

NOTICE OF REDUCTION OF DISCIPLINE

ADB 31-88; 47-88

Fernando Edwards, P-36502, Walnut Creek, California by the Michigan Supreme Court, reducing an Attorney Discipline Board Order of Revocation, in lieu of granting leave to appeal.

- 1) Suspension - three years;
- 2) Effective - July 15, 1988.

The respondent failed to notify his client in a personal injury action that he received a settlement check payable jointly to attorney and client in the amount of \$2878.70. He endorsed the check by signing his client's name and deposited the check in his wife's personal checking account. The hearing panel further found that when questioned by his client, the respondent deliberately attempted to conceal his actions by telling her that the insurance carrier had refused to settle her claim or that the check which he received was not negotiable. In addition to its finding that respondent misappropriated his client's funds, the panel concluded that the respondent engaged in the practice of law at a time when his license to practice was suspended for failure to pay his dues to the State Bar of Michigan and that the respondent was not candid in his answer to a Request for Investigation.

Respondent's conduct was found to be in violation of MCR 9.104(1-4,6) and Canons 1, 3 and 9 of the Code of Professional Responsibility, DR 1-102(A)(4-6); DR 3-101(B) and DR 9-102(A)(B).

Upon consideration of the separate petitions for review filed by the Grievance Administrator and the respondent, the Attorney Discipline Board affirmed the hearing panel's findings but increased discipline from a suspension of two years, as ordered by the hearing panel, to the revocation of the respondent's license to practice law. The Order of Revocation was deemed effective July 15, 1988.

The respondent filed an application for leave to appeal which was denied by the Supreme Court in an order dated August 28, 1990. The respondent's Motion for Reconsideration was granted by the Court in an order dated December 5, 1990. In lieu of granting leave to appeal, the Court reduced respondent's discipline, stating that "Under the circumstances of this case, we conclude that a suspension of three years is a proper penalty." The respondent will be eligible to petition for reinstatement on July 15, 1991 in accordance with MCR 9.123(B) and MCR 9.124.