

NOTICE OF SUSPENSION  
(By Consent)

Case No. 90-194-GA

Fred B. Berkley, P10730, Southfield, Michigan, by Attorney  
Discipline Board Tri-County Hearing Panel #62.

- 1) Suspension - two (2) years;
- 2) Effective September 4, 1991.

The respondent and the grievance administrator filed a stipulation for consent order of discipline pursuant to MCR 9.115(F)(5) which was approved by the hearing panel and the Attorney Grievance Commission. Respondent offered his plea of nolo contendere to counts I and III of the formal complaint. Count II was dismissed by stipulation. Respondent was retained to prosecute a personal injury action and settled the claim for \$20,000, but he failed to tender to his client the monies due her for over two years; during the period of time that respondent was holding the funds of his client, the balance in his client trust account fell below the amount which was due to his client and he falsely advised his client that he had to open a probate estate for her late husband before he could dispense the settlement proceeds to her. Respondent's conduct is found to be in violation of MCR 9.104(1-4); Canons I and 9 of the Code of Professional Responsibility, DR 1-102(A)(1,3-6); DR 9-102(B)(4); and the Michigan Rules of Professional Conduct, 1.4(a,b); 1.15(b); 8.4(a,c). Costs were assessed in the amount of \$74.39.