

NOTICE OF SUSPENSION WITH CONDITIONS

Case No. 93-276-GA

Harry S. Sherwin, P-20365, Flint, Michigan, by the Attorney Discipline Board increasing a hearing panel order of reprimand with conditions.

- 1) Suspension - ninety (90) days;
- 2) Effective March 17, 1995.

The parties stipulated that respondent deposited two clients' funds into his office general account, commingling the funds with his own; failed to maintain a balance in the account in an amount equal to the amount of funds entrusted to him by his clients, misappropriating the funds; failed to return to one client the unearned portion of a \$10,000 attorney fee; failed to pay to the opposing party in a divorce action her share of the proceeds of a U.S. Treasury check; and knowingly made a false statement in his answer to the request for investigation.

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

Genesee County Hearing Panel #5 concluded that respondent should be reprimanded, conditioned upon his attendance at four full-day sessions of continuing legal education concerning law office management and administration.

The Grievance Administrator and the respondent each filed a petition for review. The Board concluded that there was adequate evidentiary support in the record to support the panel's conclusion that a lengthy suspension was not warranted. The Board further concluded: "Nevertheless, we cannot ignore the fact that the respondent's claimed carelessness and inadvertence extended to his answer to the Request for Investigation . . ." The Board also cited respondent's prior disciplinary history, consisting of three reprimands and two suspensions. The Board increased discipline to a ninety-day suspension and affirmed the conditions requiring continuing legal education.

Costs were assessed in the amount of \$884.18.