

## Disbarments and Restitution

**Gary S. Fields**, P48799, Bloomfield Hills, by the Attorney Discipline Board, Tri-County Hearing Panel #71, effective November 13, 2015.

The respondent was in default for failing to file an answer to the formal complaint, but he did appear at the public hearing with a stipulation for consent discipline, which was accepted by the panel. Based on the respondent's plea of no contest to the allegations of misconduct in the formal complaint, the panel found that the respondent, in five matters, failed to communicate with his clients, in violation of MRPC 1.4(a) and (b); and charged and collected an excessive or illegal fee, in violation of MRPC 1.5(a). In three other matters, the respondent neglected his clients' legal matters,

in violation of MRPC 1.1(c); failed to hold client and third-party funds in connection with a representation separate from the lawyer's funds and failed to deposit the client and third-party funds into an IOLTA or non-IOLTA, in violation of MRPC 1.15(d); failed to return the unearned portion of the advance payment of fee, in violation of MRPC 1.16(d); and engaged in conduct involving dishonesty, fraud, deceit, misrepresentation, or violation of the criminal law, where such conduct reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer, contrary to MRPC 8.4(b). In two matters, the respondent failed to promptly pay or deliver any funds that the client or third person was entitled to receive, in violation of MRPC 1.15(b)(3). Finally, the panel found that the respondent failed to communicate the basis and rate of his fee, in violation of

MRPC 1.5(b); and failed to reduce the contingent fee agreement to a writing, in violation of MRPC 1.5(c). The panel also found that the respondent violated MRPC 8.4(c) and MCR 9.104(1)–(3).

Based on the stipulation of the parties, the panel ordered that the respondent be disbarred from the practice of law in Michigan and that he pay restitution in the aggregate amount of \$49,775.60. Costs were assessed in the amount of \$2,357.53.

**Edward L. Johnson**, P54646, Birmingham, by the Attorney Discipline Board, Tri-County Hearing Panel #64, effective November 18, 2015.<sup>1</sup>

The respondent failed to appear at the hearing and the panel suspended his license, effective July 17, 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 he violated an order of discipline, contrary to MCR 9.104(9); failed or refused to appear or give evidence, to be sworn or affirmed, or to answer a proper question after being ordered to do so, in violation of MCR 9.112(D)(2); failed to notify all active clients in writing of the suspension of his license to practice law, in violation of MCR 9.119(A); failed to notify all tribunals and parties in litigated matters of the suspension of his license to practice law, as well as withdraw, in violation of MCR 9.119(B); failed to file proof of compliance with MCR 9.119, in violation of MCR 9.119(C); practiced law following the suspension of his license to practice law, in violation of MCR 9.119(E)(1); had contact with clients following the suspension of his license to practice law, in violation of MCR 9.119(E)(2); held himself out as an attorney following the suspension of his license to practice law, in violation of MCR 9.119(E)(4); neglected two legal matters, in violation of MRPC 1.1(c); failed to seek the lawful objectives of his clients through reasonably available means permitted by law and the Michigan Rules of Professional Conduct, in violation of MRPC 1.2(a); failed to act with reasonable diligence and promptness on behalf of clients, in violation of MRPC 1.3; failed to keep his clients reasonably informed about the status of their matters and to comply promptly with reasonable requests for information, in violation of MRPC 1.4(a); failed to take reasonable steps to protect his clients' interests

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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

upon termination of representation, in violation of MRPC 1.16(d); practiced law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, contrary to MRPC 5.5(a); failed to respond to lawful demands for information from a disciplinary authority, in violation of MRPC 8.1(a)(2); and violated or attempted to violate the Michigan Rules of Professional Conduct, contrary to MRPC 8.4(a).

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 \$3,030. Costs were assessed in the amount of \$1,882.96.

1. The respondent has been continuously suspended from the practice of law in Michigan since October 24, 2012. Please see Notice of Suspension (Pending Appeal), issued October 29, 2012.

## Final Disbarment

**John S. Davidson**, P35979, Troy, by the Attorney Discipline Board, affirming the hearing panel's order of disbarment, effective January 21, 2015.

