

Disbarment (By Consent)

Stuart J. Dunnings III, P31089, Lansing, by the Attorney Discipline Board, Ingham County Hearing Panel #7, effective August 2, 2016.¹

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 contains the respondent's admission that he was convicted, by guilty plea, in *People of the State of Michigan v Stuart J. Dunnings III*, 30th Circuit Court Case No. 16-000664-FH-C30, of misconduct in office, a felony, in violation of MCL 750.505-C; and of engaging the services of a prostitute, a misdemeanor, in violation of MCL 750.449A. In accordance with MCR 9.120(B)(1), the respondent's license to practice law in Michigan was automatically suspended on August 2, 2016, the date of his felony conviction.

Based on the respondent's convictions, admissions, and the stipulation of the parties, it was 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 disbarred from the practice of law in Michigan. Costs were assessed in the amount of \$1,037.53.

1. The respondent has been continuously suspended from the practice of law in Michigan since August 2, 2016. Please see Notice of Automatic Interim Suspension, issued August 8, 2016.

Reprimand and Restitution (By Consent)

Joseph H. McKoan IV, P55642, Algonac, by the Attorney Discipline Board, Tri-County Hearing Panel #106, effective July 14, 2017.

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 contains the respondent's admission that he committed acts of professional misconduct during his representation of client in a probate matter and as personal representative in the same probate matter. The respondent also admitted, through the stipulation, to failing to notify his client and a court of his suspension from the practice of law in Michigan and to have misstated his compliance regarding notification of his suspension to clients and the courts in his affidavit of compliance in accordance with MCR 9.119.

Based on the respondent's admissions and the stipulation of the parties, the panel found that the respondent failed to maintain time records that state the identity of the person performing personal representative services, the date the services are

performed, the amount of time expended in performing the services, and a brief description of the services, in violation of MCL 700.3719(2); served as the personal representative for the estate and as counsel to the beneficiary of the estate, creating a conflict of interest, in violation of MRPC 1.7(a) and (b); failed to receive consent, in writing, to be the estate's personal representative and the beneficiary's attorney at the same time, in violation of MRPC 1.7(a) and (b); knowingly made a false statement of material fact, in violation of MRPC 8.1(a)(1); failed to notify his client within seven days of the effective date of an order of discipline, in writing, by registered or certified mail, return receipt requested, in violation of MCR 9.119(A); failed to notify the probate court of his suspension or otherwise comply with MCR 9.119(B); and made a material misstatement in his affidavit that he notified all clients and tribunals, when he did not, in violation of MCR 9.119(C). The respondent was also found to have violated MCR 9.104(1)–(3) and MRPC 8.4(a) and (c).

In accordance with the stipulation of the parties, the panel ordered that the respondent be reprimanded, effective July 14, 2017, and that he pay \$5,000 in restitution to his former client. Costs were assessed in the amount of \$1,176.67.

Reprimand (With Conditions)

Matthew Patrick Salgat, P74144, Ferndale, by the Attorney Discipline Board, Tri-County Hearing Panel #67, effective July 11, 2017.

The respondent was convicted of malicious use of electronic services, in violation of Chapter 12, Sec. 12-43(a)(7) of the Ferndale City Code, in *People of the City of Ferndale v Matthew Patrick Salgat*, 43rd District Court Case No. 15-71539. Based on this conviction, the panel found that the respondent violated the criminal laws of the state of Michigan, contrary to MCR 9.104(5). Additionally, based on the respondent's default for failure to answer the complaint and the exhibits offered into evidence, the hearing panel found that the respondent engaged in domestic violence, as alleged in the formal complaint, and violated or attempted to violate the Michigan Rules of Professional Conduct, contrary to MRPC 8.4(a) and

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MCR 9.104(4); engaged in conduct that involved a violation of the criminal law, where such conduct reflected adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer, contrary to MRPC 8.4(b) and MCR 9.104(5); engaged in conduct that exposed the legal profession or the courts to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2); and engaged in conduct that was contrary to justice, ethics, honesty, or good morals, in violation of MCR 9.104(3).

