

NOTICE OF SUSPENSION

ADB 9-89

Frederick A. Sauer, Jr., P-19906, Kalamazoo, Michigan, by the Attorney Discipline Board affirming a hearing panel order of suspension.

- 1) Suspension - six months;
- 2) Effective June 15, 1989.

The respondent failed to timely answer the Formal Complaint but appeared at the hearing in Grand Rapids on April 20, 1989. Respondent's default was entered and the hearing panel determined that the allegations of the Formal Complaint were established. Respondent was retained to represent a client in a divorce matter and was requested to deposit the proceeds of the sale of the marital home in his client trust account. After making certain authorized payments, he was required to maintain a trust account balance of \$8698.38. Respondent failed to maintain that amount in his trust account, and made a false statement in his answer to the Request for Investigation. Respondent's conduct was found to be in violation of MCR 9.104(1-4,6); MCR 9.113(A); 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 Attorney Discipline Board considered a petition for review filed by the Grievance Administrator seeking an increase in the discipline imposed, as well as a cross-petition for review filed by the respondent seeking a reduction of discipline. The Board affirmed the hearing panel's rejection of the respondent's defense that the temporary depletions of the trust account were the result of his draws against anticipated legal fees. The Board was unable to conclude, however, that the temporary shortfalls in the trust account were the result of willful misappropriation and the Board was not persuaded that the discipline imposed by the panel was inappropriate in light of the mitigating and aggravating circumstances presented. Costs were assessed in the amount of \$291.54.