

Disbarment

Kelvin Yinkang Hu, P56581, Chicago, Illinois, by the Attorney Discipline Board, Tri-County Hearing Panel #19, effective August 7, 2014.

In a reciprocal discipline proceeding under MCR 9.120(C), the grievance administrator filed a petition for order to show cause, which was accompanied by a certified copy of the order of disbarment, entered by the Illinois Supreme Court on September 25, 2013, in *In re: Yinkang Hu*, Supreme Court No. M.R. 26078. The panel found that the respondent was afforded due process of law in the course of the original proceeding and that the respondent had failed to persuade the panel that the imposition of comparable discipline in Michigan would be clearly inappropriate.

The panel ordered that the respondent be disbarred from the practice of law in Michigan and assessed costs in the amount of \$1,790.50.

Disbarment and Restitution With Conditions (By Consent)

Jarrold A. Barron, P55353, Morrice, by the Attorney Discipline Board, Genesee County Hearing Panel #2, effective August 13, 2014.

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 plea of no contest, the hearing panel found that the respondent withdrew advanced legal fees and expenses from a client trust account without the fees having been earned, in violation of MRPC 1.15(g); knowingly made a false statement of material fact in connection with a disciplinary matter, in violation of MRPC 8.1(a); 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); made knowing misrepresentations of facts or circumstances surrounding a request for investigation, in violation of MCR 9.104(6); and failed to file an answer to a request for investigation which fully and fairly discloses all facts and circumstances, in violation of MCR 9.113. The panel also found that the respondent violated MRPC 8.4(a) and (c); and MCR 9.104(1)–(4).

In accordance with the stipulation of the parties, the hearing panel ordered that the respondent be disbarred from the practice of law in Michigan and pay restitution in

the aggregate amount of \$7,490. Costs were assessed in the amount of \$799.37.

Disbarment (By Consent)

Barry L. Lippitt, P33087, Southfield, by the Attorney Discipline Board, Tri-County Hearing Panel #80, effective August 9, 2014.

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 plea of no contest, the hearing panel found that the respondent, while acting as an appointed guardian for a legally incapacitated individual, knowingly disobeyed an obligation under the rules of a tribunal, in violation of MRPC 3.4(C); failed to notify a client or a third person when funds in which the client or third person had an interest were received, in violation of MRPC 1.15(b)(1); and failed to promptly pay or deliver funds that a client or third person was entitled to receive, in violation of MRPC 1.15(b)(3). The panel also found that the respondent violated MRPC 8.4(a)–(c) and MCR 9.104(1)–(4).

In accordance with the stipulation of the parties, the hearing panel ordered that the respondent be disbarred from the practice of law in Michigan and pay costs in the amount of \$862.61.

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

Disbarment Pursuant to MCR 9.115(M)

Brian J. Benner, P25239, Farmington Hills, by the Attorney Discipline Board, Tri-County Hearing Panel #64, effective September 1, 2014.

The grievance administrator filed a formal complaint against the respondent alleging that he committed professional misconduct in a personal injury matter in which he misappropriated settlement proceeds. While the complaint was pending before Tri-County Hearing Panel #64, the respondent and the grievance administrator filed a stipulated petition to allow the respondent's resignation under MCR 9.115(M), which provides that an attorney's request that his or her name be stricken from the official register of attorneys may not be accepted

while a request for investigation or a complaint is pending, except pursuant to an order of disbarment.

The petition was granted by the hearing panel and an order of disbarment, pursuant to MCR 9.115(M), was issued on August 29, 2014, effective September 1, 2014, as stipulated by the parties. No costs were assessed in this matter.

Automatic Reinstatements

Michael L. Donaldson, P35780, Plymouth, effective August 21, 2014.

The respondent was suspended from the practice of law in Michigan for 60 days, effective June 18, 2014. In accordance with MCR 9.123(A), the suspension was terminated with the respondent's filing of an af-

fidavit of compliance with the clerk of the Michigan Supreme Court on August 21, 2014.

R. Reid Krinock, P36162, Brighton, effective August 8, 2014.

The respondent was suspended from the practice of law in Michigan for 30 days, effective December 17, 2013. In accordance with MCR 9.123(A), the suspension was terminated with the respondent's filing of an affidavit of compliance with the clerk of the Michigan Supreme Court on August 8, 2014.

Reinstatement (With Conditions)

Keith T. Murphy, P29864, White Lake, by the Attorney Discipline Board, Tri-County Hearing Panel #72, effective August 27, 2014.

