Orders of Discipline and Disability

Disbarments

Matthew David Herman, P74872, Grand Rapids, by the Attorney Discipline Board, Kent County Hearing Panel #4, effective July 27, 2016.

The respondent did appear at the hearing and 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 failed to hold property of his client in connection with his representation separate from his own property, in violation of MRPC 1.15(d); commingled funds by depositing his personal funds into the IOLTA which did not

represent service charges, in violation of MRPC 1.15(f); failed to diligently represent his client's interests, in violation of MRPC 1.1(c) and 1.3; failed to seek the lawful objectives of his client, in violation of MRPC 1.2(a); engaged in conduct involving dishonesty, fraud, deceit, misrepresentation, or violation of the criminal law, such that his conduct reflected adversely on his honesty, trustworthiness, or fitness as a lawyer, 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); engaged in conduct that is contrary to justice, ethics, honesty, or good morals, in violation of MCR 9.104(3); and

violated or attempted to violate the Michigan Rules of Professional Conduct, contrary to MCR 9.104(4).

The panel ordered that the respondent be disbarred from the practice of law in Michigan. Costs were assessed in the amount of \$1,941.28.

Robert Clayton Miller, P60382, East Lansing, by the Attorney Discipline Board, Ingham County Hearing Panel #4, effective August 12, 2016.

Based on the respondent's convictions in the 30th Circuit Court on July 27, 2015 and October 7, 2015, it was established that the respondent was convicted of embezzlement by an agent or trustee (\$200 or more but less than \$1,000), in violation of MCL 750.174(3)(a); and a third offense of operating while intoxicated, in violation of MCL 257.625(6)(D). Therefore, the panel found that the respondent engaged in conduct that violated the criminal laws of the state of Michigan, contrary to MCR 9.104(5).

The panel concluded that the respondent knowingly failed to respond to lawful demands for information from a disciplinary authority, in violation of MRPC 8.1(a)(2); failed to answer two requests for investigation, in violation of MCR 9.104(7) and MCR 9.113(A) and (B)(2); and violated MRPC 8.4(a); MCR 9.104(1); MCR 9.104(2); and MCR 9.104(3).

The panel ordered that the respondent be disbarred from the practice law in Michigan. Costs were assessed in the amount of \$1,834.48.

TODD A. McCONAGHY





SULLIVAN, WARD, ASHER & PATTON, P.C.

DEFENSE/ADVOCACY OF ALL GRIEVANCE & STATE BAR RELATED MATTERS

- · Shareholder Sullivan, Ward, Asher & Patton, P.C.
- Former Senior Associate Counsel Attorney Grievance Commission
- Former District Chairperson Character & Fitness Committee
- Fellow Michigan State Bar Foundation
- Twenty years' experience in both public & private sectors

FREE CONSULTATION • tmcconaghy@swappc.com • 248.746.0700

The lawyer for lawyers

Because reputation matters

- Listed in *The Best Lawyers in America*® for ethics and professional responsibility law since 2010
- Served 10 years as associate counsel with the Michigan Attorney Grievance Commission
- Adjunct ethics professor since 2002
- · Liaison to the American Bar Association's **Ethics Committee**



Donald D. Campbell

donald.campbell@ceflawyers.com (248) 351-5426



David J. Anderson, P27612, Lansing, by the Attorney Discipline Board, Ingham County Hearing Panel #6, effective August 10, 2016.

The respondent was convicted in Michigan's 51st Circuit Court, by plea, for the felony of attempted child abuse, 2nd degree, in violation of MCL 750.136B3. In accordance with MCR 9.120(B)(1), the respondent's license to practice law in Michigan was automatically suspended effective January 7, 2016, the date of the respondent's felony conviction.



On March 22, 2016, the grievance administrator filed a notice of judgment of conviction. 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 conviction and his admissions in the stipulation of the parties, the hearing panel found that he engaged in conduct that violated the criminal laws of the state, contrary to MCR 9.104(5).

The hearing panel ordered that the respondent be disbarred from the practice of law in Michigan, effective August 10, 2016. Total costs were assessed in the amount of \$828.47.