The panel ordered that the respondent be reprimanded and that he be subject to conditions relevant to the established misconduct. Costs were assessed in the amount of \$1,772.25.

Reprimand With Condition (By Consent)

Richard T. Taylor, P55237, Pontiac, by the Attorney Discipline Board, Tri-County Hearing Panel #79, effective July 12, 2017.

The respondent and the grievance administrator filed an amended 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 contains the respondent's admission that he committed acts of professional misconduct when he failed to surrender his former client's file to the client's criminal appellate counsel.

Based on the respondent's admissions and the stipulation of the parties, the panel found that the respondent failed to surrender papers and property to which a client was entitled, in violation of MRPC 1.16(d); failed to promptly make a criminal defendant's file, including all discovery material obtained, available to appellate counsel upon request, in violation of MCR 6.005(H)(5); and failed to preserve a criminal defendant's file for at least five years after the file was disposed of in the trial court, in violation of MCR 6.005(H)(5). The respondent was also found to have violated MCR 9.104(1)–(3).

In accordance with the stipulation of the parties, the panel ordered that the respondent be reprimanded, along with the condition that the respondent attend the seminar entitled "Tips and Tools for a Successful Practice," offered by the State Bar of Michigan by January, 12, 2018. Costs were assessed in the amount of \$955.06.

AGC Practice Pointers

Improper Uses of a Lawyer Trust Account

By Rhonda Spencer Pozehl, Attorney Grievance Commission

Attorneys are reminded of their fiduciary responsibilities in the handling of a client trust account. To avoid disciplinary action, keep in mind the following:

- It is improper for an attorney to deposit or maintain his or her personal funds in a trust account, including fees that are earned upon receipt and fees that become earned following deposit. An attorney may deposit and maintain his or her own funds in a client trust account *only in an amount reasonably necessary* to pay financial institution service charges or fees or to obtain a waiver of service charges or fees. Fees that are earned upon receipt must be deposited into a business or personal account. Fees that become earned after they are deposited into a trust account must be *promptly* removed from the account to avoid a charge of commingling. Attorneys should check with their financial institutions to determine what, if any, service charges or fees may be assessed against their trust account and calculate accordingly.
- It is improper for an attorney to pay his or her business or personal expenses directly from a trust account, even if the funds used to pay the expenses are earned fees. Likewise, it is improper for an attorney to pay a personal tax obligation directly from a trust account, even if the funds used for payment consist of earned fees.
- It is improper for an attorney to use the trust account as a check-cashing vehicle for a client, spouse, or other third person. An attorney may not use the trust account in effect to serve as a bank for a client, spouse, or other third person.
- It is improper for an attorney to pay a personal or business obligation of a third person by writing a check drawn on the attorney's trust account *unless* the debt is being paid on behalf of a client whom the attorney is representing in a legal matter who has advanced the funds and the funds are on deposit and being held in the attorney's trust account for that specific purpose.
- It is improper for an attorney to pay incorporation fees directly from a trust account for a company the attorney wishes to *personally* incorporate, even if the funds used for payment consist of earned fees.
- It is improper for an attorney to pay a debt for a third person directly from a trust account using the attorney's own funds. If an attorney wishes to pay a debt with his or her personal funds on behalf of a third person, the attorney may consider doing so provided payment is made from an account other than the trust account. However, when lending financial assistance to a client or third person, the attorney should abide by the proscriptions set forth in the Michigan Rules of Professional Conduct including, but not limited to, MRPC 1.8(e).
- It is improper for an attorney to abdicate his or her professional obligations under MRPC 1.15 and 1.15A by relinquishing control of a client trust account to either a client or a support staff member. An attorney is not absolved of liability for misconduct by delegating accounting or recordkeeping responsibilities to an employee, agent, or client. Attorneys who do so subject themselves to potential disciplinary action.
- It is improper for an attorney to ignore his or her fiduciary obligation to safeguard client funds. Monthly reconciliation of trust accounts will often alert an attorney to a problem or discrepancy in the account before the problem results in issuance of an overdraft notification to the grievance administrator.

