

## **NOTICE OF REVOCATION**

Case No. 95-165-GA

Issued: October 18, 2000

D. Richard Miller, P-33456, Oak Park, Michigan, by the Attorney Discipline Board, affirming the Order of Revocation issued by Tri-County Hearing Panel #77 and modifying the effective date of discipline.

1. Revocation
2. Effective March 24, 1998<sup>1</sup>

Respondent was hired to handle both the wrongful death claim and the decedent's estate of his client's common law husband. The wrongful death claim was to be handled under a contingent fee agreement while compensation for the probate matters was to be at an hourly rate. The panel found that respondent collected life insurance proceeds of \$97,500.00 which were paid without objection. The panel found that respondent failed to deposit the funds into an insured account identified as a fiduciary account as required under the rules of the Oakland County Probate Court but deposited the proceeds of the life insurance policy into his client trust account. When respondent was discharged, approximately two months later, he failed to return the files to his client or her new counsel and refused to turn over the insurance proceeds. Respondent was subsequently ordered by the Oakland County Probate Court to turn over the insurance proceeds. Respondent turned over a portion of the funds but retained the sum of \$32,500.00 as a claimed fee for collecting the life insurance proceeds. The panel found that respondent's claim for attorney fees was excessive. Finally, the panel found that respondent has failed to comply with an order of the Oakland County Probate Court holding him in contempt, assessing costs and entering a judgment against him in the amount of \$32,500.00. The panel found that respondent's conduct was in violation of MCR 9.104(1)-(4); and Michigan Rules of Professional Conduct 1.1(c); 1.5(a); 1.15(a)-(c); 1.16(d); 3.4(c); and 8.4(a) and (c).

The hearing panel concluded that respondent's license to practice law should be revoked. Noting that respondent's license was revoked in an earlier matter, effective February 24, 1994, the panel directed that its order of revocation should be deemed effective February 24, 1999, and that it be considered to run consecutive to the first revocation.

Respondent petitioned for review by the Attorney Discipline Board. The Board concluded that the order of revocation should be affirmed, but that the effective date should be modified to March 24, 1998, i.e., 21 days after issuance of the hearing panel's order. The hearing panel assessed costs of \$5,382.01. Additional costs of \$104.75 were assessed by the Board.