

Disbarment and Restitution

Matthew C. Shepard, P71547, Troy, by the Attorney Discipline Board, Tri-County Hearing Panel #15, effective July 30, 2015.¹

The respondent failed to appear at the hearing and the panel suspended his license, effective April 15, 2015, pursuant to MCR 9.115(H)(1). The respondent was also found to be in default for his failure to file an answer to the formal complaint. Based on the respondent's default, the hearing panel found that the respondent neglected a legal matter, in violation of MRPC 1.1(c); failed to act with reasonable diligence and promptness in representing his client, in violation of MRPC 1.3; failed to keep his client reasonably informed about the status

of her matter and comply promptly with reasonable requests for information, in violation of MRPC 1.4(a); failed to explain a matter to his client to the extent necessary for her to make informed decisions regarding the representation, in violation of MRPC 1.4(b); failed to refund an unearned legal fee paid in advance, in violation of MRPC 1.15(d); made a false statement of material fact or law to his client or a third person, in violation of MRPC 4.1; failed to notify an active client, in writing, of his disciplinary suspension, in violation of MCR 9.119(A); engaged in the unauthorized practice of law, in violation of MRPC 9.119(E)(1); held himself out as an attorney during the period of a suspension of his law license, in violation of MCR 9.119(E)(4); failed to

refund an unearned legal fee paid in advance, in violation of MRPC 1.15(d); and made a false statement of material fact or law to his client or third person, in violation of MRPC 4.1. The panel also found that the respondent violated MRPC 8.4(b)-(c), and MCR 9.104(2)-(3).

The hearing panel ordered that the respondent be disbarred from the practice of law in Michigan and that he pay restitution in the aggregate amount of \$1,200. Total costs were assessed in the amount of \$1,731.74.

1. The respondent has been continuously suspended from the practice of law in Michigan since April 28, 2014. Please see notice of interim suspension pursuant to MCR 9.115(H)(1), issued April 28, 2014.

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DUTY TO REPORT AN ATTORNEY'S CRIMINAL CONVICTION

All Michigan attorneys are reminded of the reporting requirements of **MCR 9.120(A)** when a lawyer is convicted of a crime:

What to Report:

A lawyer's conviction of any crime, including misdemeanors. A conviction occurs upon the return of a verdict of guilty or upon the acceptance of a plea of guilty or no contest.

Who Must Report:

Notice must be given by all of the following:

1. The lawyer who was convicted;
2. The defense attorney who represented the lawyer; and
3. The prosecutor or other authority who prosecuted the lawyer.

When to Report:

Notice must be given by the lawyer, defense attorney, and prosecutor within **14 days** after the conviction.

Where to Report:

Written notice of a lawyer's conviction must be given to:

Grievance Administrator
Attorney Grievance Commission
Buhl Building, Ste. 1700
535 Griswold, Detroit, MI 48226
and

Attorney Discipline Board
211 W. Fort Street, Ste. 1410
Detroit, MI 48226

Final Disbarment

Clarence K. Gomery, P44168, Traverse City, by the Attorney Discipline Board, Grand Traverse County Hearing Panel #2, effective July 16, 2015.¹

The respondent pleaded guilty to solicitation of murder, a felony, in violation of MCL 750.157b(2), in the Grand Traverse County Circuit Court. In accordance with MCR 9.120(B)(1), the respondent's license to practice law in Michigan was automatically suspended on February 6, 2015, the date he pleaded guilty.

Based on the respondent's conviction, the hearing panel found that the respondent violated a criminal law of a state or of the United States, contrary to MCR 9.104(5).

The panel ordered that the respondent be disbarred from the practice of law in Michigan. Costs were assessed in the amount of \$1,958.31.

1. The respondent has been continuously suspended from the practice of law in Michigan since February 6, 2015. Please see notice of automatic interim suspension, issued February 13, 2015.

Suspension

Stuart Pinsky, P23336, Warren, by the Attorney Discipline Board, Tri-County Hearing Panel #103, for one year, effective July 22, 2015.

The respondent was in default for his failure to file an answer to the formal complaint but he did appear at the hearing. Based on the respondent's default and the exhibits presented, the hearing panel found that the respondent assisted his client in

conduct he knew to be fraudulent, in violation of MRPC 1.2(c); knowingly made a false statement of material fact to a tribunal or failed to correct a false statement of material fact previously made to the tribunal, in violation of MRPC 3.3(a)(1); offered evidence he knew to be false, in violation of MRPC 3.3(a)(3); failed to take reasonable remedial measures, including, if necessary, disclosure to the tribunal when the lawyer knows that his client intends to engage, is engaging, or has engaged in criminal or fraudulent conduct related to the adjudicative proceeding involving the client, in violation of MRPC 3.3(b); and failed to inform the tribunal, in an ex parte proceeding, of all material facts that are known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse, in violation of MRPC 3.3(d). The hearing panel also found violations of MCR 9.104(1)–(4); and MRPC 8.4(a) and (c).

The panel ordered that the respondent's license to practice law in Michigan be

suspended for one year. Costs were assessed in the amount of \$2,220.37.

Interim Suspension Pursuant to MCR 9.115(H)(1)

Edward L. Johnson, P54646, Birmingham, by the Attorney Discipline Board, Tri-County Hearing Panel #64, effective July 17, 2015.

