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JUN 22 2017

BEFORE THE BOARD OF PROFESSIONAL CONDUCT  
OF  
THE SUPREME COURT OF OHIO

BOARD OF PROFESSIONAL CONDUCT

In re:

Complaint against

Thomas Christopher Brown, Esq.  
Thomas Brown Law Office  
196 S. Broadway  
Geneva, Ohio 44041

No. 17-030

Attorney Registration No. (0024054)

COMPLAINT AND CERTIFICATE

Respondent,

(Rule V of the Supreme Court Rules for  
the Government of the Bar of Ohio.)

Disciplinary Counsel  
250 Civic Center Drive, Suite 325  
Columbus, Ohio 43215-7411

FILED

JUN 29 2017

Relator.

BOARD OF PROFESSIONAL CONDUCT

Now comes the relator and alleges that Thomas Christopher Brown, an Attorney at Law, duly admitted to the practice of law in the State of Ohio, is guilty of the following misconduct:

1. Respondent, Thomas Christopher Brown, was admitted to the practice of law in the State of Ohio on November 6, 1981.
2. Respondent is subject to the Ohio Rules of Professional Conduct and to the Supreme Court Rules for the Government of the Bar of Ohio ("Gov. Bar R.").
3. Respondent has a record of prior discipline in the following matters:
  - (a) On September 17, 1999 in Supreme Court Case No. 1999-1716, relator filed a motion with the Supreme Court seeking an order of interim remedial suspension in

accordance with the provisions of former Gov. Bar R. (V)(5)(a). The Supreme Court granted relator's motion and ordered respondent's interim remedial suspension effective October 26, 1999. *Disciplinary Counsel v. Brown* (1999) 87 Ohio St.3d 1427, 718 N.E.2d 444.

- (b) On November 1, 2000 in *Disciplinary Counsel v. Brown* (2000) 90 Ohio St.3d 273, the Supreme Court ordered that respondent be indefinitely suspended from the practice of law in Ohio. The Court gave respondent credit for the time of his interim suspension from the practice of law. Respondent was subsequently reinstated to the practice of law effective November 27, 2006. *Disciplinary Counsel v. Brown*, 112 Ohio St.3d 1205, 2006-Ohio-6723.
- (c) Effective December 2, 2005, respondent was suspended from the practice of law for failure to comply with the attorney registration requirements for the 2005/2007 biennium period. *12/05/2005 Case Announcements #2*, 2005-Ohio-6408. Respondent was subsequently reinstated from his attorney registration suspension effective November 27, 2006.
- (d) Effective November 3, 2009, respondent was suspended from the practice of law for failure to comply with his attorney registration requirements for the 2009/2111 biennium period. *11/04/2009 Administrative Actions*, 2009-Ohio-5786. Respondent was subsequently reinstated from his attorney registration suspension effective November 10, 2009.
- (e) Effective November 3, 2015, respondent was suspended from the practice of law for failure to comply with his attorney registration requirements for the 2015/2017 biennium period. *11/05/2015 Administrative Actions*, 2015-Ohio-4567. Respondent

was subsequently reinstated from his attorney registration suspension effective November 12, 2015.

- (f) On November 2, 2015, the Board of Professional Conduct (“the Board”) certified a complaint filed against respondent by the Certified Grievance Committee of the Ashtabula County Bar Association (“Ashtabula Cty. Bar Assn.”) in a formal disciplinary proceeding entitled *In re Complaint against Thomas C. Brown*, Board Case No. 15-063. On August 8, 2016, the Board filed its report and recommendation with the Supreme Court recommending that respondent be suspended from the practice of law for a period of six months, with the suspension stayed in its entirety on specified conditions. Following the filing of objections by the Ashtabula Cty. Bar Assn., the Supreme Court heard oral argument on February 8, 2017, and the matter is now submitted for the Court’s decision. *Ashtabula Cty. Bar Assn. v. Brown*, Supreme Court Case No. 2016-1147.
4. On April 7, 2016, an indictment was filed in the Ashtabula County Court of Common Pleas against Virgil B. Hammonds in a proceeding entitled *State of Ohio v. Virgil B. Hammonds*, Case No. 2016-CR-00211.
  5. Following his arrest, Hammonds’ arraignment was scheduled for April 25, 2016.
  6. On April 25, 2016, Hammonds’ wife, Carol Hammonds, came to her husband’s arraignment with their pastor, Bruce Hitchcock.
  7. Respondent happened to be in the courtroom on April 25, 2016. Pastor Hitchcock introduced respondent, who is also a member of Pastor Hitchcock’s church, to Mrs. Hammonds.

