

NOTICE OF SUSPENSION
(With Conditions)

Case Nos. 92-235-GA; 92-255-FA

Ben D. Tubergen, P-31396, Hudsonville, Michigan, by the Attorney Discipline Board increasing a hearing panel reprimand.

- 1) Suspension - 120 days;
- 2) Effective March 10, 1993.

Respondent failed to answer the formal complaints, but appeared at the hearing held in Allegan on November 2, 1992*. Respondent's default was entered, and the panel determined that the default established the allegations of the formal complaints.

Respondent was retained to handle an adoption matter, but failed to prepare and file any documents or papers in the adoption, or to otherwise assist in the adoption process; failed to advise his client of the status of the matter, or to inform his client that he was withdrawing from the representation; and, failed to answer the request for investigation.

Respondent's conduct was found to be in violation of MCR 9.104(1-4,7); MCR 9.103(C); MCR 9.113(A); MCR 9.113(B)(2); and the Michigan Rules of Professional Conduct, 1.1(c); 1.3; 1.4(a); 3.2; 8.1(b); 8.4(c). The hearing panel imposed a reprimand, with conditions to assist the complainants to complete the adoption proceedings. Hearing costs were assessed in the amount of \$249.08.

The Grievance Administrator filed a petition for review seeking an increase in the discipline imposed. On March 31, 1993, the Attorney Discipline Board entered an order increasing discipline to a 120-day suspension. That suspension was effective retroactive to March 10, 1993, the date of respondent's automatic suspension for non-payment of costs pursuant to MCR 9.128.

Respondent filed a motion for reconsideration and stay of discipline, which was denied by the Board in an order issued May 5, 1993. Review costs were assessed in the amount of \$29.25.