

## NOTICE OF SUSPENSION

Case Nos. 92-296-GA; 93-2-FA

Sanford A. Rochkind, P-33221, Lathrup Village, Michigan, by  
Attorney Discipline Board Tri-County Hearing Panel #61.

- 1) Suspension - three years;
- 2) Effective June 18, 1993.

Respondent failed to answer the formal complaints, but appeared at hearings held in Southfield on January 25 and April 23, 1993. Respondent's default was entered, and the panel determined that the default established the allegations of the formal complaints.

Respondent was retained by the plaintiff in personal injury litigation, and a \$50,000 settlement was reached. A check in that amount, payable to the order of the plaintiff and the respondent, was issued to respondent. Respondent deposited the proceeds of that check into his trust account. Plaintiff's portion of the funds, following deduction of respondent's fees, was \$33,333.34. Plaintiff subsequently died. A probate estate was opened on behalf of plaintiff's estate, and an Independent Personal Representative was appointed. For a period of approximately five months, respondent misappropriated the funds that represented plaintiff's share of the settlement proceeds; failed, neglected, and refused to provide plaintiff's estate with the \$33,333.34 in settlement proceeds due the estate; and, knowingly made a false statement in his answer to the request for investigation.

Respondent was retained to institute probate proceedings and wrongful death litigation. He instituted a wrongful death action, but failed, for over two and one-half years and until the last day of filing within the statute of limitations, to institute the wrongful death litigation; failed to institute the wrongful death litigation in the name of the personal representative of the estate; failed to properly and timely served process upon the defendant; failed to conduct adequate discovery prior to the institution of the suit; and, failed to return telephone of his client, or keep him reasonably informed concerning the status of the litigation. Respondent instituted probate proceedings, and his client was appointed the personal representative of the estate, but he failed to institute the probate proceedings for approximately two and one-half years; failed to timely prepare and file inventories and accountings on behalf of the personal representative in the estate, resulting in suspensions of the personal representative's fiduciary powers; failed to respond to the inquiries of the successor fiduciary; failed to respond to the telephone inquiries of his client regarding the status of the

estate; and, failed to answer the request for investigation.

Respondent was retained to prosecute a medical malpractice action, and instituted an action on his client's behalf, but failed to serve the defendants with process within 182 days after the filing of the action, resulting in the dismissal of the matter; failed to adequately investigate the matter in that he failed to obtain an expert witness to evaluate whether a cause of action existed for medical malpractice; failed to institute or request arbitration proceedings which were required because his client had signed an unrevoked agreement to arbitrate; failed to respond to the defendant's motion for summary disposition upon which the court granted a dismissal of the action; failed to respond to inquiries of opposing counsel regarding arbitration proceedings; failed to fully advise his client of the effects of the dismissal of the action; failed to turn over his client's file to her or her successor attorney promptly upon demand; failed to communicate with his client for approximately one year; knowingly made false statements to his client; 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),(6)and(7); MCR 9.103(C); MCR 9.113(A); MCR 9.113(B)(2); the Michigan Rules of Professional Conduct, 1.1(a)-(c); 1.3; 1.4(a); 1.15(a)and(b); 1.16(d); 3.2; 8.1(b); 8.4(a)-(c); and Canons 1, 6 and 7 of the then-applicable Code of Professional Responsibility, DR 1-102(A)(1),(4)-(6); DR 6-101(A)(1)-(3); DR 7-101(A)(1)-(3). Costs were assessed in the amount of \$635.25.

Respondent filed a petition seeking review of the hearing panel order of suspension. His request for stay of discipline was denied by the Attorney Discipline Board, and the suspension is deemed to be effective June 18, 1993. In an order issued September 21, 1993, the Attorney Discipline Board dismissed respondent's petition for review for his failure to appear at the review hearing on September 9, 1993.