The respondent appeared at the hearing and filed an answer to the formal complaint. Based on the evidence and testimony submitted, the hearing panel found that the respondent, designated as a "paymaster" in a joint venture project, failed to hold funds or property of clients or third persons separate from the lawyer's own property and failed to adequately safeguard such funds or property, in violation of MRPC 1.15(d); failed to preserve complete records of client or third-party funds for a period of five years after termination of representation, in violation of MRPC 1.15(b)(2); engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation, or a violation of the criminal law, contrary to MRPC 8.4(b); engaged in conduct that exposes the legal profession to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2); and engaged in conduct that is contrary to justice, ethics, honesty, or good moral character, in violation of MCR 9.104(3).

The panel ordered that the respondent be disbarred from the practice of law in Michigan, effective January 21, 2015. The respondent filed a petition for review, along with a request for a stay of discipline. The grievance administrator filed an objection to the respondent's request, and, on February 13, 2015, the Attorney Discipline Board denied the respondent's request for a stay of

## AGC Practice Pointers

### The Dos and Don'ts While Your Law License is Suspended

By **Alan M. Gershel**, Grievance Administrator;  
**Stephen P. Vella**, Senior Associate Counsel; and **Amanda H. Bates**, Extern

Michigan Court Rule 9.119(E) describes activities from which a licensed attorney must refrain during a term of suspension. The prohibitions include practicing law in any form, appearing in court on another's behalf, and holding oneself out as an attorney. Suspended attorneys must not sign pleadings or legal documents. They must not give legal advice to clients or potential clients.

In 2011, the rule was amended to specifically prohibit a suspended attorney from having any contact with clients or potential clients as a paralegal, law clerk, legal assistant, or lawyer.<sup>1</sup> The rule does not, however, contain an outright ban on any continued employment in a legal setting. For example, a suspended attorney functioning as a law clerk may, under the supervision of an attorney, draft memoranda and briefs provided there is no communication with clients or potential clients. Though the rule precluding all client contact speaks only to the aforementioned positions, suspended attorneys working in any other role must recognize there is a fine line between providing legal information and giving legal advice.

A suspended practitioner must not hold oneself out as an attorney by any means. The necessary action to be taken following a suspension depends in part on whether the attorney was a solo practitioner or worked in a larger setting. When the attorney's name appears within the law firm name, it will need to be changed and exterior office signs bearing the name must be removed. Letterheads, business cards, websites, and advertisements may also require updating. Careful attention in this regard can make all the difference for successful reinstatement to the profession.

Suspended attorneys should be mindful that the practice of law is not susceptible to a simple definition. The Supreme Court in *Dressel v Ameribank*<sup>2</sup> defined the practice of law as counseling or assisting another in matters that require the use of legal discretion and profound legal knowledge. Consequently, suspended attorneys must be careful that their conduct does not cross over into work falling within this definition. The Michigan Rules of Professional Conduct are construed for the protection of the public. Suspended attorneys and their employers must proceed with caution. The State Bar of Michigan Ethics Hotline at (877) 558-4760 is available to assist you.

## ENDNOTES

1. MCR 9.119(E)(2).
2. *Dressel v Ameribank*, 468 Mich 557; 664 NW2d 151 (2003).

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*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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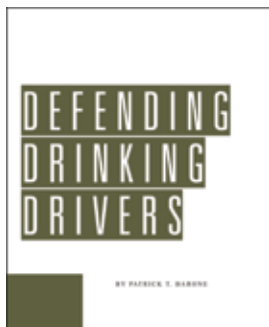
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discipline. Upon review, the Board affirmed the hearing panel's order of disbarment. The respondent filed a motion for reconsideration, which was denied by the Board on October 27, 2015. Total costs were assessed in the amount of \$2,073.49.

### Automatic Reinstatement

**Glenn Phillip Franklin**, P68263, Southfield, effective November 13, 2015.

The respondent was suspended from the practice of law in Michigan for 30 days, effective August 1, 2015. In accordance with MCR 9.123(A), the suspension was terminated with the respondent's filing of an affidavit of compliance with the Michigan Supreme Court on November 13, 2015.

### Reprimands (By Consent)

**Adam E. Griffis**, P75819, Lansing, by the Attorney Discipline Board, Ingham County Hearing Panel #4, effective November 25, 2015.

The respondent and the grievance administrator filed a stipulation for a consent order of discipline in accordance with MCR 9.115(F)(5), which was approved by the Attorney Grievance Commission and accepted by the hearing panel. Based on the respondent's misdemeanor conviction of operating while visibly impaired, a violation of MCL 257.6253-A, and his acknowledgment in the stipulation for consent order of reprimand, the panel found that the respondent violated the criminal laws of the state of Michigan contrary to MCR 9.104(A)(5).

