

## NOTICE OF SUSPENSION AND RESTITUTION

Case Nos. 93-131-GA; 93-171-FA

Jose C. Zurita, P-29098, Charlotte, Michigan, by Attorney Discipline Board Genesee County Hearing Panel #4.

- 1) Suspension - three years;
- 2) Effective December 16, 1993.

Respondent failed to answer the formal complaints and failed to appear at the hearing held in Flint on October 5, 1993. Respondent's defaults were the defaults established the allegations of the formal complaints.

For a period of eight years, respondent performed a variety of legal services for a married couple. Respondent solicited and received a \$20,000 loan from these clients. Respondent failed to disclose any potential or actual conflict of interest arising from the transaction; failed to make a full and fair disclosure of his financial circumstances and his ability to repay the loan; failed to advise his clients to seek the advice of independent counsel of their own choosing regarding the wisdom and/or propriety of making the loan; failed to prepare, execute and deliver proper and lawful loan documentation, and also to provide appropriate security for repayment; failed to obtain written consent to the transaction; failed to repay the loan and/or to honor the promissory notes; and failed to answer the request for investigation.

Respondent was retained by a defendant's mother to handle a post-conviction criminal matter on her son's behalf. He requested and received a \$5000 retainer and a \$5000 loan from the mother. Respondent failed to disclose any potential or actual conflict of interest arising from the transaction; failed to make a full and fair disclosure of his financial circumstances and his ability to repay the loan; failed to advise the mother to seek the advice of independent counsel of her own choosing regarding the wisdom and/or propriety of making the loan; failed to prepare, execute and deliver proper and lawful loan documentation; failed to obtain written consent to the transaction; failed to repay the loan; failed to appear for a motion hearing; failed to timely advise his client or his client's mother of his failure to appear at the motion hearing; failed to reschedule a hearing on the motion; without the knowledge or consent of his client or his client's mother, he withdrew the motion; failed to keep his client or his client's mother reasonably informed concerning the status of the matter; counseled the mother, in her role as her son's legal guardian, to include in her annual accounting to the probate court the full \$10,000 as "attorney fees", notwithstanding that \$5000 of the \$10,000 was a personal loan to respondent; and 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); MCR 9.113(B)(2); and the Michigan Rules of Professional Conduct, 1.1(c); 1.2(c); 1.3; 1.4(a); 1.8(a)(1)and(2); 3.2; 3.4(b); 8.1(b); and 8.4(a)-(c).

The panel ordered that respondent make restitution to the above-mentioned clients in the total amount of \$33,888.30 plus interest. Costs were assessed in the amount of \$272.31.