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.

Suspensions

Richard A. Meier, P38204, Plymouth, by the Attorney Discipline Board, Tri-County Hearing Panel #68, for one year, effective March 23, 2017.¹

As alleged in the formal complaint, and established by the evidence and testimony submitted, the hearing panel found that the

respondent committed professional misconduct while representing a client in a breach of contract and retaliatory discharge lawsuit against his former employer.

The panel found that the respondent handled a legal matter without preparation adequate in the circumstances, in violation of MRPC 1.1(b); neglected a legal matter, in violation of MRPC 1.1(c); failed to act with

reasonable diligence and promptness on a client's behalf, in violation of MRPC 1.3; and failed to keep a client reasonably informed regarding the status of a legal matter and respond promptly to reasonable requests for information, in violation of MRPC 1.4(a).

The panel ordered that the respondent's license to practice law be suspended for a period of one year.

1. The respondent has been continuously suspended from the practice of law in Michigan since October 20, 2016. Please see Final Notice of Suspension (Pending Appeal), issued October 7, 2016.

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Stuart Lee Sherman, P44301, Bloomfield Hills, by the Attorney Discipline Board, Tri-County Hearing Panel #73, for one year, effective July 28, 2017.

As alleged in the formal complaint, and established by the evidence and testimony submitted, the hearing panel found that the respondent committed professional misconduct based on his representations to the probate court and his conduct immediately after a hearing held on December 3, 2012, at the Oakland County Probate Court.

The panel found that the respondent knowingly disobeyed an obligation under the rules of a tribunal, in violation of MRPC 3.4(c); and engaged in conduct involving dishonesty, fraud, deceit, misrepresentation, or violation of a criminal law, where such conduct reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer, contrary to MRPC 8.4(b). The respondent was also found to have violated MCR 9.104(1)–(4) and MRPC 8.4(a) and (b).

The panel ordered that the respondent's license to practice law be suspended for a period of one year. Costs were assessed in the amount of \$3,552.90.

Automatic Interim Suspension

David A. Monroe, P44418, Commerce Township, effective July 12, 2017.¹

On July 12, 2017, the respondent was found guilty of False Pretenses—\$1,000 to \$20,000, contrary to MCL 750.218(4)(a), in the matter of *People v David A. Monroe*, 44th County Circuit Court Case No. 16-023989-FH. 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 certified 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 October 18, 2012. Please see Notice of Disbarment (Pending Appeal), issued October 24, 2012.

Suspensions (By Consent)

Richard K. Gienapp, P32159, Brighton, by the Attorney Discipline Board, Washtenaw County Hearing Panel #5, for 179 days, effective July 28, 2017.

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 contains the respondent's admission that he committed acts of professional misconduct during reinstatement proceedings in the matter titled *In the Matter of the Reinstatement Petition of Richard K. Gienapp*, ADB Case No. 12-72-RP.

Based on the respondent's admissions and the stipulation of the parties, the panel found that the respondent filed an inaccurate personal history affidavit regarding his reinstatement proceeding, in violation of MCR 9.124(B)(1)(b); and engaged in conduct prejudicial to the administration of justice, in violation of MRPC 8.4(c) and MCR 9.104(1). The respondent was also found to have violated MCR 9.104(2) and (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 179 days, effective July 28, 2017. Costs were assessed in the amount of \$757.50.

Dirk Marinus Roskam, P62988, Celebration, Florida, by the Attorney Discipline Board, Kent County Hearing Panel #5, for 179 days, effective July 7, 2017.

