

## NOTICE OF SUSPENSION AND RESTITUTION

Case No. 94-120-GA

Joseph M. Bernert, P-28639, Southfield, Michigan, by Attorney Discipline Board Tri-County Hearing Panel #103.

- 1) Suspension - three (3) years;
- 2) Effective July 14, 1995.

The panel ruled that the respondent's Answer to the Formal Complaint did not comply with the applicable court rules and ordered him to file an Amended Answer. Respondent failed to file an Amended Answer as ordered, a default was entered, and the panel determined that the default established the allegations of the Formal Complaint.

Respondent was retained to represent a client in a workers' compensation matter. The panel found, by default, that respondent failed to conduct discovery; failed to take depositions; failed to contact witnesses to schedule their appearance; failed to appear for trial; failed to keep in reasonable communication with his client; after his termination, failed to turn over his client file or her successor counsel; failed to execute and return a substitution of counsel forwarded to him by successor counsel; knowingly made false representations to his client; knowingly made false representations to the workers' compensation magistrate; and knowingly made false statements in his answer to the Request for Investigation.

Respondent was retained to represent another client in a workers' compensation matter. The panel found, by default, that respondent neglected to file a petition for workers' compensation benefits for approximately six months; failed to conduct adequate discovery; failed to appear on time for two trial dates, causing the matter to be dismissed; failed to promptly file a motion to reinstate the matter; and failed to keep in reasonable communication with his client or to respond to his client's inquiries.

Respondent was retained to represent another client in a workers' compensation matter. The panel found, by default, that respondent failed on several occasions to appear on time for scheduled hearing; failed to appear for a redemption hearing which resulted in the dismissal of the matter; failed to seek reinstatement of the matter; after his termination, failed to promptly release his client's file upon demand; failed to keep in reasonable communication with his client or to respond to his client's inquiries.

Respondent was retained to represent a client in a wrongful discharge matter. The panel found, by default, that respondent failed to conduct an adequate investigation into his client's claim; failed to take appropriate action on his client's behalf; failed to keep in reasonable communication with his client or respond to her inquiries; and failed to refund the unearned \$425 fee upon demand.

Respondent was retained to represent another client in a workers' compensation matter. The panel found, by default, that respondent failed to file a claim for workers' compensation benefits; failed to promptly notify his client that he would not pursue a claim for workers' compensation benefits; failed to keep in reasonable communication with his client or to respond to her inquiries; knowingly made false statements to his client; and made false statement in his answer to the Request for Investigation.

Respondent's conduct was found to be in violation of MCR 9.103(C); MCR 9.104(1)-(4)and(6); MCR 9.113(A); and Michigan Rules of Professional Conduct 1.1(a)-(c); 1.2(a); 1.3; 1.4; 1.15(b); 1.16(d); 3.2; 3.3(a)(1); 4.1; 8.1(a); and 8.4(a)-(c).

The panel ordered that respondent be suspended from the practice of law in Michigan for three years and make restitution to one complainant in the amount of \$425. Costs were assessed in the amount of \$472.89.

NOTE: Respondent has been suspended from the practice of law in Michigan continuously since November 1, 1994.