Reprimands With Conditions (By Consent)

James P. Maher, P53459, Farmington Hills, by the Attorney Discipline Board, Tri-County Hearing Panel #66, effective July 12, 2016.

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 panel found that the respondent's misdemeanor conviction for OWI/per se, 2nd offense, a misdemeanor, in violation of MCL 257.6256B, established that the respondent engaged in conduct that violated the criminal laws of the state of Michigan, contrary to MCR 9.104(5).

In accordance with the stipulation of the parties, the hearing panel ordered that the respondent be reprimanded and subject to conditions relevant to the established misconduct. Costs were assessed in the amount of \$791.88.

John F. Royal, P27800, Detroit, by the Attorney Discipline Board, Tri-County Hearing Panel #22, effective July 8, 2016.

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 pleas and admissions and the stipulation of the parties, the panel finds that the respondent held funds other than client or third-person funds in an IOLTA, in violation of MRPC 1.15(a)(3); failed to hold property of his clients or third persons separate from his own and in an IOLTA, in violation of MRPC 1.15(d); deposited his own funds into an IOLTA in an amount more than reasonably necessary to pay financial institution charges or fees, in violation of MRPC 1.15(f); and engaged in conduct which violated the Michigan Rules

of Professional Conduct, contrary to MRPC 8.4(a) and MCR 9.104(4).

In entering this finding of misconduct, the panel acknowledges paragraph three of the stipulation filed November 24, 2015, which states that the respondent violated a duty owed to the profession, his mental state was negligent, and based on the specific facts and circumstances of this case, there was no actual and little potential injury to any client.

In accordance with the stipulation of the parties, the hearing panel ordered that the respondent be reprimanded and subject to

ATTORNEY DISCIPLINE DEFENSE

Veteran trial and appellate attorneys, experienced in defending attorneys in discipline and contempt proceedings

Representation in grievances, answers to requests for investigation, hearings, appeals, reinstatement petitions, ethics consultations and character and fitness proceedings

KENNETH M. MOGILL ERICA N. LEMANSKI 27 E. Flint St., 2nd Floor Lake Orion, MI 48362 (248) 814-9470 CAROLE M. STANYAR 221 N. Main Street, Suite 300 Ann Arbor, MI 48104 (313) 819-3953

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 <u>all</u> of the following:

- 1. The lawyer who was convicted;
- 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

Orders of Discipline and Disability

DEFENDING DRINKING DRIVERS

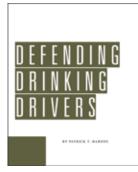
WINNING DUI ARGUMENTS AND TECHNIQUES

To challenge probable cause, keep the prosecution's evidence out, or file effective motions, you must have a well-prepared case. From initial client contact to sentencing, Defending Drinking Drivers will guide you through every phase of a drinking driving trial.



The book begins with the "nuts & bolts" of drunk driving defense, then focuses on teaching how to create "reasonable doubt." Particular attention is given to analyzing specific testing methods and handling expert witnesses.

This two-volume set offers court-tested strategy, practice tips, sample arguments and the most up-to-date case law and statutory changes to keep you on the cutting edge of drunk driving law. Practical, step-by-step guidance helps you:



PRINT OR DIGITAL: with code \$263 \$223 MBJ15

www.JamesPublishing.com

- Identify sources of error in BAC calculations
- Successfully attack damaging chemical test results
- Effectively cross-examine the prosecution's key witnesses
- Find weaknesses in the use of field sobriety tests
- Suppress audiovisual evidence
- Know when and how to use experts cost-effectively



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

Barone Defense Firm appears in their companion America's Best Law Firms. He has been rated "Seriously Outstanding" by Super Lawyers, rated "Outstanding/10.0" by AVVO, and has recently been rated as among the top 5% of Michigan's lawyers by Leading Lawyers magazine. Mr. Barone is the principal and founding member of The Barone Defense Firm, whose practice is limited exclusively to DUI cases including those involving injury or death.

To purchase your print copy or digital eBook of Patrick Barone's guide to winning DUI arguments, go to: jamespublishing.com/shop/defending-drinking-drivers/

With offices in Birmingham and Grand Rapids, The Barone Defense Firm accepts referrals from throughout Michigan. Call 248-594-4554.

conditions relevant to the established misconduct. Costs were assessed in the amount of \$782.73.

