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STATE OF MICHIGAN

Attorney Discipline Board



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NOTICE OF SUSPENSION

File Nos. DP 84/85; DP 1/86

Edwin G. Fabre, P 13265, 1535 David Whitney Building, Detroit, MI 48226 by an Order of the Attorney Discipline Board, effective October 22, 1986, increasing a Hearing Panel Order of Suspension of 60 days to a Suspension of Three Years.


- 1) Suspension - three years;
- 2) Effective May 20, 1986.

The Respondent did not file an Answer to the Formal Complaint which charged that he had misappropriated client funds in the amount of \$3000.00 and that he had failed to answer the Request for Investigation served by the Grievance Administrator. A second Complaint, charging that failure to answer the first Complaint constituted additional misconduct, was unanswered and Defaults were filed in the cases consolidated for trial. At the hearing on February 4, 1986, the Respondent returned the sum of \$3000.00 to the Complainant and testified to the Panel that he had received a \$5000.00 settlement on behalf of a client, that he had deducted the agreed upon fee of \$2000.00 and that he had used the remaining \$3000.00 to discharge personal obligations, including his law office overhead expenses. Respondent was found to have violated the provisions of MCR 9.104(1-4)(7); MCR 9.113(B)(2) and Canons 1 & 9 of the Code of Professional Responsibility, to wit: DR 1-102(A)(1,3,4-6); DR 9-102(A)(2) and DR 9-102(B)(4).

The Hearing Panel, noting Respondent's prior unblemished record, entered an Order suspending his license to practice law for a period of 60 days and ordering restitution in the amount of \$600.00 as accrued interest on the funds withheld from the client.

In review proceedings instituted by the Grievance Administrator under MCR 9.118, the Attorney Discipline Board increased the suspension to a period of three years. The Board minimized the mitigating effect of restitution made after the commencement of disciplinary proceedings or the weight to be given an unblemished in a case involving the embezzlement of client funds, and it concluded that a short suspension accompanied by automatic reinstatement in such a case is not consistent with the purposes of these disciplinary proceedings nor does it adequately reflect the legal profession's condemnation of the misuse of client funds. Costs were assessed in the amount of \$282.54.

(NOTE: The Respondent did not request a stay of the Hearing Panel Order and the 60 day suspension ordered by the Panel therefore became effective May 20, 1986, pending review by the Attorney Discipline Board. No Affidavit of Compliance having been filed by the Respondent with the Clerk of the Supreme Court or the Grievance Administrator, as required by the Court Rules, Respondent's license to practice law was not reinstated at the end of the 60 day period and the three year suspension is deemed effective May 20, 1986.)


John F. VanBolt

Dated: OCT 22 1986

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