

**THE STATE OF NEW HAMPSHIRE**

**SUPREME COURT**

**ORDER**

**LD-2023-0012, In the Matter of Robert E. McDaniel, Esquire**

On September 19, 2023, the Attorney Discipline Office (ADO) filed a petition for the summary suspension of Attorney Robert E. McDaniel from the practice of law in New Hampshire. The ADO has alleged, among other claims of professional misconduct, that:

- (1) Attorney McDaniel made unauthorized disbursements of escrowed funds that he held as an attorney in a divorce matter, including unauthorized disbursements to himself, failed to promptly render a full accounting of the escrowed funds when requested to do so by opposing counsel, and failed to keep the escrowed funds separate and safeguarded when the opposing party in the divorce matter claimed an interest in such funds.
- (2) Attorney McDaniel failed to maintain any of the minimum financial records for client and third-party funds, as required by Supreme Court Rules 50 and 50-A, and knowingly filed false trust accounting certifications.
- (3) Attorney McDaniel commingled his own funds with client funds by depositing his funds into an IOLTA account and misappropriated client funds by disbursing them or depositing them into his operating account before the funds had been earned by him.
- (4) Attorney McDaniel knowingly made false statements of fact to the trial court and opposing counsel in the divorce matter concerning the status of the escrowed funds.
- (5) Attorney McDaniel's conduct violates Supreme Court Rules 50 and 50-A and Rules of Professional Conduct 1.15, 3.3, 3.4(c), Rule 4.1(a), and 8.4(c).

The ADO cites Supreme Court Rule 37(9-B)(a)(1) as grounds for suspending Attorney McDaniel summarily. Rule 37(9-B)(a)(1) authorizes summary suspension when an attorney "has engaged in serious misconduct which poses an immediate and substantial threat of serious harm to the public or the integrity of the legal profession." The term "serious misconduct" is defined

by Rule 37(9-B)(b) as “any misconduct involving (1) mishandling or misappropriation of client or third party property or funds or (2) any other misconduct which by itself could result in a suspension or disbarment.”

Based on the information submitted by the ADO in its petition, to which Attorney McDaniel has yet to respond, the court finds that Attorney McDaniel “has engaged in serious misconduct which poses an immediate and substantial threat of serious harm to the public or the integrity of the legal profession.” His summary suspension from the practice of law is therefore necessary to protect the public and to preserve the integrity of the legal profession. Accordingly, it is hereby ordered:

- (1) In accordance with Rule 37(9-B), Attorney Robert E. McDaniel is immediately suspended from the practice of law in New Hampshire pending further order of this court.
- (2) A copy of the petition for summary suspension and of this order shall be served on Attorney McDaniel by certified and first-class mail at the latest address that Attorney McDaniel provided to the New Hampshire Bar Association.
- (3) On or before September 26, 2023, Attorney McDaniel may request a hearing on the issue of whether the summary suspension should be lifted. If a request is made, the hearing will be scheduled for October 2, 2023, or sooner. See Rule 37(9-B)(f).
- (4) Attorney McDaniel is enjoined from further use of his IOLTA and operating accounts, including Bank of New Hampshire accounts ending in XXXX5186 and XXXX5160. He is further enjoined from transferring, assigning, hypothecating, or in any manner disposing of or conveying any assets of clients, whether real, personal, beneficial or mixed.
- (5) On or before October 10, 2023, Attorney McDaniel shall inform his clients in writing of his suspension from the practice of law and of his inability to act as an attorney, and shall advise them to seek other counsel. See Rule 37(13)(b). Attorney McDaniel shall file an affidavit on or before October 11, 2023, stating that he has complied with this requirement. See Rule 37(13)(d). A copy of the affidavit shall be sent to the ADO.

Pursuant to Rule 37(17), the court appoints Attorney Andrea Q. Labonte, ADO Assistant General Counsel, to take immediate possession of the client files and trust and other fiduciary accounts of Attorney McDaniel, and to take the following actions:

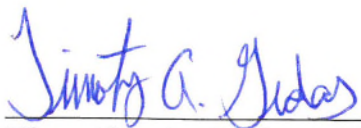
- (1) Attorney Labonte shall notify all banks and other entities where Attorney McDaniel has trust or fiduciary accounts and operating accounts of Attorney McDaniel's suspension from the practice of law and of Attorney Labonte's appointment by the court.
- (2) Attorney Labonte shall, to the extent that she deems necessary, notify Attorney McDaniel's clients of his suspension, inform them of any scheduled hearings, advise them to obtain the services of other lawyers of their choice, and advise them how they or their new attorneys may obtain their files. Attorney Labonte shall not, however, undertake the representation of any of Attorney McDaniel's clients.
- (3) Attorney Labonte shall, to the extent that she deems necessary, notify the courts in which any hearings are scheduled in the near future of Attorney McDaniel's suspension.
- (4) Attorney Labonte shall prepare an inventory of Attorney McDaniel's client files and shall file a copy of the inventory with this court on or before November 6, 2023, together with a report of her actions taken under this order and recommendations as to what further actions should be taken.
- (5) If Attorney McDaniel was in possession of any client funds or property, Attorney Labonte may file an appropriate motion requesting authority to distribute them.

Attorney McDaniel is ordered to cooperate with Attorney Labonte in performing the tasks as directed by the court. Pending further order of this court, Attorney McDaniel is assessed for all expenses that may be incurred by the ADO in the investigation and prosecution of this matter and in the performance of the tasks undertaken by Attorney Labonte.

MacDonald, C.J., and Hicks, Bassett, Hantz Marconi, and Donovan, JJ., concurred.

DATE: September 21, 2023

ATTEST:

  
**Timothy A. Gudas, Clerk**

Distribution:

Sara S. Greene, Esquire

Andrea Q. Labonte, Esquire

Robert E. McDaniel, Esquire

Edward D. Philpot, Jr., Esquire

File