

## NOTICE OF SUSPENSION AND RESTITUTION

ADB 40-89

Alvin L. Keel, P-23104, Birmingham, Michigan, by Attorney Discipline Board Oakland County Hearing Panel #11.

- 1) Suspension - 45 days;
- 2) Effective December 28, 1989.

The hearing panel determined that the respondent's default for failure to answer the formal complaint constituted an admission to the charges of misconduct. The respondent's testimony and exhibits submitted in mitigation were also cited by the panel as tending to support the allegations in the complaint.

The respondent received an insurance draft in the amount of \$9738 payable to himself, his client, and a hospital. The respondent was authorized by his client to apply her share of the settlement to the outstanding bill from the hospital. After obtaining the hospital's endorsement on the draft, it was deposited by the respondent in his general account on August 19, 1985. His cashiers' check to the hospital was delivered October 6, 1987, after the filing of a Request for Investigation. During that period, the respondent's account was depleted to a negative balance. The hearing panel rejected respondent's claim that he had no fiduciary responsibility and found no mitigation. The panel concluded that the respondent's commingling and misappropriation of those funds warranted a suspension of forty-five days. The panel further ordered that the respondent make restitution to the hospital for the interest on the hospital's share of the proceeds.

The panel found that a separate count based upon the respondent's failure to prosecute a personal injury case in a timely manner warranted a reprimand.

The respondent's conduct, as alleged in both counts, was found to be in violation of MCR 9.104(1-6) and Canons 1, 6, 7 and 9 of the Code of Professional Responsibility, DR 1-102(A)(3-6); DR 6-101(A)(3); DR 7-101(A)(1-3) and DR 9-102(A). Costs were assessed in the amount of \$504.03.