

NOTICE OF SUSPENSION AND RESTITUTION

ADB 35-89; 49-89

David M. Jutkowitz, P-25885, Oak Park, Michigan, by the Attorney Discipline Board affirming and modifying a hearing panel order of suspension and restitution.

- 1) Suspension - three years;
- 2) Effective July 25, 1988.

The respondent failed to answer the formal complaint and failed to appear at a hearing conducted by a hearing panel of the Attorney Discipline Board. The hearing panel found that the respondent was retained to pursue an insurance claim but that the cause of action became barred by the statute of limitation as the result of the respondent's failure to take action. The panel further found that the respondent failed to communicate properly with his client. In another matter, respondent was retained to represent a client in a divorce action by failed to take action on her behalf, failed to be truthful with his client and failed to return unearned fees. Respondent failed to notify his clients of a prior order of suspension and failed to answer three requests for investigation.

His conduct was deemed to be in violation of MCR 9.104(1-4,7); MCR 9.103(C); MCR 9.113(B)(2) and Canons 1, 2, 6 and 7 of the Code of Professional Responsibility, DR 1-102(A)(1,4-6); DR 2-110(A)(2); DR 6-101(A)(3) and DR 7-101(A)(1-3).

The panel considered respondent's prior discipline consisting of a forty-five day suspension, a ninety day suspension and a two and one-half year suspension. Respondent was ordered to return any and all retainer fees paid by two clients.

Respondent filed a petition for review which was considered by the Attorney Discipline Board. In an order dated July 20, 1990, the Board affirmed the hearing panel order of discipline and modified the effective date of suspension. Total costs were assessed in the amount of \$239.55.