8. Respondent told Mrs. Hammonds that he would be willing to represent Hammonds with respect to his criminal matter, including his arraignment on April 25, 2016. Mrs. Hammonds retained respondent and paid him \$1,000 in cash prior to the arraignment. Respondent provided Mrs. Hammonds with a handwritten receipt. The receipt reflected that the full amount of respondent's fee for representing Hammonds would be \$3,000, with the remaining \$2,000 to be paid within 30 days. There was no written fee agreement.
9. After he was retained by Mrs. Hammonds, respondent met briefly with Hammonds and appeared with him at the April 25 arraignment. Hammonds entered a not guilty plea and the court ordered a personal recognizance bond in the amount of \$25,000.
10. Although respondent told Mr. and Mrs. Hammonds after the arraignment that he would call them within a few days to further discuss Hammonds' matter, he did not contact either of them at any time between April 25, 2016 and May 4, 2016.
11. Respondent did not deposit the \$1,000 that he received from Mrs. Hammonds into his IOLTA account.
12. Mr. and Mrs. Hammonds decided to retain another attorney to represent Hammonds in his criminal matter. On May 4, 2016, Mrs. Hammonds telephoned respondent's law office to advise him that they were terminating his services. Mrs. Hammonds requested the return of Hammonds' file and paperwork, an accounting of the work that respondent had performed on Hammonds' behalf and a refund of unearned fees. Mrs. Hammonds also sent an email to respondent on the same date (i.e., May 4, 2016), confirming the Hammonds' termination of his services and their request for the return of the file, unearned fees and an accounting.

13. On or about May 6, 2016, respondent telephoned Mrs. Hammonds and agreed to return Hammonds' paperwork and the money he had been paid. However, respondent neither returned the paperwork, refunded any of \$1,000 that he had been paid by Mrs. Hammonds nor provided the Hammonds with the requested accounting.
14. On June 3, 2016, Mrs. Hammonds filed a grievance against respondent with the Ashtabula County Bar Association.
15. On June 23, 2016, Luke Lindberg, Bar Counsel for the Ashtabula County Bar Association, sent a Letter of Inquiry to respondent with respect to Mrs. Hammonds' grievance, asking respondent to provide specified documents and a response to Mrs. Hammonds' allegations. The Letter of Inquiry was mailed to respondent by certified mail, return receipt requested and was received at respondent's law office on June 27, 2016. Bar Counsel Lindberg requested respondent's written reply to the Letter of Inquiry on or before July 7, 2016. Respondent did not respond to the Letter of Inquiry, either by the due date of July 7, 2016 or at any time thereafter.
16. On July 18, 2016, Bar Counsel Lindberg sent a second letter to respondent, indicating that he had not received a response to his June 23, 2016 letter. This letter was sent to respondent by first-class mail addressed to him at the law office address listed by respondent with the Supreme Court's Office of Attorney Services. The letter requested that respondent's written reply be received on or before July 28, 2016. Respondent did not provide a written response to Lindberg's July 18, 2016 letter by the July 28, 2016 deadline.
17. On August 1, 2016, respondent telephoned Bar Counsel Lindberg and promised to provide a written response to the Letter of Inquiry on August 3, 2016.