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

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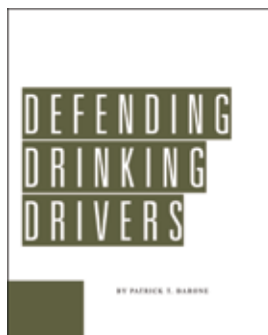
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by the hearing panel. The stipulation contains the respondent's admission that he committed acts of professional misconduct by engaging in various IOLTA violations and by failing to ensure that an employee's conduct, a nonlawyer who later became a lawyer, conformed to the Michigan Rules of Professional Conduct.

Based on the respondent's admissions and the stipulation of the parties, the panel found that the respondent withdrew and disbursed funds from his IOLTA on behalf of clients that were in excess of the clients' funds deposited in the IOLTA, in violation of MRPC 1.15(b)(3); failed to identify and appropriately safeguard the funds of clients on deposit in his IOLTA from other clients' disbursements, in violation of MRPC 1.15(d); failed to keep the funds of clients and/or third persons held in his IOLTA in connection with a representation separate from his own, in violation of MRPC 1.15(d); maintained on deposit in an IOLTA his own funds in an amount more than reasonably necessary to pay financial institution charges or fees, in violation of MRPC 1.15(f); having direct supervisory authority over an employee who was initially a nonlawyer but eventually became one, failed to make reasonable efforts to ensure that the employee, first as a nonlawyer and later as a lawyer, conformed to the Michigan Rules of Professional Conduct, in violation of MRPC 5.1(b) and/or 5.3(b); and ordered, or with knowledge of the relevant facts and actions of the subordinate nonlawyer who eventually became a lawyer, ratified the conduct involved, or failed to take remedial action notwithstanding having knowledge of the conduct at the time when its consequences could have been avoided, in violation of MRPC 5.1(c)(1) and (2) and MRPC 5.3(c)(1) and (2). The respondent was also found to have violated 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 in Michigan be suspended for 179 days effective July 7, 2017. Costs were assessed in the amount of \$1,177.54.

Automatic Suspension for Nonpayment of Costs

Matthew Patrick Salgat, P74144, Ferndale, effective July 25, 2017.

The respondent was reprimanded and ordered to pay costs in *Grievance Administrator v Matthew Patrick Salgat*, Case Nos. 16-92-JC; 16-93-GA by July 11, 2017. The respondent failed to pay the costs as ordered, and, in accordance with MCR 9.128(C), a certification of nonpayment of costs was issued on July 17, 2017.

In accordance with MCR 9.128(D), the respondent's license to practice law in Michigan was automatically suspended on July 25, 2017, and, pursuant to MCR 9.128, that suspension will remain in effect until costs have been paid and the respondent has complied with MCR 9.119 and 9.123(A).

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

Mary S. Hickey, P36942, Auburn Hills, by the Attorney Discipline Board, Tri-County Hearing Panel #19, effective July 31, 2017.

The respondent failed to appear at the July 25, 2017 hearing. On July 25, 2017, the hearing panel, in accordance with MCR 9.115(H)(1), issued an order of suspension effective July 31, 2017, and until further order of the panel or the Board.

James R. Shaw, P49003, Westland, by the Attorney Discipline Board, Tri-County Hearing Panel #13, effective August 2, 2017.

The respondent failed to appear at the July 26, 2017 hearing. On July 26, 2017, the hearing panel, in accordance with MCR 9.115(H)(1), issued an order of suspension effective August 2, 2017, and until further order of the panel or the Board.

Ralph J. Sirlin, P24635, Royal Oak, by the Attorney Discipline Board, Tri-County Hearing Panel #52, effective August 2, 2017.

The respondent failed to appear at the June 29, 2017 hearing. On July 26, 2017, the hearing panel, in accordance with MCR 9.115(H)(1), issued an order of suspension effective August 2, 2017, and until further order of the panel or the Board.