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BEFORE THE BOARD OF COMMISSIONERS
ON GRIEVANCES AND DISCIPLINE OF THE
SUPREME COURT OF OHIO

BOARD OF PROFESSIONAL CONDUCT

CASE NO. 16 - 027 

IN RE: COMPLAINT AGAINST
Joseph Terrence Dull
724 Youngstown Warren Road
Suite 11
Niles, Ohio 44446
Attorney Registration No. 0009288

COMPLAINT AND CERTIFICATE

Respondent

(RULE V OF THE SUPREME COURT
RULES FOR THE GOVERNMENT
OF THE BAR OF OHIO)

TRUMBULL COUNTY BAR ASSOCIATION
CERTIFIED GRIEVANCE COMMITTEE
120 High Street, N.W.
P. O. Box 4222
Warren, Ohio 44482

FILED

JUL 29 2016

Relator

BOARD OF PROFESSIONAL CONDUCT

1. Now comes the Relator and says that Respondent, Joseph Terrence Dull, Ohio Supreme Court Registration No. 0009288, was admitted to the practice of law in the State of Ohio on November 19, 1976.
2. Respondent is subject to the Ohio Rules of Professional Conduct and the Rules for the Government of the Bar of Ohio and has heretofore been given notice of the allegations of this Complaint and the opportunity to respond thereto.
3. This Complaint is filed as a result of an investigation conducted by the Trumbull County Bar Association Certified Grievance Committee and a majority of the Committee members constituting a quorum determining that this Complaint is warranted.

4. Respondent is a solo practitioner whose present office address is 724 Youngstown-Warren Road, Suite 11, Niles, OH 44446.
5. To Relator's knowledge, Respondent has not heretofore been the subject of disciplinary proceedings.

COUNT ONE

THE JOSEPH STEPHEN SCAGLIONE MATTER

6. This matter pertains to an investment trust prepared by Respondent.
7. During October 1996, Joseph Stephen Scaglione ("Scaglione") hired Respondent to prepare a trust in which to hold investment assets, namely shares of the Vanguard High Yield Corporate Account Investment Fund ("Vanguard fund").
8. Respondent prepared the trust agreement and was also chosen by Scaglione to serve as trustee of the trust.
9. At the time the trust was created, Scaglione gave Respondent \$15,000.00 to invest in the subject Vanguard fund.
10. Respondent did so in a timely manner.
11. After the initial investment, many years passed in which the trust had minimal activity.
12. From time to time, Scaglione would instruct Respondent to pay taxes out of the trust.
13. Respondent would perform this work, and Scaglione would pay him for his services.
14. During February 2011, Scaglione gave Respondent a check for \$30,000.00 and instructed him to invest in the Vanguard fund as soon as possible.
15. During March 2011, Scaglione gave Respondent another \$15,000.00 to invest in the Vanguard fund promptly.
16. Respondent did not invest the \$30,000.00 that Scaglione paid in February 2011 in the Vanguard fund.

17. Respondent did not invest the \$15,000.00 that Scaglione paid in March 2011 in the Vanguard fund.
18. Several times during 2011, Scaglione asked Respondent if the \$30,000.00 payment of February 2011 and the \$15,000.00 payment of March 2011 had been invested in the Vanguard fund.
19. Respondent stated in response to each of these inquiries that he was too busy and had not gotten to it.
20. Scaglione then instructed Respondent to hold those funds and invest them when the share price of the Vanguard fund was lower.
21. Respondent did not deposit these funds in an account that was titled in his name as trustee of the trust that he had prepared for Scaglione.
22. Rather, during 2011, he held these funds in his IOLTA account.
23. During June 2012, Scaglione asked Respondent to give \$8,000.00 back to him for his own use.
24. Respondent paid said funds to Scaglione by means of Check No. 5168 out of his IOLTA account, which was written on June 7, 2012 in the amount of \$8,000.00.
25. After payment of this check, Respondent was holding \$37,000.00 of Scaglione's money as trustee of his trust.
26. At some point after June 2012, Scaglione stated to Respondent, "You might want to put some money in Vanguard now" because the price of shares of the Vanguard fund had dropped.
27. Respondent, though, in spite of this instruction from Scaglione, did not invest any of the \$37,000.00 in Vanguard.
28. During November 2015, Scaglione decided to buy a new vehicle.
29. He scheduled an appointment with Respondent on November 12, 2015.
30. However, Respondent missed that appointment.
31. Scaglione scheduled another appointment for November 17, 2015.

