FILED
SEP 02 2016
BOARD OF PROFESSIONAL CONDUCT

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

***In re*:**	:	
LORAIN COUNTY BAR ASSOCIATION: LEGAL ETHICS AND GRIEVANCE COMMITTEE	:	**CASE NO.** 16-038
c/o Lorain County Bar Association		**CERTIFIED COMPLAINT**
The Lawyer's Loft	:	
627 W. Broad Street		
Elyria, Ohio 44035	:	
Relator,	:	
-v-	:	
JAMES L. LINDON, ESQ.	:	
Lindon & Lindon, LLC		
35104 Saddle Creek Drive	:	
Avon, OH 44011		
Registration No. 0068842	:	
Respondent.	:	

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NOW COMES Relator, Lorain County Bar Association Legal Ethics and Grievance Committee, by and through the undersigned Bar Counsel, and alleges that Respondent, James L. Lindon (Registration No. 0068842) Attorney at Law, and currently suspended from the practice of law by the Ohio Supreme Court for an interim period based on a felony conviction, is guilty of the misconduct more fully described below.

INTRODUCTION

1. That Respondent, James Lee Lindon ("Respondent"), was admitted to the practice of law in the State of Ohio on November 12, 1997.

2. That Respondent is subject to the Code of Professional Responsibility; The Ohio Rules of Professional Conduct; and, the Ohio Supreme Court Rules for the Government of the Bar.

3. That on June 28, 2016, and pursuant to Gov.Bar R. V(18), the director of the Board of Professional Conduct filed with the Supreme Court of Ohio a certified copy of a judgment entry of a felony conviction against Respondent.

4. That upon consideration of same, on June 30, 2016 the Supreme Court suspended Respondent from the practice of law for an interim period. See, *In re Lindon*, _____ Ohio St.3d ____, 2016-Ohio-4671.

5. That in addition, Respondent has a history of prior discipline imposed by the Supreme Court of Ohio.

6. That on January 15, 2010 Respondent was publicly reprimanded by the Supreme Court of Ohio in accordance with the reciprocal discipline provisions of the Gov.Bar Rules for conduct in which he was publicly reprimanded for on consent by order of the Attorney Discipline Board of the State of Michigan entered on August 7, 2009, in *Grievance Admr. v. Lindon*, Case No. 09-37-JC. See, *Disciplinary Counsel v. Lindon* (2010), 124 Ohio St.3d 1217, 2010-Ohio-507.

7. That on or about June 16, 2016 Respondent was convicted of several felony charges in the matter of *State of Ohio v. James L. Lindon*, Cuyahoga County Court of Common Pleas, Case No. CR-16-604473-A.

8. That on or about June 27, 2016 LCBA, by and through its Certified Legal Ethics and Grievance Committee ("The Committee"), opened an investigation ("The Investigation") into the facts and circumstances surrounding Respondent's conviction in accordance with its duties under Gov.Bar R. V(9)(C)(1) and assigned the matter to Attorney Daniel A. Cook ("Attorney Cook"), a member of The Committee, for further inquiry.

9. That on or around June 28, 2016 Attorney Cook sent Respondent notice of The Investigation *via* certified mail and requested that he respond within twenty (20) days from the date of his letter of inquiry and further provide copies of any materials relevant to his response.

10. That on July 15, 2016 Respondent directed correspondence to Attorney Cook wherein he requested a continuance in which to respond to The Investigation.

11. That on July 18, 2016 Attorney Cook sent Respondent correspondence advising him that his request for a continuance was granted by The Committee and that Respondent's response to the grievance was now due on or before Friday, August 5, 2016.

12. That on or around August 4, 2016 Respondent timely replied.

13. That on August 29, 2016 at a regularly scheduled meeting of The Committee, affirmative votes were recorded finding probable cause that Respondent had committed multiple violations of the Ohio Rules of Professional Conduct and the Ohio Supreme Court Rules for the Government of the Bar.

14. That the matter was assigned to Attorney D. Chris Cook, Bar Counsel to LCBA, for prosecution.

15. That on August 25, 2016 Respondent formally agreed to waive probable cause review.

16. That on August 25, 2016 a copy of the Certified Complaint was served upon Respondent by Bar Counsel.

FACTUAL ALLEGATIONS

17. Relator incorporates and realleges the allegations contained in paragraphs 1-16 above as if fully rewritten herein.

18. That on or around May 8, 2015 Respondent became subject to an investigation by the Cleveland Clinic Department of Protective Operations based on a report of the possible theft of drugs from the Crile Pharmacy Building at which Respondent worked as an agency pharmacist for the Cleveland Clinic.