The respondent has been suspended from the practice of law in Michigan since January 2, 2012. His petition for reinstatement, filed in accordance with MCR 9.123(B) and MCR 9.124, was granted by Tri-County Hearing Panel #72, which concluded that the petitioner had satisfactorily established his eligibility for reinstatement, in accordance with those court rules. The panel also issued an order of eligibility for reinstatement with a condition to be met before the petitioner could be reinstated to the practice of law in Michigan.

The Board received written proof of the petitioner's compliance with that condition and an order of reinstatement with conditions, effective August 27, 2014, was issued by the Board. Total costs were assessed in the amount of \$1,059.10.

AGC/JTC Practice Pointers

Ethical Implications for Failing to File a QDRO

A qualified domestic relations order (QDRO) is the instrument by which a nonemployee spouse can be allotted an interest in the employee's retirement assets. Divorce attorneys may encounter ethical issues in defining the scope of representation and whether that includes QDROs.

Pursuant to Michigan Rule of Professional Conduct (MRPC) 1.2(b), attorneys may limit the scope of their representation to exclude QDROs if there is consultation and an agreement with the client defining the scope of the representation. The agreement must comply with MRPC 1.4(b), requiring an attorney to provide adequate information for the client to make informed decisions regarding the representation.

Unless attorneys include a QDRO waiver in the agreement, it is likely they will be obligated to complete a QDRO. The Michigan Court of Appeals has suggested that QDROs and divorce judgments are two parts of a whole. *Neville v Neville*, 295 Mich App 460; 812 NW2d 816, 822 (2012). Given the limited precedent for finding QDROs within the scope of divorce representation, the only ethical "safe harbor" is an agreement, preferably in writing, at the outset of the attorney-client relationship stating who will handle the QDRO or limiting the scope of representation to exclude the QDRO.

Several ethical rules may be violated if an attorney does not set forth the scope of QDRO representation. First, failing to file a QDRO may constitute neglect of a matter entrusted to the

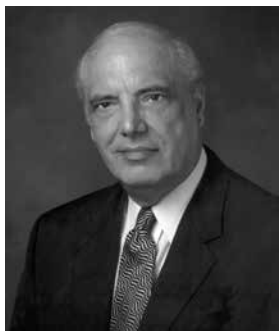
attorney per MRPC 1.1(c). Second, MRPC 1.1(a) and (b) can be implicated if an attorney is not competent in QDRO representation and does not engage in sufficient preparation and research. See *Grievance Adm'r v Sage*, No. 96-35-GA Board Op (1997). Finally, failing to use all "reasonably available means permitted by law and [the MRPC]" during QDRO representation could constitute a violation of MRPC 1.2(a). *Id.* An attorney must act with diligence and promptness throughout the representation, and failing to complete a QDRO within the scope of representation may constitute a lack of diligence per MRPC 1.3.

MRPC 1.5(b) requires attorneys to explain the basis of a fee to a client. Attorneys may violate the rule if they fail to clarify that the QDRO—an important aspect of the client's case—is not included in the fee. Failure to explain whether the QDRO is included or excluded limits the client's ability to make informed decisions regarding his or her representation, violating MRPC 1.4(b). Attorneys must be aware that there are ethical issues even if there is an agreement excluding QDROs. Pursuant to 1.16(d), an attorney must take reasonable steps to protect a client's interests after termination of the relationship. If attorneys do not complete the QDRO personally, they are obligated to provide any materials that will help the client's new counsel complete the QDRO.

Many ethical issues regarding QDROs can be avoided simply by discussing the scope of the representation with one's client and obtaining a written agreement at the outset stating whether a QDRO is included or excluded.

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Reprimand and Restitution (By Consent)

Thomas G. Trautner, P41826, Cadillac, by the Attorney Discipline Board, Grand Traverse Hearing Panel #1, effective August 13, 2014.

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 plea of no contest, the hearing panel found that the respondent neglected a legal matter entrusted to him, in violation of MRPC 1.1(c); failed to deposit a legal fee and costs paid in advance of services rendered into a client trust account, in violation of MRPC 1.15(g); and engaged in conduct which violated the standards or rules of professional responsibility adopted by the Supreme Court, in violation of MCR 9.104(4).

In accordance with the stipulation of the parties, the hearing panel ordered that the respondent be reprimanded and pay restitution in the amount of \$250. Costs were assessed in the amount of \$765.64.

