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**NOTICE OF DISBARMENT AND RESTITUTION**

Case Nos. 22-17-AI; 22-45-JC; 22-46-GA

**Notice Issued: December 6, 2022**

Brian P. McMahon, P 47477, St. Joseph, Michigan, by the Attorney Discipline Board Berrien County Hearing Panel #1.

Disbarment - Effective December 3, 2022<sup>1</sup>

The Grievance Administrator filed a combined Notice of Filing of Judgments of Conviction and Formal Complaint against respondent. The judgments of conviction showed that respondent was convicted, by nolo contendere plea, of embezzlement by agent or trustee \$50,000-\$100,000, in violation of MCL 750.174(6), a felony, in the matter titled *People of the State of Michigan v Brian Patrick McMahon*, Berrien County Circuit Court Case No. 2021-000864-FH; and larceny by conversion more than \$20,000, in violation of MCL 750.362(2)(A), a felony, in the matter titled *State of Michigan v Brian Patrick McMahon*, Berrien County Circuit Court Case No. 2021-003358-FH. In accordance with MCR 9.120(B)(1), respondent's license to practice law in Michigan was automatically suspended, effective February 28, 2022, the date of respondent's felony convictions. Based on this conviction, the panel found that respondent engaged in conduct that violated a criminal law of a state or of the United States, an ordinance, or tribal law pursuant to MCR 2.615, in violation of MCR 9.104(5).

Additionally, based on respondent's default for failing to answer the formal complaint, the hearing panel found that respondent committed professional misconduct in his representation of two separate, unrelated clients in two separate, unrelated matters. Count One of the formal complaint pertained to respondent's representation of a client and her company in the sale of a liquor license and charged that he converted the sale proceeds for his own purposes and falsely claimed in his answer to a request for investigation that he properly safeguarded his client's portion of the funds.

Count Two of the formal complaint pertained to respondent's representation of a client and his construction company in pursuing a breach of contract action and charged that respondent failed to deposit an unearned retainer into his IOLTA, billed his client for additional fees that were not earned, stopped communicating with his client, abandoned his client's matter, requiring the client to retain new counsel to continue the matter, failed to refund any of the retainer or additional fees he received, and failed to answer a request for investigation filed against him regarding the above referenced conduct.

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<sup>1</sup> Respondent has been continuously suspended from the practice of law in Michigan since February 28, 2022. Please see Notice of Automatic Interim Suspension issued March 22, 2022.

Specifically, the panel found that respondent neglected a legal matter entrusted to the lawyer, in violation of MRPC 1.1(c) (Count Two); failed to act with reasonable diligence and promptness in representing his client, in violation of MRPC 1.3 (Count Two); failed to keep a client reasonably informed about the status of their matter, in violation of MRPC 1.4(a) (Count Two); failed to promptly notify the client when funds or property in which the client had an interest was received, in violation of MRPC 1.15(b)(1) (Count One) failed to promptly pay or deliver any funds or other property that the client is entitled to receive, in violation of MRPC 1.15(b)(3) (Counts One and Two); failed to render a full accounting regarding funds he was holding for the client, in violation of MRPC 1.15(b)(3) (Counts One and Two); failed to hold property of clients in connection with a representation separate from the lawyer's own property, in violation of MRPC 1.15(d) (Count One); failed to safeguard client funds, in violation of MRPC 1.15(d) (Counts One and Two); upon termination of representation, failed to refund an unearned fee, in violation of MRPC 1.16(d) (Count Two); knowingly made a false statement of material fact in connection with a disciplinary matter, in violation of MRPC 8.1(a)(1) and MCR 9.104(6) (Count One); engaged in conduct that involved 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, in violation of MRPC 8.4(b) (Counts One and Two) and failed to answer a request for investigation in conformity with MCR 9.113, in violation of MCR 9.104(7) (Count Two). Respondent was also found to have violated MCR 9.104(1)-(3) (Counts One and Two); and MRPC 8.4(c) (Counts One and Two).

The hearing panel ordered that respondent be disbarred from the practice of law in Michigan and that he pay \$5,000 in restitution. Total costs were assessed in the amount of \$1,848.69.