19. That the allegations against Respondent arose after discrepancies were found in three patient prescriptions which had been double counted by another pharmacist in the Crile Pharmacy.

20. That on May 6, 2015 two Oxycontin, 10mg, tablets were found missing from a patient's prescription.

21. That on May 7, 2015 two Oxycodone tablets were found missing from each of two, separate patient prescriptions.

22. That the Crile Pharmacy Manager, Angela Giallourakis ("Giallourakis"), reported that based upon the foregoing, a review was completed which revealed that Respondent was the staff on duty during both of the reported incidents and was the pharmacist working closest to the baskets holding the prescriptions on both of the days in question.

23. That the Crile Pharmacy pharmacists work at a counter referred to as the pharmacists' work area which is the most probable area for thefts.

24. That based on the initial allegations of theft, Inspector Mohamed and Senior Manager of Technical Security, Epstein reviewed the CCTV security video of the incidents.

25. That after viewing the video, the Inspectors determined that the camera locations within the Crile Pharmacy had to moved in order to properly view the pharmacist work area.

26. That on May 20, 2015 at approximately 7:00 p.m. Inspector Mohamed and Protective Services Technician, Garmon positioned the CCTV security cameras to view the pharmacist work area at the Crile Pharmacy.

27. That Inspector Mohamed further met with Giallourakis and advised her to report anything unusual which may occur.

28. That on June 2, 2015 at approximately 1:10 pm Giallourakis contacted Inspector Mohamed and advised that the pharmacy had received an order for seven (7) prescriptions for a single patient.

29. That one of the prescriptions was written for forty (40) Hydrocodone/APAP 5/325mg tablets.

30. That the prescription was filled and verified by Michelle Solnosky.

31. That the prescription was then given to Traci Leuschen ("Leuschen"), who placed the prescription in a basket with non-narcotic prescriptions for the same patient.

32. That the basket was then placed next to Respondent in order for Respondent to verify only the non-narcotic prescriptions in the basket.

33. That after leaving the area for a short period of time, Leuschen returned and observed Respondent removing his hand from his left pocket.

34. That after being informed by Leuschen of her observations, Giallourakis removed the basket from the work area to count the number of Hydrocodone tablets in the prescription bottle.

35. That the quantity of the prescription bottle was written for forty (40) tablets yet upon counting the tablets in the bottle twice, Giallourakis counted only thirty-five (35) tablets both times.

36. That Leuschen confirmed that the bottle contained only thirty-five (35) tablets.

37. That as result of this report, Inspector Mohamed and Inspector Kwiat viewed the CCTV security video and observed Respondent remove one of the bottles from the basket and dump something from the bottle into his left hand.

38. That Inspectors Mohamed and Kwiat also observed that Respondent continued to work with his left hand in a cupped position until he placed his left hand into his left pant pocket.

39. That the Inspectors further observed that when Respondent removed his left hand from his pant pocket it was no longer in the cupped position.

40. That based on the foregoing, at approximately 2:00 p.m. the Inspectors went to the Crile Pharmacy to approach Respondent.

41. That upon observing the Inspectors approach, Respondent placed his left hand into his left pant pocket.

42. That Inspector Mohamed instructed Respondent to remove his hand from his pant pocket yet Respondent refused.

43. That Inspector Mohamed requested that Respondent step to the rear of the pharmacy in order to speak with the inspectors yet Respondent refused and instead requested his cell-phone.

44. That Respondent was told he could retrieve his cell-phone at a later point.

45. That Respondent then quickly removed his hand from his left pant pocket in a cupped position and placed it directly towards his mouth.

46. That Respondent placed the contents of his hand into his mouth and swallowed the contents.

47. That Respondent was escorted to the rear of the pharmacy where he was asked to empty his pockets and place the contents on Giallourakis' desk.

48. That Respondent removed three pills from his left pants pocket and placed them on the desk.

49. That Giallourakis identified the pills as two (2) round, white pills with imprint AN627 being Tramadol 50 mg and one (1) white, oblong pill with imprint M365 being Hydrocodone/APAP 5/325mg.

