

FINAL NOTICE OF SUSPENSION

ADB 238-87

Gary B. Perkins, P-18787, Mt. Clemens, Michigan, by the Michigan Supreme Court denying Respondent's application for leave to appeal.

- 1) Suspension - two years;
- 2) Effective July 20, 1989.

The respondent settled a wrongful death action for \$70,000 and deposited the proceeds in his client trust account pending the issuance of an order of distribution by the probate court. The respondent admitted that he withdrew client funds of \$26,000 for his personal use between August 29 and November 20, 1985. Distribution was then made to the clients after the respondent replenished the trust account with funds borrowed from a friend. The hearing panel concluded that the respondent's conversion of funds and his failure to reduce a contingent fee agreement to writing constituted violations of MCR 8.121(F); MCR 9.104(1-4) and Canons 1 and 9 of the Code of Professional Responsibility, DR 1-102(A)(1,3-6) and DR 9-102(A). The panel rejected the respondent's request for probation and order that he be reprimanded with certain conditions.

Upon consideration of a petition for review filed by the Grievance Administrator, the Attorney Discipline Board, by a majority, ordered that discipline be increased to a suspension of two years. The majority noted the mitigating effect of the respondent's continuing efforts to deal with alcoholism. A separate opinion was filed by a Board member who would attach conditions to the two-year suspension. Separate dissenting opinions were filed by two Board members who would increase discipline to suspensions of 119 days and three years, respectively. Costs were assessed in the amount of \$1090.10.

The respondent filed an application for leave to appeal to the Michigan Supreme Court, which was denied in an order dated September 27, 1989.