Suspension

William A. Godfrey, P72922, Walled Lake, by the Attorney Discipline Board, Tri-County Hearing Panel #59, for 180 days, effective November 2, 2017.¹

The respondent failed to appear at the hearing and was found to be in default for his failure to file an answer to the formal complaint. Based on his default, the hearing panel found that the respondent, while he was disbarred from the practice of law in Michigan, continued to practice law, in violation of MCR 9.119(E)(1); held himself out as an attorney, in violation of MCR 9.119(E)(4); 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, misrepresentation, or violation of the criminal law, where such conduct reflects on the lawyer's honesty, trustworthiness, or fitness as a lawyer, in violation of MRPC 8.4(b); and failed to answer a request for investigation, in conformity with MCR 9.113, MCR 9.115(D), and MCR

9.104(7). The panel also found that the respondent violated the Michigan Rules of Professional Conduct, contrary to MRPC 8.4(a) and MCR 9.104(4); engaged in conduct which was prejudicial to the administration of justice, in violation of MRPC 8.4(c) and MCR 9.104(1); 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, in violation of MCR 9.104(3).

The hearing panel ordered that the respondent's license be suspended for 180 days, effective November 2, 2017, and that the suspension shall run consecutively with the respondent's current disbarment from the practice of law, as ordered in *Grievance Administrator v William A. Godfrey*, Case No. 12-75-GA. Costs were assessed in the amount of \$1,715.39.

1. The respondent has been continuously suspended from the practice of law in Michigan since November 2, 2012. Please see notice of disbarment and restitution, issued November 7, 2012.

Suspension and Restitution (Pending Appeal)

Matthew Charles Justice, P71390, Plainwell, by the Attorney Discipline Board, Allegan County Hearing Panel #1, for 180 days, effective August 21, 2014.

The respondent appeared at the hearing but was found to be in default for his failure to file an answer to the formal complaint. Based on that default, the hearing panel found that the respondent neglected two client matters, in violation of MRPC 1.1(c); failed to act with reasonable diligence and promptness in representing two clients, in violation of MRPC 1.3; failed to keep two clients reasonably informed about the status of their matters and comply promptly with reasonable requests for information, in violation of MRPC 1.4(a); failed to explain a matter to the extent reasonably necessary to permit the clients to make informed decisions about the representations in two matters, in violation of MRPC 1.4(b); collected an excessive or illegal fee in one matter, in violation of MRPC 1.5(a); failed to promptly pay or deliver funds that one of his clients was entitled to receive, in violation of MRPC 1.15(b); brought or defended a proceeding, or asserted or controverted an

issue therein, unless there was a basis for doing so that was not frivolous, in violation of MRPC 3.1; knowingly disobeyed an obligation under the rules of a tribunal in three matters, in violation of MRPC 3.4(c); failed to respond to the lawful demands of the grievance administrator, in violation of MRPC 8.1(a)(2); failed to answer three requests for investigation, in violation of MCR 9.104(7), MCR 9.113(A), and MCR 9.113(B)(2); and engaged in conduct which involved dishonesty, fraud, deceit, and misrepresentation, in violation of MRPC 8.4(b). The respondent was also found to have violated MRPC 8.4(a) and (c); and MCR 9.104(1)-(4).

The panel ordered that the respondent's license to practice law in Michigan be suspended for 180 days and that he pay restitution in the aggregate amount of \$4,411. The respondent filed a petition for review and motion for a stay of discipline. On August 22, 2014, the Attorney Discipline Board denied the respondent's motion for stay and modified the order of discipline as to the payment of costs and restitution. This matter will be scheduled for hearing before the Attorney Discipline Board.

Final Suspension and Restitution With Condition (By Consent)

Thomas W. Deprekel, P31223, Bay City, by the Attorney Discipline Board, Tri-Valley Hearing Panel #3, upon remand, for 180 days, effective August 22, 2014.¹

The panel ordered that the respondent be disbarred from the practice of law in Michigan, effective October 16, 2013, and pay restitution in the amount of \$7,662.50. 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 for stay of discipline, along with a motion to dismiss the petition for review.

The Attorney Discipline Board denied both the respondent's request for a stay of discipline and the grievance administrator's motion to dismiss the petition for review and remanded the matter to the hearing panel to provide the respondent an opportunity to file a motion to set aside the default. On November 8, 2013, the respondent filed a motion to set aside the default and order of disbarment and restitution, and the

grievance administrator filed its concurrence that the default should be set aside.

