

## NOTICE OF SUSPENSION WITH CONDITIONS

Case Nos. 91-60-GA; 91-104-FA; 91-180-GA

Patrick J. Tucker, P 37256, Ontonagon, Michigan by the Attorney Discipline Board affirming a hearing panel order of suspension and imposing additional conditions.

- 1) Suspension - one year;
- 2) Effective July 21, 1992.

The hearing panel found that the respondent was given a power of attorney to sell real property belonging to a client. He received proceeds from the sale in the amount of \$15,000 in the form of a check which was endorsed and deposited in the respondent's trust account. The panel found that the respondent misappropriated the net proceeds of \$5082.31 which should have been remitted to the clients. His conduct was found to be in violation of MCR 9.104(1-4); the Michigan Rules of Professional Conduct, 1.15(a,b); 8.4(a-c); and Canons 1 and 9 of the then-applicable Code of Professional Responsibility, DR 1-102(A)(1,3-6); DR 9-102(A)and(B)(4).

Respondent failed to timely answer formal complaint 91-60-GA in violation of MCR 9.104(1,2,4,7) and the Michigan Rules of Professional Conduct, 8.4(a,c).

In a separate matter, the respondent received a check in the amount of \$23,630.26 made payable to a decedent's estate. In his capacity as attorney for the personal representative, the respondent deposited that check into his client trust account. The panel found that the respondent commingled the estate funds with his own; misappropriated estate funds of \$16,463.23; and issued a check to a beneficiary of the estate in the amount of \$11,238.88 which was dishonored for insufficient funds. Respondent's conduct in this matter was found to be in violation of MCR 9.104(1-4); the Michigan Rules of Professional Conduct, 1.15(a); 8.4(a-c); and Canons 1 and 9 of the then-applicable Code of Professional Responsibility, DR 1-102(A)(1,3-6); DR 9-102(A) and (B)(4).

Respondent failed to timely answer a request for investigation; failed to produce information requested by the Attorney Grievance Commission; and failed to appear pursuant to the AGC's subpoena in violation of MCR 9.104(1-4),7); MCR 9.113(A) and (B)(2); and the Michigan Rules of Professional Conduct, 8.1(b); 8.4(a,c).

Based upon its consideration of the aggravating and mitigating factors, the hearing panel ordered that the respondent be suspended for one year commencing July 2, 1992. A temporary stay was granted

by the Attorney Discipline Board delaying the commencement of the suspension until July 21, 1992. Upon consideration of the petitions for review filed by the Grievance Administrator and the respondent, the Board affirmed the one-year suspension but modified the order by adding conditions which include continued counseling and participation in an alcohol abuse recovery program during the suspension and for a period of one year following the effective date of an order of reinstatement. The Board characterized the evidence of the respondent's alcoholism and continued rehabilitation, full restitution and his acceptance of responsibility for his actions as evidence of compelling mitigation warranting discipline less severe than might otherwise been imposed.

In an order dated July 13, 1993, the Grievance Administrator's application for leave to appeal was denied by the Supreme Court.