After being properly served with the formal complaint and the notice of hearing, the respondent failed to personally appear at the July 9, 2015 hearing. After satisfactory proofs were entered that the respondent possessed actual notice of the proceedings, the hearing panel, in accordance with MCR 9.115(H)(1), determined that the respondent's failure to appear warranted an interim suspension from the practice of law until further order of the panel.

On July 10, 2015, the panel issued an order of suspension pursuant to MCR 9.115(H)(1), effective July 17, 2015, and until further order of the panel or the Board.

Final Suspension (With Condition)

Susan M. Eifler, P57222, Battle Creek, by the Attorney Discipline Board, increasing discipline from a reprimand to a 30-day suspension, effective August 5, 2015.

The respondent appeared at the hearing but was found to be in default for failing to timely respond to a request for investigation and to answer the formal complaint. Based on the respondent's default, the panel found that she failed to answer a request for investigation, in violation of MCR 9.104(7), MCR 9.113(A), and MCR 9.113(B)(2); and knowingly failed to respond to a lawful demand for information from a disciplinary authority, in violation of MRPC 8.1(a)(2). The panel also found that the respondent violated MRPC 8.4(c) and MCR 9.104(1)–(3).

The panel ordered that the respondent be reprimanded and be subject to conditions relevant to the established misconduct.

The grievance administrator filed a petition for review, seeking an increase in

AGC Practice Pointers Lawyer Advertising

By Alan Gershel, Grievance Administrator

Lawyers may advertise by billboard, circulars, letters, and on the Internet, including social media. Lawyer advertising must not be false, fraudulent, misleading, or deceptive under Michigan Rule of Professional Conduct 7.1.

Communications about a lawyer's services shall not (a) contain a material misrepresentation of fact or law, (b) be likely to create an unjustified expectation about results the lawyer can achieve, or (c) compare the lawyer's services with another lawyer's services, unless the comparison can be factually substantiated.¹ Firm names and letterhead are communications that must not be misleading and must not create unjustified expectations.²

For example, the State Bar Ethics Committee has indicated in an informal ethics opinion that it is misleading for a solo practitioner who works primarily at the lawyer's residence to advertise as having "Law Offices" or to advertise as "Smith & Associates" when he or she does not have any associates, because a

potential client could be misled into thinking the lawyer has a more geographically diverse practice or more firm resources than is the fact.³

Lawyers may communicate the particular fields of law in which they do or do not practice.⁴ Lawyers should be honest and clear in the representations they make to the public regarding the nature of their practice.⁵

Lawyers must keep records of all advertisements, including advertisements on the Internet, for two years.⁶

ENDNOTES

1. MRPC 7.1.
2. MRPC 7.5.
3. RI-246.
4. MRPC 7.4.
5. RI-45.
6. MRPC 7.2.

Practice Pointers is a continuing series of periodic reminders from the Attorney Grievance Commission for avoiding discipline. These constructive suggestions are intended to provide a useful counterpoint to the orders of discipline and disability.

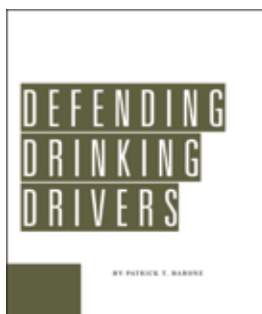
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AUTHOR: PATRICK T. BARONE

Patrick T. Barone has an "AV" (highest) rating from Martindale-Hubbell, and since 2009 has been included in the highly selective *U.S. News & World Report's America's Best Lawyers*, while the

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discipline. A review hearing was held and on July 7, 2015, the Board issued its order increasing discipline from a reprimand to a 30-day suspension of the respondent's license to practice law in Michigan. The Board also modified the conditions imposed by the panel. Total costs were assessed in the amount of \$2,045.36.

Suspension With Restitution (By Consent)

Susan M. Eifler, P57222, Battle Creek, by the Attorney Discipline Board, Kalamazoo County Hearing Panel #4, for 180 days, effective August 5, 2015.

The respondent and the grievance administrator filed a stipulation for a consent order of discipline, which was approved by the Attorney Grievance Commission and accepted by the hearing panel. Based on the respondent's admissions, the panel found that she neglected a legal matter entrusted to her, in violation of MRPC 1.1(c); failed to seek the client's lawful objectives through reasonably available means permitted by law, in violation of MRPC 1.2(a); failed to act with reasonable diligence and promptness in representing her client, in violation of MRPC 1.3; failed to adequately communicate with her client, in violation of MRPC 1.4(a) and (b); failed to answer a request for investigation within the time prescribed, in violation of MCR 9.104(7), MCR 9.113(A), and MCR 9.113(B)(2); engaged in conduct prejudicial to the administration of justice, in violation of MRPC 8.4(c) and MCR 9.104(1); engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation, where such conduct reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer, in violation of MRPC 8.4(b); engaged in conduct prejudicial to the administration of justice, in violation of MRPC 8.4(a); engaged in conduct that exposes the legal profession to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2); engaged in conduct that is contrary to justice, ethics, honesty, or good morals, in violation of MCR 9.104(3); and engaged in conduct that violates the standards or rules of professional responsibility adopted by the Supreme Court, in violation of MCR 9.104(4).

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The hearing panel ordered that the respondent's license to practice law in Michigan be suspended for 180 days, effective August 5, 2015, as stipulated by the parties. The panel also ordered that the respondent pay restitution in the amount of \$7,730. Total costs were assessed in the amount of \$1,012.81.

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- Adjunct ethics professor since 2002
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