Donald W. Teichman Jr., P37817, Center Line, by the Attorney Discipline Board, Tri-County Hearing Panel #105, effective August 12, 2016.

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 panel has concluded that, based on the respondent's admissions and the stipulation of the parties, the respondent failed to provide competent representation to a client, in violation of MRPC 1.1; and handled a legal matter that he knew or should have known he was not competent to handle, without associating with a lawyer who was competent to handle the legal matter, in violation of MRPC 1.1(a).

In accordance with the stipulation of the parties, the hearing panel ordered that the respondent be reprimanded and subject to conditions relevant to the established misconduct. Costs were assessed in the amount of \$757.67.

Wallace H. Tuttle, P21644, Traverse City, by the Attorney Discipline Board, Grand Traverse Hearing Panel #2, effective July 22, 2016.

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, the panel found that he violated MCR 9.104(2)-(4). In entering this finding of misconduct, the panel acknowledges the statement contained in paragraph one of the stipulation filed April 25, 2016, in which the respondent states that his conduct involved negligent rather than willful or intentional conduct.

In accordance with the stipulation of the parties, the hearing panel ordered that the respondent be reprimanded and subject to conditions relevant to the admitted misconduct. Costs were assessed in the amount of \$757.67.

Suspension and Restitution With Conditions (By Consent)

Amy E. Muszall, P64935, Clinton Township, by the Attorney Discipline Board, Tri-County Hearing Panel #104, for 180 days, effective July 15, 2016.

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 finds that the respondent handled a legal matter without preparation adequate in the circumstances, in violation of MRPC 1.1(b); neglected a legal matter entrusted to the lawyer, in violation of MRPC 1.1(c); failed to seek the lawful objectives of her client through reasonably available means, 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 keep her client reasonably informed about the status of a matter and comply promptly with reasonable requests for information, in violation of MRPC 1.4(a); knowingly made a false statement of material fact in connection with a disciplinary matter, in violation of MRPC 8.1(a)(1); 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); knowingly made misrepresentations of the facts or circumstances surrounding a request for investigation, in violation of MCR 9.104(6); and knowingly made misrepresentations in her answer to the request for investigation, in violation of MCR 9.113(A). The panel also found that the respondent violated MRPC 8.4(c) and MCR 9.104(1)-(3).

In accordance with the stipulation of the parties, the hearing panel ordered that the respondent's license to practice law in Michigan be suspended for 180 days, effective July 15, 2016, as stipulated by the parties. The respondent was also ordered to pay restitution in the amount of \$557.29 and be subject to conditions relevant to the admitted misconduct. Costs were assessed in the amount of \$1,001.88.

INVESTMENT ADVISOR/STOCKBROKER MISCONDUCT

ATTORNEYS REPRESENTING INVESTORS WHO ARE VICTIMS OF BAD INVESTMENT ADVICE

- Breach of Fiduciary Duty
- **○** Fraud or Misrepresentations
- **○** Broker Misconduct
- **○** Unauthorized Trading
- Unsuitable Investments
- **○** Over Concentration
- **Excessive Trading or Commission Churning**

Michael P. Marsalese The Marsalese Law Group, PLLC

(248) 350-9370 mm@marsalese.com

SBM

Member Suspensions

FOR NONPAYMENT OF DUES

The list of active attorneys who are suspended for nonpayment of their State Bar of Michigan 2015-2016 dues is published on the State Bar's website at http://www.michbar.org/generalinfo/pdfs/suspension.pdf. This list is updated weekly. In accordance with Rule 4 of the Supreme Court Rules Concerning the State Bar of Michigan, these attorneys are suspended from active membership effective February 17, 2016, and are ineligible to practice law in this state. For the most current status of each attorney, see our member directory at http://directory.michbar.org.



You've worked hard to build your firm and you want to know your hard work is protected. ALPS has you covered. With ALPS, you're not buying a policy. You're buying a promise.

Ready to get a quote? Visit www.alpsnet.com/get-a-quote.



The nation's largest direct writer of lawyers' malpractice insurance.

