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ON GRIEVANCES & DISCIPLINE

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

FILED
DEC 15 2014
BOARD OF COMMISSIONERS
ON GRIEVANCES & DISCIPLINE

In re:

Complaint against

Richard Lake Hiatt, Esq.
1219 Grace Avenue
Cincinnati, OH 45208

Attorney Registration No. (0082009)

Respondent,

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

Relator.

No. 14-100

COMPLAINT AND CERTIFICATE

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

Now comes the relator and alleges that Richard Lake Hiatt, an Attorney at Law, duly admitted to the practice of law in the state of Ohio, is guilty of the following misconduct:

1. Respondent, Richard Lake Hiatt, was admitted to the practice of law in the state of Ohio on November 5, 2007.

2. As an attorney, respondent is subject to the Ohio Rules of Professional Conduct and the Supreme Court Rules for the Government of the Bar of Ohio.

COUNT ONE
(The Contempt Matter)

3. On or about February 22, 2013, respondent entered appearances in Kettering Municipal Court as counsel for defendant Dale B. Stotler in Case No. 13 CRB 00285 and for defendant Donald C. Stotler in Case No. 13 CRB 00287 and represented them at their respective arraignments on that date. Dale Stotler was charged with petty theft in violation of ORC section 2913.02, a first-degree misdemeanor. Donald Stotler was charged with complicity in violation of ORC section 2023.03, a first-degree misdemeanor.

4. On February 27, 2013, the court filed entries setting pretrial conferences in the afore-mentioned cases for March 14, 2013. Copies of the entries were served upon respondent.

5. Respondent did not appear at the pretrial conference on March 14, 2013 in either Case No. 13 CRB 00285 or Case No. 3- CRB 00287.

6. One March 20, 2013, the court filed entries setting Case Nos. 13 CRB 00285 and 13 CRB 00287 for trial on May 8, 2013. A copy of each entry was served upon respondent.

7. Neither respondent nor his clients, Dale or Donald Stotler, appeared for trial on May 8, 2013. At the court's request, Kent J. Depoorter, the prosecutor in the above-referenced cases, contacted respondent by telephone. Respondent told Prosecuting Attorney Depoorter that he would not be appearing for trial.

8. On May 8, 2013, the court issued an Order to Show Cause ("OSC") directing respondent to appear in court on May 21, 2013 to address his failure to appear for trial in Case Nos. 13 CRB 00285 and 13 CRB 00287. The OSC was served upon respondent.

9. Respondent did not appear at the OSC hearing on May 21, 2013.

10. The court issued a warrant on May 21, 2013, but subsequently recalled the warrant on June 4, 2013.

11. On September 4, 2013, the court filed a Contempt Complaint in Case No. 13 CRB 02015. Respondent was served with the Contempt Complaint on September 11, 2013.

12. Respondent made his initial appearance on the pending contempt charge on September 27, 2013. The court scheduled trial on the contempt charge for October 30, 2013.

13. Thereafter, the court filed an amended entry on October 3, 2013, advancing the trial date from October 30, 2013 to October 23, 2013. The amended entry was served upon respondent.

14. On October 23, 2013, respondent appeared for the trial of the contempt charge in Case No. 13 CRB 02015. At the trial, respondent admitted his contempt of court by failing to appear for trial in the Stotler matters in Case Nos. 13 CRB 00285 and 13 CRB 00287 on May 8, 2013 and by thereafter failing to appear at the OSC hearing scheduled for May 21, 2013.

15. At the conclusion of the contempt trial on October 23, 2013, the court considered a motion to withdraw as counsel for Donald and Dale Stotler in Case Nos. 13 CRB 00285 and 13 CRB 00287 that respondent had filed on October 15, 2013. Respondent orally advised the court that he had not had any contact with Dale or Donald Stotler and that he was unable to represent them in their respective matters. The court granted respondent's motion to withdraw as counsel for Donald and Dale Stotler.

16. Sentencing on respondent's contempt was scheduled for December 10, 2013. Respondent was notified of the December 10, 2013 sentencing date at the time of the trial

on the contempt charges on October 23, 2013, and by entry filed and served upon him on November 27, 2013.

17. Respondent failed to appear at the scheduled sentencing hearing on December 10, 2013, or on any date thereafter. On December 30, 2013, the court entered an order for the issuance of a warrant. The warrant was subsequently issued on January 17, 2014. To date, respondent has not been arrested on the warrant.

18. Respondent's conduct, as reflected in Count One, violates the Ohio Rules of Professional Conduct, specifically: Prof. Cond. R. 1.1 (requiring a lawyer to provide competent representation to a client); Prof. Cond. R. 1.3 (requiring a lawyer to act with reasonable diligence and promptness in representing a client); Prof. Cond. R. 3.4(c) (prohibiting a lawyer from knowingly disobeying an obligation under the rules of a tribunal); and Prof. Cond. R. 8.4(d) (prohibiting a lawyer from engaging in conduct that is prejudicial to the administration of justice).

COUNT TWO
(Failure to Cooperate)

19. The allegations of paragraphs 1 through 18 of Count One are hereby incorporated by reference in Count Two of the Complaint in this matter.

20. On April 1, 2014, Judge Thomas M. Hanna of the Kettering Municipal Court referred the matter of respondent's contempt of court in violation of ORC section 2705.02 to relator.

21. On May 14, 2014, relator sent a Letter of Inquiry to respondent by certified mail, return receipt requested, addressed to respondent at the address provided by him to the Office of Attorney Services.

22. Relator's Letter of Inquiry was received by respondent, although the return receipt, or "green card", was not dated to reflect the actual date of delivery.