32. As Scaglione drove into Respondent's parking lot, Respondent was leaving.
33. Respondent stopped and asked Scaglione to come to Respondent's house to discuss the matter.
34. During this meeting, Respondent informed Scaglione that he did not have the money.
35. Respondent admitted during this meeting that he had spent all of the \$37,000.00 that he had been holding as trustee of Scaglione's trust.
36. Scaglione submitted his grievance to Relator on December 11, 2015.
37. Respondent generally cooperated with the investigation of the subject grievance.
38. However, although the investigator during the course of the investigation asked Respondent to produce relevant records from his IOLTA account, Respondent did not produce said records.
39. Relator certified Scaglione's grievance for prosecution at its meeting of March 3, 2016.
40. Relator informed Respondent of this by a letter dated March 11, 2016.
41. On March 25, 2016, Respondent, through counsel, sent a letter to Scaglione's counsel with Respondent's IOLTA Account Check No. 6085 payable to Scaglione in the amount of \$15,000.00.
42. On April 14, 2016, Respondent, through counsel, sent a letter to Scaglione's counsel with Respondent's IOLTA Account Check No. 6089 payable to Scaglione in the amount of \$22,000.00.
43. Realtor believes that Scaglione regards these two checks as payment in full of restitution owed to him.
44. The investigator noted that Respondent did not have any proof of professional liability insurance for 1996.
45. Respondent admitted to the investigator that he currently does not have professional liability insurance.
46. At no point in time did respondent provide Scaglione with the disclosure required under Professional Conduct Rule 1.4(c) if a lawyer does not carry professional liability insurance.

47. Respondent's conduct as described in Count One herein violates the Ohio Rules of Professional Conduct, to-wit:

(A) Rule 1.4(c): A lawyer shall inform a client at the time of the client's engagement of the lawyer or at any time subsequent to the engagement if the lawyer does not maintain professional liability insurance.

(B) Rule 1.15(a): A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from a lawyer's own property.

(C) Rule 8.4 (c): It is professional misconduct for a lawyer to . . . (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.

CONCLUSION

WHEREFORE, pursuant to Gov. Bar Rule V and the Rules of Professional Conduct, Relator says that Respondent is chargeable with misconduct and requests that the Respondent be disciplined pursuant to Rule V of the Rules for the Government of the Bar of Ohio.

TRUMBULL COUNTY BAR ASSOCIATION

By 

WILLIAM M. FLEVARES #0059960

Flevares Law Firm, LLC

1064 Niles Cortland Rd. NE

Warren, Ohio 44484

Phone: (330) 609-9644

flevareslawfirm@hotmail.com

RANDIL J. RUDLOFF #0005590

151 East Market Street

P.O. Box 4270

Warren, Ohio 44482

Phone: (330) 393-1584

BAR COUNSEL FOR RELATOR TRUMBULL

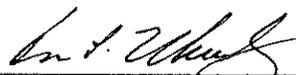
COUNTY BAR ASSOCIATION CERTIFIED

GRIEVANCE COMMITTEE

CERTIFICATION

The undersigned, Kevin P. Murphy, Chairman of the Trumbull County Bar Association Certified Grievance Committee, hereby certifies that William M. Flevares and Randil J. Rudloff are authorized to represent the Relator in the premises and have accepted the responsibility of prosecuting the Complaint herein to its conclusion. After investigation, Relator believes reasonable cause exists to warrant a hearing on such Complaint.

Dated: June 16, 2016



KEVIN P. MURPHY, #0029747, CHAIRMAN
TRUMBULL COUNTY BAR ASSOCIATION
CERTIFIED GRIEVANCE COMMITTEE

CERTIFICATE OF SERVICE

A copy of the foregoing Complaint was served upon Respondent by Certified and ordinary U.S.

Mail the 8th day of July, 2016 at the address set forth above.



William M. Flevares, Trumbull County Bar Counsel