(800) 367-2577 • www.alpsnet.com • learnmore@alpsnet.com

Orders of Discipline and Disability

Automatic Interim Suspensions

Stuart J. Dunnings III, P31089, Lansing, effective August 2, 2016.

On August 2, 2016, the respondent pleaded guilty to misconduct in office, in violation of MCL 750.505, 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 his 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.

Evan J. Feldman, P73437, Huntington Woods, effective July 21, 2016.

On July 21, 2016, the respondent was convicted of the following felonies: two counts of delivery or manufacture of a controlled substance—marijuana 5-45 kilograms, in violation of MCL 333.7401(2)(d)(ii); delivery or manufacture of a controlled substance—

SBM

MONEY JUDGMENT **INTEREST RATE**

MCL 600.6013 governs how to calculate the interest on a money judgment in a Michigan state court. Interest is calculated at six-month intervals on January and July of each year, from when the complaint was filed, and is compounded annually.

For a complaint filed after December 31, 1986, the rate as of July 1, 2016 is 2.337 percent. This rate includes the statutory 1 percent.

But a different rule applies for a complaint filed after June 30, 2002 that is based on a written instrument with its own specified interest rate. The rate is the lesser of:

- (1) 13 percent a year, compounded annually; or
- (2) the specified rate, if it is fixed—or if it is variable, the variable rate when the complaint was filed if that rate was legal.

For past rates, see http://courts.mi.gov/ Administration/SCAO/Resources/ Documents/other/interest.pdf.

As the application of MCL 600.6013 varies depending on the circumstances, you should review the statute carefully.

marijuana, in violation of MCL 333.7401(d) (iii); possession of a controlled substance, in violation of MCL 333.7403(2)(b)(ii); and possession of a controlled substance (cocaine, heroin, or another narcotic) less than 25 grams, in violation of MCL 333.7403(2) (a)(v). In accordance with MCR 9.120(B)(1), the respondent's license to practice law in Michigan was automatically suspended on the date of his felony convictions.

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.

Trevor M. Robinson, P69326, Lansing, effective June 20, 2016.1

On June 20, 2016, the respondent pleaded guilty to the following felonies: five counts of financial transaction devicesteal/retain without consent, in violation of MCL 750.157n1; four counts of uttering and publishing, in violation of MCL 750.249; and one count of embezzlement-public official over \$50, in violation of MCL 750.175. In accordance with MCR 9.120(B)(1), the respondent's license to practice law in Michigan was automatically suspended on the date of his 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 April 29, 2015. Please see Notice of Suspension and Restitution (With Condition), issued April 29, 2015.

Suspension (By Consent)

Paul J. M. Waltner, P48520, Ypsilanti, by the Attorney Discipline Board, Washtenaw County Hearing Panel #4, for 2 years and 11 months, effective August 13, 2015.1

The respondent was convicted in the U.S. District Court for the Eastern District of Michigan for the felony of subscribing to a false tax return, in violation of 26 USC 7206(1). In accordance with MCR 9.120(B) (1), the respondent's license to practice law in Michigan was automatically suspended effective August 13, 2015, the date of the respondent's felony conviction.

On March 3, 2016, the grievance administrator filed a notice of judgment of conviction. 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 conviction and his admission in the stipulation of the parties, the panel found that he had engaged in conduct that violated the criminal laws of the United States, contrary to MCR 9.104(5).

In accordance with the stipulation of the parties, the hearing panel ordered that the respondent's license to practice law in Michigan be suspended for 2 years and 11 months, effective August 13, 2015, the date of the respondent's automatic interim suspension (as stipulated by the parties). Total costs were assessed in the amount of \$916.38.

1. The respondent has been continuously suspended from the practice of law in Michigan since August 13, 2015. Please see Notice of Automatic Interim Suspension, issued November 20, 2015.

Suspension (Pending Appeal)

Donnelly W. Hadden, P14507, Ann Arbor, by the Attorney Discipline Board, Washtenaw County Hearing Panel #1, for 45 days, effective July 12, 2016.

The respondent filed an answer to the formal complaint and appeared at the public hearing. The panel found that the respondent misappropriated client funds and commingled them with his own, in violation of MRPC 1.15(b)(3) and (d); and MRPC 1.15A(a)(2).