In accordance with the stipulation of the parties, the hearing panel ordered that the respondent be reprimanded and pay costs in the amount of \$756.96.

**Charles Todd Inniss**, P61124, Detroit, by the Attorney Discipline Board, Tri-County Hearing Panel #4, effective November 21, 2015.

The respondent and the grievance administrator filed a stipulation for a consent order of discipline in accordance with MCR 9.115(F)(5), which was approved by the Attorney Grievance Commission and accepted by the hearing panel. The stipulation contained the respondent's admissions that he had committed acts of professional misconduct by engaging in conduct that was contrary to the standards to which lawyers are held when he engaged in an altercation at his son's basketball game. Based on the stipulation of the parties, the panel found that

the respondent engaged in conduct that was in violation of the Michigan Rules of Professional Conduct, contrary to MRPC 8.4(a) and MCR 9.104(4); engaged in conduct that exposed the legal profession or the courts to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2); engaged in conduct that was contrary to good morals, in violation of MCR 9.104(3); engaged in conduct that violated a criminal law of a state, contrary to MCR 9.104(5); and engaged in conduct involving violation of the criminal law, where such conduct reflects adversely on the respondent's fitness as a lawyer, contrary to MRPC 8.4(b).

In accordance with the stipulation of the parties, the hearing panel ordered that the respondent be reprimanded. Costs were assessed in the amount of \$820.90.

**Michael J. Kingsley**, P15984, Grosse Pointe Shores, by the Attorney Discipline Board, Tri-County Hearing Panel #24, effective November 13, 2015.

The respondent and the grievance administrator filed a stipulation for a consent order of discipline in accordance with MCR 9.115(F)(5), which was approved by the Attorney Grievance Commission and accepted by the hearing panel. Based on the respondent's admissions and the stipulation of the parties, the panel found that he engaged in conduct which exposed the legal profession or the courts to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2).

In accordance with the stipulation of the parties, the hearing panel ordered that the respondent be reprimanded and pay costs in the amount of \$825.66.

## Suspensions

**David J. Gorosh**, P53134, Birmingham, by the Attorney Discipline Board, Tri-County Hearing Panel #62, for one year, effective November 25, 2015.

The respondent did not file an answer to the formal complaint but appeared at the hearing. The hearing panel found that the respondent, based on his admissions, misused his IOLTA account, in violation of MCR 9.104(2)–(4); failed to answer two requests for investigation, in violation of MCR 9.104(7), MCR 9.113(A), and MRPC 1.15(A)(f); 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, in

his handling of a criminal matter, neglected the matter, in violation of MRPC 1.1(c); failed to act with reasonable diligence and promptness, in violation of MRPC 1.3; failed to make reasonable efforts to expedite litigation; and knowingly disobeyed an obligation under the rules of a tribunal, in violation of MRPC 3.4(c). In addition to the above misconduct, the panel also found that the respondent violated MRPC 8.4(a) and MCR 9.104(1)–(4).

The panel ordered that the respondent's license to practice law be suspended for one year. Costs were assessed in the amount of \$2,186.03.

**David Lyle Haverstick**, P78202, Commerce Township, by the Attorney Discipline Board, Tri-County Hearing Panel #64, for 180 days, effective December 1, 2015.<sup>1</sup>

The respondent failed to appear at the hearing and the panel suspended his license, effective October 9, 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 he neglected a legal matter, in violation of MRPC 1.1(c); failed to diligently proceed with a legal matter entrusted to him, in violation of MRPC 1.3; failed to maintain appropriate communications with the client, in violation of MRPC 1.4(a); failed to explain a matter to the extent reasonably necessary to permit the client to make an informed decision, in violation of MRPC

1.4(b); failed to take reasonable steps to protect his client's legal interests when he failed to release his client's file, in violation of MRPC 1.16(d); assisted an unlicensed individual in the unauthorized practice of law, in violation of MRPC 5.5(a); knowingly failed to respond to a lawful demand for information from a disciplinary authority, in violation of MRPC 8.1(a)(2); engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation, in violation of MRPC 8.4(b); and failed to answer a request for investigation, in violation of MCR 9.104(7) and MCR 9.113(A) and (B)(2). The panel also found that the respondent violated MRPC 8.4(a) and (c), and MCR 9.104(1)–(3).