Tri-Valley Hearing Panel #3 set aside the default, as well as the order of disbarment and restitution, and ordered that the respondent's license to practice law in Michigan be suspended, pursuant to MCR 9.115(H)(2), until further order of the panel or Board.

On June 11, 2014, the respondent and the grievance administrator filed a second 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 respondent pleaded no contest to the allegations that he failed to act with diligence and promptness, in vio-

lation of MRPC 1.3; failed to keep his clients reasonably informed of the status of their matters, in violation of MRPC 1.4(a); failed to explain matters to his clients to the extent necessary to permit the clients to make informed decisions regarding their representation, in violation of MRPC 1.4(b); failed to hold a client's property separate from his own property, in violation of MRPC 1.15(d); failed to provide competent representation, in violation of MRPC 1.1; neglected four client 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; and failed to refund an unearned advance fee in three matters, in violation of MRPC 1.16(d).

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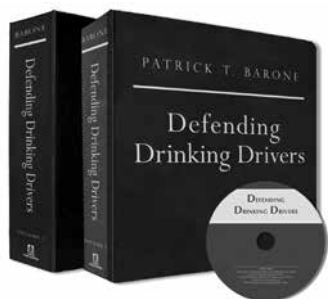
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The panel further found that the respondent's conduct violated MRPC 8.4(a) and MCR 9.104(2)-(4).

In accordance with the stipulation of the parties, the hearing panel ordered that the respondent's license to practice law be suspended for 180 days, effective August 22, 2014, and that he pay restitution in the aggregate amount of \$3,630. The panel further ordered that the respondent shall be subject to conditions relevant to the alleged misconduct. Total costs were assessed in the amount of \$1,231.44.

1. The respondent has been continuously disqualified from the practice of law in Michigan since October 16, 2013, under the panel's September 24, 2013 order of disbarment and restitution, and remained so under the panel's November 20, 2013 order of interim suspension, pursuant to MCR 9.115(H)(2).

Final Suspension

Michael D. Hoy, P72961, Owosso, by the Attorney Discipline Board, affirming Genesee County Hearing Panel #1's order of suspension, for one year, effective December 28, 2013.¹

The respondent pleaded guilty to one count of possessing an unregistered machine gun, in violation of 26 USC 5861(d), in the U.S. District Court, Eastern District of Michigan (Flint). In accordance with MCR 9.120(B)(1), the respondent's license to practice law in Michigan is suspended, effective January 18, 2013, the date his plea was accepted.

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

The panel ordered that the respondent's license to practice law in Michigan be suspended for one year. The grievance administrator filed a petition for review and, upon review, the Attorney Discipline Board affirmed the hearing panel's order of a one-year suspension. Total costs were assessed in the amount of \$1,671.19.

1. The respondent has been continuously suspended from the practice of law in Michigan since January 18, 2013. Please see notice of automatic interim suspension, issued January 25, 2013.

Suspension (With Conditions)

Emmett D. Greenwood, P56556, Detroit, by the Attorney Discipline Board, Tri-County Hearing Panel #22, for 150 days, effective August 9, 2014.

The respondent was found to be in default for his failure to file an answer to the formal complaint, but he did appear at the hearing. Based on the default, the panel found that the respondent filed a legal claim in a matter that had no basis that was not frivolous, in violation of MRPC 3.1; knowingly disobeyed an obligation under the rules of a tribunal in three matters, in violation of MRPC 3.4(c); engaged in undignified or discourteous conduct toward a tribunal in three matters, in violation of MRPC 3.5(d); 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); and failed to answer two requests for investigation, in violation of MCR 9.104(A)(7) and MCR 9.113(A) and (B). The panel also found that the respondent violated MRPC 8.4(a) and MCR 9.104(2)-(4).

The panel ordered that the respondent's license to practice law in Michigan be suspended for 150 days and that he be subject to conditions relevant to the established misconduct. Costs were assessed in the amount of \$1,788.18.

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

Michael B. Haley, P58860, Grand Blanc, by the Attorney Discipline Board, Genesee County Hearing Panel #4, effective August 13, 2014.

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

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN

NOTICE OF AMENDMENTS AND PROPOSED AMENDMENTS TO LOCAL RULES

The United States District Court for the Eastern District of Michigan publishes proposed amendments and approved amendments to its Local Rules on its website at www.mied.uscourts.gov. Attorneys are encouraged to visit the court's website frequently for up-to-date information. A printer-friendly version of the Local Rules, which includes appendices approved by the court, can also be found on the website.

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