

NOTICE OF SUSPENSION

Case Nos. 91-198-GA; 91-227-FA

Seymour Floyd, P-28796, Beverly Hills, California (formerly of Bingham Farms, Michigan), by the Attorney Discipline Board affirming a hearing panel order of suspension.

- 1) Suspension - eighteen (18) months;
- 2) Effective December 17, 1992.

Respondent failed to timely answer Formal Complaint 91-198-GA and failed to answer Formal Complaint 91-227-FA, but appeared at the hearing held in Southfield on September 25, 1992. Respondent's defaults were entered, and the panel determined that the defaults established the allegations of the Formal Complaints.

On December 17, 1990, an Order of Reprimand and Restitution (With Conditions) was entered by Tri-County Hearing Panel #84 in Case No. 90-129-GA. By virtue of that order, costs in the amount of \$495.76 were assessed against respondent. On February 12, 1991, a Notice of Automatic Suspension Pursuant to MCR 9.128 was issued by the Attorney Discipline Board, stating that respondent was suspended effective February 8, 1991, for his failure to pay those costs. Respondent subsequently paid those costs on February 25, 1991. Respondent failed to comply with MCR 9.119 in that he failed to file an affidavit of compliance that he notified his clients and the courts of his suspension.

On March 15, 1991, respondent filed an affidavit of compliance with the Michigan Supreme Court stating that he had fully complied with the terms and conditions of the automatic suspension pursuant to MCR 9.128. The statement made by respondent in that affidavit was false and untrue for the reason that respondent had not complied with the provisions of MCR 9.119.

Respondent's conduct was found to be in violation of MCR 9.104(1)-(4),(7)and(9); and Michigan Rules of Professional Conduct 3.3(a)(1)and(4); 8.1(a)and(b); and 8.4(a)-(c). On November 25, 1991, Tri-County Hearing Panel #53 entered an order suspending respondent's license to practice law in Michigan for eighteen months. Costs were assessed in the amount of \$250.04.

The Grievance Administrator and the respondent each filed a petition for review. In an order and opinion issued July 15, 1993, the Attorney Discipline Board dismissed Formal Complaint 91-198-GA, holding that MCR 9.128 did not require a respondent who was suspended for non-payment of disciplinary costs to notify clients, tribunals and opposing parties of that suspension pursuant to MCR 9.119. The Board affirmed the panel's finding of misconduct

regarding Formal Complaint 91-227-FA (failure to timely answer Formal Complaint 91-198-GA), and reduced discipline to a thirty-day suspension.

The Grievance Administrator filed an application for leave to appeal. In an opinion issued November 1, 1994, the Michigan Supreme Court, in lieu of granting leave, reversed the order of the Attorney Discipline Board and remanded the case to the Board for further proceedings. The Court held that MCR 9.119 applies to a lawyer who has been automatically suspended under MCR 9.128(A) for failure to pay costs associated with a discipline proceeding. The Court subsequently amended MCR 9.128(A) to reflect its holding in this case.

On November 22, 1994, the Attorney Discipline Board entered an order pursuant to the Court's directive, affirming the hearing panel order of suspension. In computing the suspension, the Board ordered that the suspension was in effect from December 7, 1992 until July 15, 1993, and the remaining seven months of the suspension is effective November 22, 1994.

NOTE: Respondent's license to practice law in Michigan has been suspended continuously since May 24, 1991.