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

IN RE: COMPLAINT AGAINST HOLLY L. BEDNARSKI 487 Stanton Ave. Akron OH 44301-1526	*	14-094
RESPONDENT	*	**COMPLAINT AND CERTIFICATE** (Rule V of The Supreme Court Rules for the Government of The Bar of Ohio)
AKRON BAR ASSOCIATION 57 South Broadway Street Akron, Ohio 44308	*	
RELATOR	*	

FILED
DEC 15 2014
BOARD OF COMMISSIONERS
ON GRIEVANCES & DISCIPLINE

Now comes the Relator, Akron Bar Association, and alleges that Holly L. Bednarski, an Attorney at Law, Registration No. 0077231, duly admitted to the practice of law in the State of Ohio, is engaged in the following misconduct:

PARTIES

1. The Akron Bar Association ("Relator"), is a Certified Grievance Committee under Gov.Bar R.V(3)(C). Relator has been authorized by the Board of Commissioners on Grievances and Discipline for the Supreme Court of the State of Ohio to investigate allegations of misconduct by attorneys and initiate complaints as a result of investigations under the provisions of the Rules for the Government of the Bar as promulgated in the State of Ohio.
2. Holly L. Bednarski ("Respondent") is an attorney at law licensed to practice in Ohio since April 2004, Registration No. 0077231, with her business address known to be 487 Stanton Ave., Akron OH 44301-1526.
3. David Jones, Jr. ("Jones") is a former client of Respondent and an original complaining witness.

4. Kacee Rae Moser ("Moser") is a former client of Respondent and an original complaining witness.

COUNT ONE – JONES

5. Jones was convicted in the Tuscarawas County Court of Common Pleas of driving under the influence of alcohol, a third-degree felony.
6. On or around November 10, 2013, Jones retained Respondent to represent him in an appeal of his conviction to the Fifth District Court of Appeals.
7. At that time, Respondent did not carry professional liability insurance and she did have Jones sign the appropriate Rule 1.4(c) Notice and Acknowledgment.
8. Jones paid Respondent $1,500.00 as a flat fee to file the appeal. Respondent did not have an IOLTA account at the time and, therefore, no part of the $1,500.00 was deposited into one.
9. There was no written fee agreement and, therefore, no written statement that if the lawyer does not complete the representation for any reason, the client may be entitled to a refund of all or part of the fee as required by Rule 1.5(d)(3).
10. Respondent represented to Jones that the appeal would be based on the evidentiary challenge he made in the trial court (through his previous counsel) via a suppression hearing, a challenge rejected by the trial court.
11. Jones, through his former counsel, had obtained a stay of the execution of the sentence while his appeal was pending.
12. On November 20, 2013, Respondent entered an appearance in the Fifth District Court of Appeals on behalf of Jones.
13. That same day, Respondent filed a motion to extend the time to file Jones's brief. The Fifth District Court of Appeals granted that motion on December 16, 2013, and ordered that the brief be filed on or before December 24, 2013. Jones was aware that Respondent was going to make the motion for extension of time, but heard nothing more from her after being advised of the new due date of the brief.
14. Jones attempted to contact Respondent on numerous occasions via telephone and text message, but received no response.

15. Respondent did not file the brief by December 24, 2013 or at any time, nor did she seek a further extension of time to do so.

16. On February 3, 2014, upon motion of the prosecutor, Jones's appeal was dismissed for lack of prosecution.

17. Jones was notified that his appeal had been dismissed and the stay relative to his sentence was lifted. He was ordered to report to the Adult Parole Authority to begin his sentence.

18. On February 10, 2014, Jones terminated Respondent via certified letter at Respondent's address on file with the Ohio Supreme Court. In that letter, he requested his file and a full refund of the monies he had paid to Respondent. That certified letter was returned as unclaimed.

19. Jones obtained substitute counsel and paid an additional amount of money to again obtain the transcript of the suppression hearing, as Respondent had the sole copy of the transcript in her possession.

20. On February 10, 2014, Jones's new counsel entered an appearance and moved to reinstate the appeal.

21. On February 11, 2014, Respondent filed a motion for reconsideration, or in the alternative, a motion to reinstate the appeal.

