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Attorney Discipline Board



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NOTICE OF SUSPENSION

File No. DP 163/85; DP 34/86

Byron Otto Kuxhaus, P 24420, Two Crocker Boulevard, Suite 304, Mt. Clemens, MI 48043 by Attorney Discipline Board Macomb County Hearing Panel #1.

- (1) Suspension - One Year;
- (2) Effective date April 10, 1989. (One Year Suspension to be consecutive to a Four Year Suspension which became effective April 10, 1985.

The thirteen (13) Count Formal Complaint filed by the Grievance Administrator charged that the Respondent had neglected various civil and probate matters entrusted to him by four (4) separate clients and had failed to communicate with those clients; that he failed to honor a judgment rendered against him for services provided to his law office and that he attempted to satisfy that judgment by delivering a non-sufficient funds check drawn on his "client trust account"; that in Answer to a Request for Investigation served upon him by the Grievance Administrator, he made material misrepresentations; and that he failed to file Answers to five (5) other Requests for Investigation.

The Respondent failed to Answer that Complaint or the subsequent Complaint which charged that the failure to Answer constituted a separate act of misconduct. At the hearing, the Respondent's Oral Motion to Set Aside the Defaults was denied and the Hearing Panel found that the allegations in the Complaints were deemed to be admitted. The Panel concluded that his conduct violated the provisions of MCR 9.104(A)(1-4)(7); MCR 9.113 and Canons 1, 2, 6 & 7 of the Code of Professional Responsibility, DR 1-102(A)(4-6), DR 2-106(A)(B); DR 2-110(A)(1-3); DR 6-101(A)(3) and DR 7-101(A)(1-3).

Noting that the Respondent is currently suspended from the practice of law as a result of a prior Order of Discipline suspending his license for a period of four (4) years commencing April 10, 1985, the Panel concluded that Respondent's misconduct in this case warranted an additional suspension of one year, to run consecutively to the suspension now in effect. The Panel also ordered that the Respondent make restitution to three (3) clients in the amounts of \$1857.25, \$1800.00, and \$3050.00, respectively with interest at the rate of twelve (12%) percent per year from the date of the filing of the Formal Complaint. Costs were assessed in the amount of \$93.68.


John F. VanBolt

Dated: AUG 14 1986