

NOTICE OF SUSPENSION WITH CONDITIONS

Case Nos. 92-219-GA; 92-237-FA

Elliot B. Allen, P-40394, Detroit, Michigan, by the Attorney Discipline Board increasing a hearing panel order of reprimand with conditions.

- 1) Suspension - forty-five (45) days;
- 2) Effective July 16, 1994.

Respondent was retained to probate an estate. Tri-County Hearing Panel #26 found that respondent failed to file a petition for commencement of probate proceedings, or to take any other action to probate the estate, for a period of over nine months; failed to appear for a hearing which resulted in the discontinuance of the estate; failed to answer a Request for Investigation; and failed to timely answer Formal Complaint 92-219-GA. The panel found respondent's conduct to be in violation of MCR 9.103(C) MCR 9.104(1)-(4)and(7); and Michigan Rules of Professional Conduct 1.1(c); 1.2(a); 1.3; 3.2; 8.1(b); and 8.4(a)-(c). The panel dismissed Count Two of Formal Complaint 92-219-GA. The panel ordered that respondent be reprimanded, make restitution to one complainant in the amount of \$600, and be subject to conditions relevant to the established misconduct.

The Grievance Administrator filed a petition for review seeking reversal of the panel's dismissal of Count Two and an increase in discipline. In an order and opinion issued June 24, 1994, the Attorney Discipline Board reversed the panel's dismissal of Count Two, which alleges as follows: Respondent was retained to represent a client in a state civil service grievance matter which was scheduled for hearing. At the hearing, a tentative settlement was reached by which respondent's client was to be reclassified effective December 5, 1991. The client signed an agreement to that effective on January 13, 1992. The Board found that respondent failed to notify his client that there had been a change made by the state as to the effective date of the reclassification; failed to protest the change regarding the effective date of the reclassification; and failed to notify his client of the legal effect of the change from an effective date certain to an unascertained date which would be subject to interpretation and application, in violation of Michigan Rules of Professional Conduct 1.1(c) and 1.2(a). The Board also increased discipline to a forty-five-day suspension and imposed additional conditions.

Costs were assessed in the total amount of \$2224.35.

NOTE: Respondent's license to practice law in Michigan was also suspended for a period of thirty (30) days effective July

6, 1994.