

NOTICE OF SUSPENSION WITH CONDITIONS

Case Nos. 93-165-GA; 93-186-FA; 93-272-GA

Elliot B. Allen, P-40394, Detroit, Michigan, by Attorney
Discipline Board Tri-County Hearing Panel #14.

- 1) Suspension - thirty (30) days;
- 2) Effective July 6, 1994.

Respondent failed to answer the Formal Complaints, but appeared at the hearings held in Detroit on November 9, 1993, January 11, 1994 and May 6, 1994. Respondent's defaults were entered, and the panel determined that the defaults established the allegations of the Formal Complaints.

Respondent was retained to represent the plaintiff in a divorce action, and was paid a \$325 retainer fee. Subsequent to the filing of the divorce action, he served the defendant with civil process, but failed to file a proof of service of the return; as a result of his neglect in filing any additional pleadings in the matter, the case reached the no progress docket and was dismissed for lack of progress; failed to take any action to remove the matter from the no progress docket or to have it reinstated after the dismissal; having known that the matter was dismissed for lack of progress, failed to institute further proceedings on his client's behalf; knowingly made a false statement to his client in that he assured her that he would file a motion to reinstate the matter; failed to refund the unearned portion of the retainer fee upon demand; and failed to answer the Request for Investigation.

Respondent was retained to represent three separate clients in bankruptcy matters and instituted bankruptcy proceedings on his clients' behalves, but failed to appear at the first meetings of creditors; and failed to file schedules A-J as required and ordered by the bankruptcy court. As a result of respondent's failure to appear at the meetings of creditors or to file the documents, the matters were dismissed by final decree. Respondent failed to answer the Request for Investigation filed by the Chapter 13 Standing Trustee for the U.S. Bankruptcy Court.

Respondent was retained by the plaintiff in a divorce action and instituted proceedings on her behalf, but failed to timely serve the defendant with process; failed to request from the court authority to make substitute service; the case was dismissed for non-service; failed to advise his client at any time during the proceedings that he had not accomplished service on the defendant; failed to notify his client that he had instituted the divorce action and that it was dismissed for lack of progress; and failed to take any action to reinstate the action. The client paid to

respondent the sum of \$357 for work to be performed in the future and for costs incurred in the filing of her divorce action; the check was endorsed by respondent and deposited into an IOLTA account. Respondent failed to maintain the funds in a trust account as required; withdrew the funds without the knowledge or consent of his client; and failed to returned the unearned fees upon demand. Respondent failed to answer the Request for Investigation.

Respondent's conduct was found to be in violation of MCR 9.103(C); MCR 9.104(1)-(4)and(7); MCR 9.113(A)and(B)(2); and Michigan Rules of Professional Conduct 1.1(c); 1.3; 1.4; 1.5(a); 1.15(a)-(c); 1.16(d); 3.2; 8.1(b); and 8.4(a)-(c).

The panel ordered that respondent be suspended from the practice of law in Michigan for thirty days with conditions relevant to the established misconduct. Costs were assessed in the amount of \$754.72.