The hearing panel ordered that the respondent's license to practice law in Michigan be suspended for 45 days. The grievance administrator filed a petition for review, seeking an increase in discipline, and this matter has been scheduled for hearing before the Attorney Discipline Board.

Suspensions With Conditions (By Consent)

Angela Kathleen Howell, P70129, Warren, by the Attorney Discipline Board, Tri-County Hearing Panel #107, for 180 days, effective August 1, 2016.

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 default for failure to answer the complaint, the respondent's admissions, and the stipulation of the parties, the panel found that the respondent held funds other than client or third-party funds in an IOLTA account, in violation of MRPC 1.15(a)(3); failed to promptly distribute all portions of property (i.e., her earned fees) to which ownership was not in dispute, in violation of MRPC 1.15(c); failed to hold property of clients or third persons in connection with a representation separate from the respondent's own property, in violation of MRPC 1.15(d); deposited her own funds, including earned fees, in an IOLTA account, in an amount more than reasonably necessary to pay financial institution charges or fees, in violation of MRPC 1.15(f); and violated MRPC 8.4(a), MCR 9.104(2), and MCR 9.104(4).

In accordance with the stipulation of the parties, the hearing panel ordered that the respondent's license to practice law in Michigan be suspended for 180 days. The panel also ordered that the respondent shall resolve the contempt finding issued against her by payment of the court-ordered amount of \$8,477.93 and costs of \$750 through an installment payment plan, or by obtaining a modification/setting aside of the judgment. Costs were assessed in the amount of \$964.95.

Jermaine A. Wyrick, P54352, Southfield, by the Attorney Discipline Board, Tri-County Hearing Panel #54, for 30 days, effective July 22, 2016.

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 no contest plea, the panel found that he held funds other than client or thirdperson funds in an IOLTA, in violation of MRPC 1.15(a)(3); failed to hold property of his clients or third persons separate from his own and in an IOLTA, in violation of MRPC 1.15(d); deposited his own funds (i.e.,

earned fees) into the IOLTA in excess of the amount reasonably necessary to pay financial institution service charges or fees or to obtain a waiver of service charges or fees, in violation of MRPC 1.15(f); and 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). The panel also found that the respondent violated MRPC 8.4(a) and MCR 9.104(2)-(4).

In accordance with the stipulation of the parties, the hearing panel ordered that the respondent's license to practice law be suspended for 30 days and that he be subject to conditions relevant to the alleged misconduct. Costs were assessed in the amount of \$1.131.42.

Transfer to Inactive Status Pursuant to MCR 9.121(B) (By Consent)

James Bearinger, P10588, Benzonia, by the Attorney Discipline Board, Grand Traverse County Hearing Panel #4, effective July 28, 2016.

The grievance administrator filed Formal Complaint 15-103-PI alleging that the respondent is incapacitated and cannot continue the practice of law pursuant to MCR 9.12(B). The Board issued an order appointing counsel for the respondent, and the respondent's answer to the formal complaint was filed February 16, 2016.

The grievance administrator and the respondent, through their respective counsel, filed a stipulation July 22, 2016, agreeing that the respondent is currently incapacitated and unable to engage in the practice

On July 28, 2016, Grand Traverse County Hearing Panel #4 issued an order transferring the respondent's license to inactive status pursuant to MCR 9.121(B) for an indefinite period and until further order of the Board.

ATTORNEY DISCIPLINE DEFENSE

Experienced attorney (40 yrs) who handles criminal and civil cases, trial and appeal, is available for representation in defending attorneys in discipline proceedings. I can represent you in answering requests for investigations, grievances, and at hearings. I am also available for appeals, reinstatement petitions, and general consultation. References are available upon request. For further information, contact:

LAW OFFICES OF THOMAS M. LOEB 32000 Northwestern Hwv. Ste 170 Farmington Hills, MI 48334-1507 (248) 851-2020 Fax (248) 851-2525 E-mail: tmloeb@mich.com

Mediations, **Arbitrations & Special Master**



William J. Giovan **Retired Circuit Judge**

2016 Michigan Leading Lawyer in ADR Law

(313) 885-6131 Giovan@cgblegal.com