18. Respondent did not provide the promised response to Bar Counsel Lindberg on August 3, 2016. However, respondent telephoned Bar Counsel Lindberg on August 3, 2016 and requested an in-person meeting, to which Lindberg agreed. Although respondent promised, during the meeting, to provide a written response to the Letter of Inquiry by August 5, 2016, he failed to do so.
19. On August 8, 2016, respondent faxed to Bar Counsel Lindberg a copy of a letter, a billing statement and a refund check in the amount of \$150 that he claimed to have mailed to Mrs. Hammonds on August 5, 2016. On the documents that he faxed to Bar Counsel Lindberg, respondent wrote "Luke, thank you for your consideration. Answer forthcoming."
20. On August 11, 2016, Bar Counsel Lindberg sent an email to respondent in which he stated that respondent had failed to provide any of documentation that he had requested in his letter of June 23, 2016 and that, unless respondent provided the requested documentation on or before August 15, 2016, he would proceed on the presumption that respondent was not interested in cooperating with his investigation. Respondent neither replied to Bar Counsel Lindberg's email nor provided the requested documentation.
21. On or about December 13, 2016, the Ashtabula County Bar Association transferred its investigation of respondent to the Office of Disciplinary Counsel ("relator").
22. On January 13, 2017, relator sent a Letter of Inquiry to respondent by certified mail, return receipt requested, addressed to him at the law office address that he had listed with the Supreme Court's Office of Attorney Services, i.e., 196 S. Broadway, Geneva, Ohio 44041-1805. In its Letter of Inquiry, relator asked respondent to reply to the allegations contained in Mrs. Hammonds' grievance and, additionally, to answer questions and

- provide documents identified in the Letter of Inquiry. Relator asked respondent to provide his written response on or before January 27, 2017. Respondent received relator's Letter of Inquiry on January 18, 2017.
23. Respondent did not reply to relator's Letter of Inquiry, either by the January 27, 2017 deadline or at any time thereafter.
  24. On February 3, 2017, relator sent a second Letter of Inquiry to respondent by certified mail, return receipt requested, addressed to him at the law office address that he had registered with the Office of Attorney Services. Relator enclosed a copy of its January 13, 2017 Letter of Inquiry and asked respondent to reply to the allegations of Mrs. Hammonds' grievance and to respond to relator's questions and document requests on or before February 17, 2017. Respondent received relator's second Letter of Inquiry on February 6, 2017.
  25. Respondent did not reply to relator's second Letter of Inquiry, either by the February 17, 2017 deadline or at any time thereafter.
  26. On March 30, 2017, relator sent a letter to respondent by certified mail, return receipt requested, addressed to him at the law office address he had registered with the Supreme Court's Office of Attorney Services. Enclosed with relator's letter was a subpoena *duces tecum* issued by the Board for a deposition of respondent to be conducted, commencing at 10:00 a.m. on April 18, 2017, at the Ashtabula County Law Library in Jefferson, Ohio. Respondent received relator's letter and the subpoena *duces tecum* on April 7, 2017.
  27. On April 5, 2017, relator sent a letter to respondent by both first-class mail and by email, enclosing a copy of the subpoena *duces tecum* for the scheduled April 18, 2017 deposition of respondent. The April 5, 2017 letter was sent to respondent at his law

office address and at the email address he had registered with the Supreme Court's Office of Attorney Services, i.e., tomcbrown1969@gmail.com.

28. On April 12, 2017, respondent telephoned relator to acknowledge his receipt of the subpoena *duces tecum* and to ask if he could avoid the deposition by providing an affidavit. Relator advised respondent that he needed to respond to the questions and document requests set forth in relator's January 13, 2017 Letter of Inquiry and that, if relator received respondent's reply by noon on April 17, relator would take the deposition off calendar for the time being. Respondent promised to provide his written response to the Letter of Inquiry by the close of business on Friday, April 14, 2017.
29. Respondent failed to provide any response to relator by the agreed upon due date of April 14, 2017. Therefore, relator telephoned respondent at 8:45 a.m. on Monday, April 17, 2017 and left a voicemail. Respondent returned relator's telephoned call at 9:45 a.m. and asserted that he had previously provided an affidavit regarding his representation of Virgil Hammonds in another proceeding. Respondent promised to review his records when he returned to his office and to provide copies of the relevant documents to relator. Respondent called relator again at approximately 11:00 a.m. and reiterated that he had responded to the Hammonds' grievance in another proceeding. Relator agreed to take the deposition off calendar while relator reviewed the materials from *Ashtabula Cty. Bar Assn. v. Brown*, Supreme Court Case No. 2016-1147, the other proceeding to which respondent was referring.
30. By letter dated April 20, 2017, and sent to respondent by both first-class mail addressed to him at his law office address and by email, relator notified respondent that it had reviewed the materials from Supreme Court Case No. 2016-1147 and had concluded that

the allegations of the current proceeding were entirely separate and different from the charges and allegations in Case No. 2016-1147. Therefore, relator notified respondent that, unless he provided a written response to relator's January 13, 2017 Letter of Inquiry by May 1, 2017, relator would reschedule his deposition.