50. That the matter was thereafter referred to the Cuyahoga County Prosecutor's Officer for possible prosecution.

51. That on March 22, 2016 Respondent was indicted in the Cuyahoga County Court of Common Pleas on three felony counts, Theft, in violation of R.C. 2913.02(A)(1), a felony of the fourth degree, Drug Possession, in violation of R.C.

2925.11(A), a felony of the fifth degree, and Tampering with Evidence, in violation of R.C. 2921.12(A)(1), a felony of the third degree. *State of Ohio v. James L. Lindon*, Cuyahoga County Court of Common Pleas, Case No. CR-16-604473-A.

52. That on June 13, 2016 the matter proceeded to trial with Respondent acting *pro se.*

53. That on June 16, 2016 the jury returned a verdict of guilty as to the three counts charged against Respondent in the indictment.

54. That on June 22, 2016 the Cuyahoga County Common Pleas Court entered a certified judgment entry of conviction against Respondent.

COUNT ONE

(ORPC 8.4(b) – *MISCONDUCT: ILLEGAL ACT THAT REFLECTS ADVERSELY ON LAWYER'S HONESTY OR TRUSTWORTHINESS*)

55. Relator incorporates and realleges the allegations contained in paragraphs 1-54 above as if fully rewritten herein.

56. That on March 22, 2016 Respondent was indicted in the Cuyahoga County Court of Common Pleas on three felony counts, Theft, in violation of R.C. 2913.02(A)(1), a felony of the fourth degree, Drug Possession, in violation of R.C. 2925.11(A), a felony of the fifth degree, and Tampering with Evidence, in violation of R.C. 2921.12(A)(1), a felony of the third degree. *State of Ohio v. James L. Lindon*, Cuyahoga County Court of Common Pleas, Case No. CR-16-604473-A.

57. That all as described above, the indictment against Respondent stemmed from his theft of a dangerous drug, specifically Hydrocodone, from the Cleveland Clinic Crile Pharmacy, an institution at which he was employed and entrusted as an agency pharmacist.

58. That as further described above, Respondent impeded an official investigation into the theft of the drugs, which he knew was in progress or likely to be instituted, by ingesting a Hydrodocone tablet which he had taken from the pharmacy with the purpose of destroying or concealing evidence necessary to complete the investigation.

59. That Respondent's theft of the Cleveland Clinic's property and further tampering with evidence known to be the subject of an official investigation constitute *illegal* acts that reflect adversely on his honesty or trustworthiness.

60. That as result of this conduct, on June 16, 2016 Respondent was convicted by the Cuyahoga County Court of Common Pleas on all three counts contained in the indictment.

61. That Respondent's commission of *illegal* acts that reflect adversely on Respondent's honesty or trustworthiness constitutes a violation of ORPC 8.4(b)

COUNT TWO
(ORPC 8.4(c) – *MISCONDUCT: DISHONESTY, FRAUD, DECEIT OR MISREPRESENTATION*)

62. Relator incorporates and realleges the allegations contained in paragraphs 1-61 above as if fully rewritten herein.

63. That on March 22, 2016 Respondent was indicted in the Cuyahoga County Court of Common Pleas on three felony counts, Theft, in violation of R.C. 2913.02(A)(1), a felony of the fourth degree, Drug Possession, in violation of R.C. 2925.11(A), a felony of the fifth degree, and Tampering with Evidence, in violation of R.C. 2921.12(A)(1), a felony of the third degree. *State of Ohio v. James L. Lindon*, Cuyahoga County Court of Common Pleas, Case No. CR-16-604473-A.

64. That all as described above, the indictment against Respondent stemmed from his theft of a dangerous drug, specifically Hydrocodone, from the Cleveland Clinic Crile Pharmacy, an institution at which he was employed and entrusted as an agency pharmacist.

65. That as further described above, Respondent impeded an official investigation into the theft of the drugs, which he knew was in progress or likely to be instituted, by ingesting a Hydrodocone tablet which he had taken from the pharmacy with the purpose of destroying or concealing evidence necessary to complete the investigation.

66. That Respondent's purpose to deprive the Cleveland Clinic of its property without its consent was dishonest, *fraudulent,* and deceitful.

67. That Respondent's intentional tampering with evidence in an attempt to impede an official investigation was dishonest, *fraudulent,* and deceitful.

68. That by engaging in the theft of drugs from the Cleveland Clinic Crile Pharmacy; by tampering with evidence, and by impeding the ensuing official investigation into his conduct, Respondent engaged in conduct that constitutes a violation of ORPC 8.4(c).

