

NOTICE OF SUSPENSION  
(By Consent)

Case No. 93-61-GA

Barry N. Schluskel, P-41114, Huntington Woods, Michigan, by  
Attorney Discipline Board Tri-County Hearing Panel #71.

- 1) Suspension - 120 days;
- 2) Effective February 26, 1994.

The respondent and the Grievance Administrator filed a stipulation for consent order of discipline pursuant to MCR 9.115(F)(5), which was approved by the hearing panel and the Attorney Grievance Commission.

Respondent was terminated from his employment at a law firm. At the time of his termination, it was agreed between respondent and his former employer that respondent would continue handling a certain personal injury litigation for the law firm's client. Respondent signed an agreement to pay his former employer twenty-five percent of any settlement or recovery arising out of that claim plus costs expended by the firm. Respondent's former employer filed a claim of lien in the litigation and served notice to all parties and respondent. The litigation was settled, and the insurance company issued a check to respondent for the settlement proceeds, in the amount of \$130,000, made payable to respondent, the client, and respondent's former employer.

Respondent pleaded no contest to allegations that he failed to notify his former employer of his receipt of the settlement draft; after procuring the client's endorsement on the settlement draft, affixed or caused to be affixed, a second endorsement to the check which was illegible and then stamped over it with his own endorsement stamp; presented the check to a bank for negotiation, although he knew that his former employer had not endorsed the check, and received the proceeds therefrom; following the deposit of the proceedings into his client trust account, he issued a check payable to his professional corporation in the amount of \$44,000 representing the attorney fees and costs portion of the settlement proceeds; deposited the \$44,000 check to his general business account, thereby failing to maintain his former employer's share of the proceeds in trust; and withdrew approximately \$43,925 of the attorney fees and costs portion of the settlement proceeds, thereby misappropriating the funds to which his former employer claimed entitlement pursuant to the written agreement executed by respondent and the claim of lien.

At approximately the same time, respondent was in the process of applying for financing of his home. He pleaded no contest to

allegations that he affixed, or caused to be affixed, the signature of his former employer to a letter attesting to his employment and his salary; in the letter prepared, or caused to be prepared by respondent, he misrepresented his base salary at his former law firm and his employment status with the firm; and submitted the untruthful, inaccurate letter to the bank in support of his request for mortgage financing.

Respondent's conduct was alleged to be in violation of MCR 9.104(1)-(4); and the Michigan Rules of Professional Conduct, 1.15(a)-(c); 4.1; and 8.4(a)-(c).

Costs were assessed in the amount of \$205.50.