31. Respondent did not provide a written response to relator either by May 1, 2017, or on any later date.
32. Relator obtained from the Board a subpoena *duces tecum* for a deposition of respondent to be conducted, commencing at 10:00 a.m. on Friday, June 2, 2017, at the Ashtabula County Law Library in Jefferson, Ohio. The subpoena *duces tecum* was served upon respondent at 9:35 a.m. on Tuesday, May 16, 2017, by taping the subpoena to the door of respondent's law office.
33. Respondent did not appear for the scheduled deposition on June 2, 2017 and did not contact relator, either by telephone, email or letter notifying relator that he was unable to attend the deposition.
34. By the foregoing conduct, respondent violated the following provisions of the Ohio Rules of Professional Conduct and the Supreme Court Rules for the Government of the Bar of Ohio:
  - (a) By failing to deposit the \$1,000 retainer fee that he received from Carol Hammonds into his IOLTA, respondent violated Prof. Cond. R. 1.15(c) [a lawyer shall deposit into a client trust account legal fees that have been paid in advance, to be withdrawn by the lawyer only as fees are earned];

- (b) By failing, following the termination of his legal services, to promptly refund to Mr. and Mrs. Hammonds the unearned portion of the fees that they had paid to him in advance, respondent violated Prof. Cond. R. 1.16(e) [a lawyer who withdraws from employment shall refund promptly any part of a fee paid in advance that has not been earned];
- (c) By failing, following the termination of his legal services, to deliver to Virgil Hammonds or to his designee all papers and property to which he was entitled, respondent violated Prof. Cond. R. 1.16(d) [as part of the termination of representation, a lawyer shall take steps to protect a client's interest, including delivering to the client all papers and property to which the client is entitled];
- (d) By failing, upon the request of Carol Hammonds, to promptly render a full accounting of the advanced fees that he had received from Mr. and Mrs. Hammonds, respondent violated Prof. Cond. R. 1.16(d) [upon request by the client or third person, the lawyer shall promptly render a full accounting regarding funds or other property received by the lawyer from or on behalf of the client];
- (e) By knowingly and repeatedly failing to respond to demands for information from a disciplinary authority in the course of its investigation, respondent violated Prof. Cond. R. 8.1(b) [a lawyer shall not fail to disclose a material fact or knowingly fail to respond to demands for information from a disciplinary authority];
- (f) By knowingly and repeatedly failing and refusing to assist with or testify in the disciplinary investigation against him, respondent violated Gov. Bar R. V(9)(G) [no attorney shall neglect or refuse to assist or testify in an investigation or hearing].

## CONCLUSION

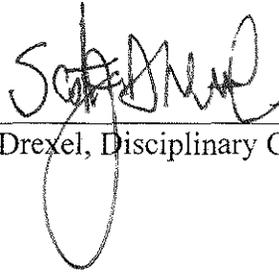
Wherefore, pursuant to Gov. Bar R. V, and the Ohio Rules of Professional Conduct, relator alleges that respondent is chargeable with misconduct; therefore, relator requests that respondent be disciplined pursuant to Rule V of the Supreme Court Rules for the Government of the Bar of Ohio.

  
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**CERTIFICATE**

The undersigned, Scott J. Drexel, Disciplinary Counsel, of the Office of Disciplinary Counsel of the Supreme Court of Ohio hereby certifies I am duly authorized to represent relator in the premises and that I have accepted the responsibility of prosecuting the complaint to its conclusion. After investigation, relator believes reasonable cause exists to warrant a hearing on such complaint.

Dated: June <sup>22</sup>\_\_\_\_, 2017



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Scott J. Drexel, Disciplinary Counsel