

NOTICE OF SUSPENSION

Case Nos. 93-21-GA; 93-222-GA

David M. Gaberman, P-35997, Farmington Hills, Michigan, by the Attorney Discipline Board affirming a hearing panel order of suspension.

- 1) Suspension - one (1) year;
- 2) Effective April 7, 1995.

Respondent was retained in a divorce action, and requested and received a \$1,500 fee. He pled no contest to allegations that he failed to fully explain the fee to his client; charged a clearly excessive fee; attached a lien on the marital home as security for his fee without the knowledge or consent of the opposing party; and failed to file a petition to modify an Ex Parte Order for Custody and Maintenance of Status Quo upon his client's request.

Respondent was retained in another divorce action. He pled no contest to allegations that he threatened not to appear for court hearings unless his client paid him additional funds, notwithstanding that she had paid his complete fee; failed to appear for a court hearing; failed to respond to his client's inquiries; failed to fully explain the \$2,000 flat fee to his client; demanded an additional \$2,700 to represent her in the divorce action; and behaved in a rude and discourteous manner towards his client.

Respondent was retained concerning a separation agreement. He pled no contest to allegations that he advised his client to withdraw all of the money from the marital joint savings account and close the account; advised her to forge her husband's signature on a joint income tax return and negotiate it; and failed to return the unearned \$200 fee after his client advised him that she and her husband had reconciled.

Respondent was retained in another divorce action. He requested and received a \$5,000 fee, and advised his client that the divorce would cost no more than \$3,000 and the balance would be refunded to her. The client terminated respondent's services approximately one week later and requested a refund of the unearned fee. He pled no contest to allegations that he failed to refund the unearned fee.

Respondent was retained concerning grandparent visitation rights. He pled no contest to allegations that he failed to institute legal proceedings to secure grandparent visitation rights and failed to respond to his client's inquiries; and failed to return the unearned \$400 fee after his services were terminated.

Respondent was retained in a child support matter. He pled no contest to allegations that he failed to represent his client in the child support matter and failed to keep him reasonably informed concerning the status of the matter; and failed to refund the unearned \$100 fee.

Respondent was retained in another divorce action. He pled no contest to allegations that he requested and received a flat fee of \$750, but failed to fully explain his fee to his client; and demanded an additional \$690 to represent her further.

Respondent was retained in another divorce action. At the time he was retained, his client was domiciled in Nevada and had been in Michigan for three days, and his wife and son were domiciled in Nevada. The client advised him of the residence status of himself, his wife and his son. One week later, respondent filed a complaint for divorce in Wayne County Circuit Court. He pled no contest to allegations that he filed the complaint for divorce in Michigan, which was not the proper jurisdiction; knowingly made false statements to the court regarding the status of his client's residence in Michigan; and requested and received a \$1,500 retainer, but after his termination failed to refund the unearned fee.

Respondent's conduct was found to be in violation of MCR 9.104(1)-(4); and Michigan Rules of Professional Conduct 1.1(a)-(c); 1.2; 1.3; 1.4; 1.5; 1.16(c)and(d); 3.1; 3.2; 3.3(a); 3.4(a); 4.4; and 8.4(a)-(c).

On October 13, 1994, Tri-County Hearing Panel #51 entered an order of suspension for one year. The respondent filed a petition for review and request for stay of discipline. The request for stay was granted by the Board. On March 16, 1995, the Board entered an order affirming the hearing panel order of suspension. The respondent filed a motion for reconsideration, which was denied by the Board in an order entered April 21, 1995.

Costs were assessed in the amount of \$1,799.40.