failed to answer the Request for Investigation. Respondent's conduct was found to be 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 1.1(a)-(c); 1.3; 1.4; 1.5(a); 1.15(b); 1.16(d); 3.2; 8.1(b); and 8.4(a)and(c). The panel ordered that respondent be reprimanded and make restitution in the amount of \$3,500. Costs were assessed in the amount of \$2,404.49.

The Grievance Administrator and the respondent each filed a petition for review. In an order entered December 7, 1995, the Attorney Discipline Board affirmed the reprimand and vacated the restitution, holding that "the record does not present an adequate evidentiary basis for the order of restitution. Further, such factual issues regarding the nature, extent and value of the legal services performed by the respondent may be litigated in an appropriate civil action outside of the disciplinary process."

The Grievance Administrator filed an application for leave to appeal, which was denied by the Michigan Supreme Court in an order entered November 15, 1996.