

## NOTICE OF SUSPENSION

Case No. 90-85-GA

Wilfred C. Rice, P 19411, Detroit and Litchfield, MI, by the Attorney Discipline Board increasing a suspension of 121 days ordered by a hearing panel to a suspension of 180 days.

- 1) Suspension - 180 days;
- 2) Effective November 2, 1991.

The hearing panel found that the allegations contained in Count I of the formal complaint were established by a preponderance of the evidence. Counts II - V were dismissed. The respondent was retained to represent a client in a real estate matter and was entrusted \$40,000 in cash to be held in escrow. The respondent admitted that he failed to deposit those funds in an identifiable bank account as then required by Canon 9 of the Code of Professional Responsibility, DR 9-102(A) -- [now Rule 1.15(a) of the Michigan Rules of Professional Conduct]. Instead, the respondent testified that he directed a third person to place the money in a safe in the respondent's home. The respondent acknowledged that the cash subsequently "disappeared" but that he offered to make his client whole by transferring to her a deed to his home. The respondent's conduct was found to be in violation of MCR 9.104(1-4) and Canons 1 and 9 of the Code of Professional Responsibility, DR 1-102(A)(1,3-6); DR 9-102(A) and DR 9-102(B)(4).

The respondent filed a petition for review seeking reversal of the hearing panel's finding of misconduct. The Grievance Administrator filed a cross-petition seeking an increase in the 121-day suspension imposed by the panel. In an order issued October 11, 1991, the Attorney Discipline Board increased discipline to a suspension of 180 days. In the accompanying opinion, the Board rejected the respondent's argument that he was instructed by his client not to hold the client's funds in a trust account. Noting that the applicable rule contains no language allowing an attorney to violate the requirements for the safeguarding of client funds, the Board ruled that an attorney is obligated at all times to comply with the disciplinary rules promulgated by the Supreme Court and at the point that compliance with those rules conflicts with the wishes of a client, the attorney is obligated to withdraw from representation.

The respondent filed a motion for reconsideration and stay of discipline which was denied by the Board in an order issued October 31, 1991. Costs were assessed in the amount of \$767.22.