

NOTICE OF SUSPENSION AND RESTITUTION

ADB 232-88

James F. Schouman, P-20057, Dearborn, Michigan, by the Attorney Discipline Board affirming a hearing panel order of suspension.

- 1) Suspension - 180 days;
- 2) Effective June 1, 1990.

At the hearing before Wayne County Hearing Panel #17, the respondent entered a plea of no contest to all of the allegations contained in the amended formal complaint.

Respondent's client was the sole owner of a certificate of deposit in the amount of \$74,000; the respondent redeemed that certificate of deposit. Respondent directed the bank to prepare and deliver to him a check in the amount of \$25,650 payable to "F.V.L. Inc.", a proposed corporate entity to be formed by the respondent for the purpose of investing the funds for his client; no such corporation was ever formed. Respondent then deposited the check to his personal business account, failed to advise his client fairly regarding the investment, failed to deposit the funds to an account within the meaning of DR 9-102(A), failed to return the funds to his client upon failing to incorporate, and used the funds to rehabilitate his own real property without his client's knowledge or consent. Respondent also directed the bank to deliver to him a check in amount of \$33,400 payable to Saturday Corporation, which sum purportedly represented the payment of fees from his client for services rendered by him; respondent was an officer of that corporation. In violation of his duties, respondent endorsed the check and deposited the proceeds to his client trust account, commingling his own funds with those of his clients. Respondent charged clearly excessive fees for various services performed for the same client.

Respondent's conduct was found to be in violation of MCR 9.104(2-5) and Canons 1, 2, 5 and 9 of the Code of Professional Responsibility, DR 1-102(A)(5,6); DR 2-106(A); DR 5-104(A); DR 9-102(A); and DR 9-102(B)(3,4). The panel ordered the respondent to make restitution to the estate of his client in the amount of \$33,000 plus interest.

The respondent filed a petition for review seeking a reduction of the discipline imposed. The Grievance Administrator filed a cross-petition for review seeking an increase in the discipline imposed. In an order dated April 20, 1990, the Attorney Discipline Board affirmed the hearing panel decision. The respondent filed an application for leave to appeal with the

Michigan Supreme Court, which was denied in an order dated June 1, 1990. Costs were assessed in the amount of \$740.35.