The panel ordered that the respondent's license to practice law in Michigan be suspended for 180 days. Costs were assessed in the amount of \$1,744.17.

1. The respondent has been continuously suspended from the practice of law in Michigan since October 9, 2105. Please see Notice of Interim Suspension Pursuant to MCR 9.115(H)(1), issued October 12, 2015.

## Suspensions and Restitution

**John S. Davidson**, P35979, Troy, by the Attorney Discipline Board, Tri-County Hearing Panel #59, for 120 days, effective November 11, 2015.<sup>1</sup>

The respondent appeared at the hearing but was found to be in default for failing to file an answer to the formal complaint. Based on the respondent's default, the hearing panel found that he neglected a legal matter, in violation of MRPC 1.1(c);

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failed to act with reasonable diligence when representing his client, in violation of MRPC 1.3; failed to keep his client reasonably informed regarding the status of a legal matter and failed to respond to reasonable requests for information, in violation of MRPC 1.4(b); failed to respond to a legally proper discovery request by opposing counsel, in violation of MRPC 3.4(d); engaged in conduct prejudicial to the proper administration of justice, in violation of MCR 9.104(1); engaged in conduct that exposes the legal profession to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2); and engaged in conduct that is prejudicial to justice, ethics, honesty, or good morals, in violation of MCR 9.104(3).

The panel ordered that the respondent's license to practice law in Michigan be suspended for 120 days and that he pay restitution in the amount of \$2,110. Costs were assessed in the amount of \$1,920.89.

1. The respondent has been suspended from the practice of law in Michigan since January 21, 2015. Please see Notice of Disbarment (Pending Appeal), issued February 13, 2015.

**Jason Edward Sweeney**, P70043, Port Huron, by the Attorney Discipline Board, St. Clair County Hearing Panel #1, for three years, effective November 13, 2015.<sup>1</sup>

The respondent failed to appear at the hearing and the panel suspended his license, effective August 21, 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 he neglected two legal matters, in violation of MRPC 1.1(c); failed to act with reasonable diligence and promptness in representing his clients, in violation of MRPC 1.3; failed to keep his clients reasonably informed about the status of their matters or comply promptly with reasonable requests for information, in violation of MRPC 1.4(a); failed to refund unearned legal fees paid in advance, in violation of MRPC 1.15(d); failed to answer a request for investigation, in violation of MCR 9.104(7) and MCR 9.113(A) and (b); and failed to respond to a lawful demand of 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(2) and (3).

The panel ordered that the respondent's license to practice law in Michigan be suspended for three years and that he pay restitution in the aggregate amount of \$2,265. Costs were assessed in the amount of \$1,924.42.

1. The respondent has been continuously suspended from the practice of law in Michigan since August 21, 2015. Please see Notice of Interim Suspension Pursuant to MCR 9.115(H)(1), issued August 21, 2015.

## Automatic Interim Suspensions

**Kimberly A. Kirchoff**, P62870, Appleton, effective September 9, 2015.<sup>1</sup>

On September 9, 2015, the respondent was convicted of embezzlement by person of trust, in violation of MCL 750.174A4A, a felony. In accordance with MCR 9.120(B)(1), the respondent's license to practice law in Michigan was automatically suspended on the date of her felony conviction.

Upon the filing of a judgment of conviction, this matter will be assigned to a hearing panel for further proceedings. The interim suspension will remain in effect until the effective date of an order filed by a hearing panel.

1. The respondent has been continuously suspended from the practice of law in Michigan since February 24, 2015. Please see Notice of Automatic Suspension for Nonpayment of Costs, issued February 24, 2015.

**Derrick N. Okonmah**, P68221, Clarkston, effective November 3, 2015.

The respondent was convicted in the Oakland County Circuit Court of the charge of operating while intoxicated/per se—3rd offense, a felony, in violation of MCR 257.6256D. In accordance with MCR 9.120(B)(1), the respondent's license to practice law in Michigan was automatically suspended on the date he was convicted.

Upon the filing of a judgment of conviction, this matter will be assigned to a hearing panel for further proceedings. The interim suspension will remain in effect until the effective date of an order filed by a hearing panel.