22. To date, Respondent has neither returned the file nor refunded Jones's monies.

23. Restitution is owed by Respondent to Jones for most of the $1,500.00 paid and $500.00 for the cost of securing another transcript.

24. Relator alleges that as a result of the information set forth in Count I, Respondent has violated the following Ohio Rules of Professional Conduct:

    RULE 1.1: Competence - Respondent did not provide competent representation to Jones.

    RULE 1.3: Diligence - Respondent did not act with reasonable diligence and promptness in her representation of Jones.

    RULE 1.4: Communication -
    (a)(1) Respondent did not promptly notify Jones of the dismissal of his appeal.
    (a)(2) Respondent did not reasonably consult with Jones about the means by which to accomplish his objectives.

(a)(3) Respondent did not keep Jones reasonably informed about the status of the matter.
(a)(4) Respondent did not comply as soon as practicable with Jones' requests for information..
(c) Respondent did not inform Jones at the time of the engagement of her lack of professional liability insurance nor did she obtain Jones' signature on a separate notice of her lack of malpractice insurance.

RULE 1.5: Fee and Expenses -
(d)(3) Respondent did not advise Jones in writing that he may be entitled to a refund if the lawyer does not complete the representation.

RULE 1.15: Safekeeping Funds and Property -
(c) Respondent did not deposit any part of Jones' $1,500.00 payment for fees into her IOLTA account nor did she maintain any records of the payment or disbursements.

COUNT TWO - MOSER

25. On June 20, 2013, Moser was indicted in the Mahoning County Court of Common Pleas for Felony Child Endangering.
26. While released on bond to house arrest, she was charged with menacing a Children's Services Board worker, a misdemeanor, and her bond was revoked.
27. On October 17, 2013, Moser retained Respondent to represent her in both the felony and the misdemeanor case.
28. There was no written fee agreement. During the course of representation, Moser paid Respondent $1,360.00. Respondent did not have an IOLTA account at the time so no part of the $1,360.00 was deposited into the account.
29. At that time, Respondent did not carry professional liability insurance and she did not have Moser sign the appropriate Rule 1.4(c) Notice and Acknowledgment.
30. On or about November 17, 2013, Respondent obtained a not guilty verdict on the menacing charge.
31. On December 23, 2013, the Court denied a Motion to Modify the Bond in the felony Child Endangering Case and set the matter for jury trial on June 15, 2014.

32. Thereafter, communications between Respondent and Moser broke down, each claiming they were unable to contact each other.

33. Respondent indicated she was preparing a motion to withdraw when, on May 27, 2014, a substitution of counsel was entered on Moser's behalf.

34. Respondent never filed a Motion to Withdraw and has performed no further work on Moser's behalf.

35. Relator does not dispute that Respondent earned the fees paid

36. Respondent has violated the following Professional Conduct Rules:

RULE 1.4: COMMUNICATION
(c) Respondent did not inform Moser at the time of the engagement of her lack of professional liability insurance nor did she obtain Moser's signature on a separate notice of her lack of malpractice insurance.

RULE 1.15: SAFEKEEPING FUNDS AND PROPERTY
(c) Respondent did not deposit any part of Moser's $1,360.00 payment for fees into her IOLTA account nor did she maintain any records of the payment or disbursements.

REQUEST FOR RELIEF

Relator asks that such discipline be administered to Respondent as may be deemed appropriate following a hearing on the merits.

Respectfully submitted,

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CERTIFICATE

The undersigned, Thomas P. Kot, Bar Counsel of the Akron Bar Association Certified Grievance Committee, hereby certifies that Karen D. Adinolfi and Richard P. Kutuchief are duly authorized to represent Relator in the premises and has 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: November 24th, 2014

Thomas P. Kot

Thomas P. Kot, Bar Counsel

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the forgoing Complaint and Certificate was sent by Certified & Regular U.S. Mail, postage prepaid, the 24th day of November, 2014 to:

HOLLY L. BEDNARSKI
487 Stanton Ave.
Akron OH 44301-1526

HOLLY L. BEDNARSKI
279 21st St NW
Barberton OH 44203

Thomas P Kot
THOMAS P. KOT #0000770
Bar Counsel

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