COUNT FIVE

(ORPC 8.4(h) – *MISCONDUCT: ADVERSELY REFLECTS ON THE LAWYER'S FITNESS TO PRACTICE LAW*)

69. Relator incorporates and realleges the allegations contained in paragraphs 1-68 above as if fully rewritten herein.

70. That on March 22, 2016 Respondent was indicted in the Cuyahoga County Court of Common Pleas on three felony counts, Theft, in violation of R.C. 2913.02(A)(1), a felony of the fourth degree, Drug Possession, in violation of R.C. 2925.11(A), a felony of the fifth degree, and Tampering with Evidence, in violation of R.C. 2921.12(A)(1), a felony of the third degree. *State of Ohio v. James L. Lindon*, Cuyahoga County Court of Common Pleas, Case No. CR-16-604473-A.

71. That all as described above, the indictment against Respondent stemmed from his theft of a dangerous drug, specifically Hydrocodone, from the Cleveland Clinic Crile Pharmacy, an institution at which he was employed and entrusted as an agency pharmacist.

72. That as further described above, Respondent impeded an official investigation into the theft of the drugs, which he knew was in progress or likely to be instituted, by ingesting a Hydrodocone tablet which he had taken from the pharmacy with the purpose of destroying or concealing evidence necessary to complete the investigation.

73. That Respondent's theft of the Cleveland Clinic's property and further tampering with evidence known to be the subject of an official investigation constitute *illegal* acts that reflects adversely on his honesty, trustworthiness and fitness to practice law.

74. That as result of this conduct, on June 16, 2016 Respondent was convicted by the Cuyahoga County Court of Common Pleas on all three counts contained in the indictment.

75. That based not only on Respondent's conviction but also on the dishonest, deceptive, and deceitful nature of Respondent's actions coupled with the potential that Respondent's misconduct implicates serious substance abuse issues, Respondent has engaged in conduct that adversely reflects on his fitness to practice law and constitutes a violation of ORPC 8.4(h).

WHEREFORE, pursuant to Gov. Bar R V, Relator alleges that Respondent, Attorney James L. Lindon, has violated the Ohio Rules of Professional Conduct and the Ohio Rules for the Government of the Bar.

As such, Relator respectfully requests that the Board proceed accordingly; certify this matter for prosecution; and allow this matter to progress forthwith

Respectfully submitted,

D. CHRIS COOK, #0061073
Attorney for Relator & Bar Counsel
Lorain County Bar Association
Legal Ethics and Grievance Committee
The Commons
520 Broadway, Third Floor
Lorain, OH 44052
PH: (440) 246-2665
FX: (440) 246-2670
Email: cooklaw@centurytel.net

CHAIRMAN'S AUTHORIZATION

The undersigned, Richard Mellott, Chairman of the Lorain County Bar Association Legal Ethics and Grievance Committee, hereby certifies that Attorney D. Chris Cook, Bar Counsel, is duly authorized to represent Relator in the premises and has accepted the responsibility of prosecuting this complaint to its conclusion.

After investigation, Relator believes reasonable cause exists to warrant a hearing on such complaint *in re:* JAMES L. LINDON

Dated: August 18th, 2016.

RICHARD MELLOTT
Chairman, LCBA Legal Ethics
and Grievance Committee

PROOF OF SERVICE

The undersigned represents that a copy of the foregoing Complaint was served upon the following via Hand-Delivery and/or Regular U.S. Mail this 25th day of August, 2016:

Richard Dove, Esq.
Secretary of the Board of Commissioners
on Grievance and Discipline
65 S. Front Street, 5th Floor
Columbus, OH 43215-3431

Scott Drexel, Esq.
Supreme Court of Ohio
Office of Disciplinary Counsel
250 Civic Center Drive, #325
Columbus, OH 43215-7411

Ohio State Bar Association
c/o Desiree Blankenship, Esq.
Certified Grievance Committee
1700 Lakeshore
Columbus, OH 43204

Lorain County Bar Association
627 W. Broad Street
Elyria, OH 44035

James A. Lindon, Esq.
Lindon & Lindon, LLC
35104 Saddle Creek Drive
Avon, OH 44011

D. CHRIS COOK
Attorney for Relator & Bar Counsel
Lorain County Bar Association
Legal Ethics and Grievance Committee