

NOTICE OF SUSPENSION AND RESTITUTION

Case No. 94-142-GA

Wallace K. Sagendorph, P-19838, Bloomfield Hills, Michigan, by
Attorney Discipline Board Tri-County Hearing Panel #53.

- 1) Suspension - one (1) year;
- 2) Effective May 9, 1995.

Respondent was appointed co-trustee of an Inter Vivos Trust. In 1982, respondent's co-trustee died, causing respondent to become the sole trustee. One of the assets of the trust was stock in a land development company. The stock was put into a voting trust for which respondent was the sole trustee. By virtue of his status as trustee, respondent was entitled to vote the stock. Respondent subsequently became the president and chief legal officer of the company and paid himself legal fees for his services out of company funds. Respondent also billed the trust for attorney fees and trustee fees in connection with his services and was paid fees in this regard. No accountings were made by respondent of any sums of money received by him from the trust and/or the company until demanded by the beneficiary of the trust in 1991. In 1992, a petition was filed in Oakland County Circuit Court for an accounting of the money which came into respondent's possession as the sole trustee. In 1994, a consent judgment was entered against respondent in the amount of \$125,310.50 for monies owed to the trust.

The panel found, by a preponderance of the evidence, that respondent failed to file required annual accountings; and paid himself excessive attorney fees in the total amount of \$125,000. Respondent's conduct was found to be in violation of MCR 9.104(1)-(4); Canons 1, 2, 6 and 7 of the then-applicable Code of Professional Responsibility, DR 1-102(A)(1),(5)and(6); DR 2-106(A) and(B); DR 6-101(A)(3); and DR 7-101(A)(1)-(3); and Michigan Rules of Professional Conduct 1.1(c); 1.2(a); 1.3; 1.5(a); and 8.4(a)-(c).

The panel ordered that respondent be suspended from the practice of law for a period of one year and make restitution to the beneficiaries of the trust in the amount of \$125,000, or such other amount that may be agreed to between the respondent and the beneficiaries. Costs were assessed in the amount of \$1303.81.