23. Respondent did not respond to relator's May 14, 2014 Letter of Inquiry.

24. On June 4, 2014, relator mailed a second Letter of Inquiry to respondent by certified mail, return receipt requested, addressed to him at the address listed on the records of the Office of Attorney Services. In its second Letter of Inquiry, relator notified respondent that it had not received a response to the initial Letter of Inquiry. Relator enclosed a copy of its May 14, 2014 Letter of Inquiry with its second Letter of Inquiry and advised respondent that his failure to respond to requests for information could constitute grounds for discipline.

25. Relator's second Letter of Inquiry was received by respondent at the address listed by him on the records of the Office of Attorney Services, although the return receipt, or "green card", was not dated to reflect the date of delivery.

26. Respondent did not respond to relator's June 4, 2014 second Letter of Inquiry.

27. In light of respondent's failure to respond to relator's Letters of Inquiry, relator obtained a subpoena *duces tecum* from the Board of Commissioners on Grievances and Discipline ("the Board") on June 27, 2014, requiring respondent to appear for a deposition in relator's office on July 16, 2014, at 1:30 p.m. and to produce his entire file relating to his representation of Dale and Donald Stotler in Kettering Municipal Court Case Nos. 13 CRB 00285 and 13 CRB 00287, respectively. Relator served the subpoena *duces tecum* on respondent by certified mail, return receipt requested addressed to him at the address listed by respondent with the Office of Attorney Services.

28. On July 15, 2014, relator cancelled the scheduled July 16, 2014 deposition of respondent because relator had neither received the return receipt or "green card" from the certified mail nor otherwise had any contact with respondent. Thereafter, on July 29, 2014, relator received the envelope and subpoena *duces tecum* that it had served upon respondent. The U.S. Postal Service had placed a label on the envelope that stated "Return to Sender. Unclaimed. Unable to Forward."

29. On July 16, 2014, relator obtained a second subpoena *duces tecum* from the Board requiring respondent to appear for a deposition in relator's office on August 7, 2014, at 1:30 p.m. Relator personally served this subpoena *duces tecum* on respondent by leaving a copy of the subpoena at respondent's place of residence, as reflected on the records of the Office of Attorney Services, on July 18, 2014, at 4:00 p.m.

30. On August 6, 2014, relator sent emails to respondent at three potential email addresses that relator had obtained through internet searches, inquiring whether respondent intended to appear for his scheduled deposition on August 7, 2014.

31. Respondent telephoned relator on August 6, 2014 and asked to have his deposition postponed. Respondent agreed to appear for his deposition at relator's office on September 10, 2014, at 10:00 a.m. Relator confirmed this agreement and the September 10, 2014 deposition date in a letter and email to respondent, both of which were sent to him on August 6, 2014.

32. At approximately 10:25 a.m. on September 10, 2014, 25 minutes after his deposition had been scheduled to commence, respondent telephoned relator to report that he was unable to attend the deposition because someone had parked his or her car in front of respondent's driveway thereby preventing respondent from being able to back his car out

of the driveway. Relator agreed to a further continuance of respondent's deposition to October 2, 2014, at 10:30 a.m. Relator confirmed this agreement by email and by letter, both of which were sent to respondent on September 10, 2014.

33. Respondent failed to appear for his scheduled deposition on October 2, 2014.

34. Respondent's conduct, as reflected in Count Two, violates the Ohio Rules of Professional Conduct and the Rules for the Government of the Bar of Ohio, specifically: Prof. Cond. R. 8.1(b) (prohibiting a lawyer from knowingly failing to respond to a demand for information from a disciplinary authority); and Gov. Bar R. V(4)(G) (requiring a lawyer to cooperate with a disciplinary investigation).

CONCLUSION

Wherefore, pursuant to Gov. Bar R. V and the 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 Rules of the Government of the Bar of Ohio.

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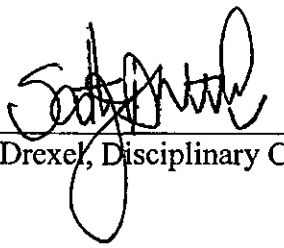
CERTIFICATE

The undersigned, Scott J. Drexel, Disciplinary Counsel, of the Office of Disciplinary Counsel of the Supreme Court of Ohio hereby certifies that Scott J. Drexel is 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 25, 2014



Scott J. Drexel, Disciplinary Counsel

Gov. Bar R. V, § 4(I) ***Requirements for Filing a Complaint.***

(1) Definition. "Complaint" means a formal written allegation of misconduct or mental illness of a person designated as the respondent.

* * *

(7) Complaint Filed by Certified Grievance Committee. Six copies of all complaints shall be filed with the Secretary of the Board. Complaints filed by a Certified Grievance Committee shall be filed in the name of the committee as relator. The complaint shall not be accepted for filing unless signed by one or more attorneys admitted to the practice of law in Ohio, who shall be counsel for the relator. The complaint shall be accompanied by a written certification, signed by the president, secretary, or chair of the Certified Grievance Committee, that the counsel are authorized to represent the relator in the action and have accepted the responsibility of prosecuting the complaint to conclusion. The certification shall constitute the authorization of the counsel to represent the relator in the action as fully and completely as if designated and appointed by order of the Supreme Court with all the privileges and immunities of an officer of the Supreme Court. The complaint also may be signed by the grievant.

(8) Complaint Filed by Disciplinary Counsel. Six copies of all complaints shall be filed with the Secretary of the Board. Complaints filed by the Disciplinary Counsel shall be filed in the name of the Disciplinary Counsel as relator.

(9) Service. Upon the filing of a complaint with the Secretary of the Board, the relator shall forward a copy of the complaint to the Disciplinary Counsel, the Certified Grievance Committee of the Ohio State Bar Association, the local bar association, and any Certified Grievance Committee serving the county or counties in which the respondent resides and maintains an office and for the county from which the complaint arose.