**Timothy James Wilson**, P59423, Jackson, effective November 18, 2015.<sup>1</sup>

On November 18, 2015, the respondent was convicted of the following felonies: (1) False Pretenses > \$20,000 but < \$50,000, in violation of MCL 750.218(5)(a); (2) Welfare

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Fraud > \$500 in violation of MCL 400.60(1) (b); and (3) Welfare Fraud Failure to Inform \$500 or more, in violation of MCL 400.60(2) (b). In accordance with MCR 9.120(B)(1), the respondent's license to practice law in Michigan was automatically suspended on the date of those felony convictions.

Upon the filing of a certified copy of the judgment of conviction, the Attorney Discipline Board will enter an order directing the respondent to show cause why a final order of discipline should not be entered.

1. The respondent has been continuously suspended from the practice of law in Michigan since November 10, 2004. Please see Notice of Suspension With Conditions (By Consent), issued September 8, 2005.

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

**Damika L. Pace-Byrd**, P60446, Flint, by the Attorney Discipline Board, Genesee County Hearing Panel #1, effective November 30, 2015.<sup>1</sup>

The panel issued an order of interim suspension of the respondent's license, effective November 30, 2015, based on her failure to appear at a hearing scheduled for November 9, 2015.

After being properly served with the formal complaint and the notice of hearing, the respondent failed to personally appear at the November 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 November 23, 2015, the panel issued an order of suspension pursuant to MCR 9.115(H)(1), effective November 30, 2015, and until further order of the panel or the Board.

1. The respondent has been continuously suspended from the practice of law in Michigan since May 8, 2013. Please see Notice of Suspension and Restitution, issued May 9, 2013.

### Suspension (With Conditions)

**Evan A. Dixon**, P45738, Hancock, by the Attorney Discipline Board, Upper Peninsula Hearing Panel #2, for 179 days, effective June 1, 2015.<sup>1</sup>

The respondent failed to appear at the hearing and the panel suspended his license, effective May 19, 2015, pursuant to

MCR 9.115(H)(1). The panel also ordered the respondent to file an affidavit and documentary evidence to show good cause as to why he did not appear for the hearing. The respondent filed the required affidavit on June 1, 2015.

Based on the respondent's conviction for operating while impaired, 2nd offense, in violation of MCL 257.6253-A, a misdemeanor, the panel found that he committed professional misconduct by violating a criminal law of a state or of the United States, contrary to MCR 9.104(5).

The panel ordered that the respondent's license to practice law in Michigan be suspended for 179 days, effective June 1, 2015, the date the respondent filed his affidavit pursuant to the panel's May 12, 2015 order. The panel also ordered that the respondent be subject to conditions relevant to the established misconduct. Costs were assessed in the amount of \$2,334.74.

1. The respondent has been continuously suspended from the practice of law in Michigan since May 19, 2015. Please see Notice of Interim Suspension Pursuant to MCR 9.115(H)(1), issued May 26, 2015.

### Transfer to Inactive Status (By Consent)

**Dennis M. Polak**, P43882, Livonia, by the Attorney Discipline Board, Tri-County Hearing Panel #7, effective November 20, 2015.

The grievance administrator and the respondent filed a stipulation containing the agreement of the parties that the respondent be transferred to inactive status and until such time as he may be reinstated in accordance with MCR 9.121(E).

### Transfers to Inactive Status Pursuant to MCR 9.121(A)

**Thomas M. McGinnis**, P33419, Commerce Township, by the Attorney Discipline Board, effective November 30, 2015.

The grievance administrator filed a notice of incompetency and/or disability, pursuant to MCR 9.121(A), showing that the respondent had been judicially declared incompetent due to an impairment by a physical illness or disability. On November 30, 2015, the Attorney Discipline Board issued an order transferring the respondent's license to inactive status pursuant to MCR 9.121(A) for an indefinite period and until further order of the Board.

**Brenda K. Sanders**, P37845, Detroit, by the Attorney Discipline Board, effective November 30, 2015.

The grievance administrator filed a notice of incompetency and/or disability, pursuant to MCR 9.121(A), showing that the respondent had been judicially declared incompetent due to an impairment by a physical illness or disability. On November 30, 2015, the Attorney Discipline Board issued an order transferring the respondent's license to inactive status pursuant to MCR 9.121(A) for an indefinite period and until further order of the Board.

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