

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

RECEIVED

DEC 01 2014

BOARD OF COMMISSIONERS
ON GRIEVANCES & DISCIPLINE

FILED

DEC 15 2014

In re:

Complaint against

Daniel K. Balaloski, Esq.
14247 E. Broad St.
Reynoldsburg, OH 43004
RESPONDENT

Columbus Bar Association
175 South Third Street, S-1100
Columbus, Ohio 43215
RELATOR

) BOARD OF COMMISSIONERS
) ON GRIEVANCES & DISCIPLINE No. 14 - 102 - 2

) 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 Daniel Karl Balaloski "Respondent" (Sup. Ct. #0068122), an Attorney at Law, duly admitted to the practice of law in this State of Ohio in 1997, is guilty of the following misconduct:

COUNT ONE: RITA SCHOOLEY

1. Ms. Schooley hired Respondent on September 7, 2012, to administer Elpidia Hawk's Estate.
2. Specifically, Schooley wanted to ensure Ms. Hawk's relatives in Mexico received the value of the Certificates of Deposit which were assets of the Estate.
3. On December 15, 2012, Respondent informed Schooley that he had the documents, and the monies would be released to Hawks' family in three to four weeks.
4. Through January and February 2013, Schooley was unable to contact Respondent for updates, despite numerous emails, telephone calls and office visits.

5. At this time, Respondent was not working at his registration address and had provided no information to his clients as to how he might be reached.

6. After failing in her attempts to contact Respondent, Schooley requested her file and found a new attorney, though she was still unable to receive a response from Respondent.

7. Respondent failed to provide Schooley with her file.

8. She then filed a grievance with Relator.

9. On November 15, 2013, Relator deposed Respondent.

10. Respondent made excuses for his delay in acting, saying that the language barrier was an issue in transferring the monies, and the translation took longer than expected.

11. Respondent admitted that his communication was "spotty," and "there are just times I have problems getting paperwork-intensive projects done...it's a bad habit of mine."

12. On the date of the deposition, Respondent admitted he still had not returned Schooley's file, or completed the work for her.

13. Subsequent to the deposition, Respondent finally relayed Ms. Schooley's file to Relator.

14. Respondent's knowing acts and failures to act, as set forth above, are in violation of the following provisions of the Ohio Rules of Professional Conduct:

- | | |
|--------------|---|
| ORPC 1.1 | [Failing to provide competent representation]; |
| ORPC 1.3 | [Failing to act with reasonable diligence and promptness]; |
| ORPC 1.4 | [Failing to keep his client reasonably informed]; |
| ORPC 1.15(d) | [Failing to promptly deliver to a client or a third person funds they are entitled to receive]; |
| ORPC 8.4(h) | [Engaging in conduct which adversely reflects on fitness]. |

COUNT TWO: JOSEPH DURHAM ESQ.

15. On November 6, 2012, Respondent's client sold a bar business to attorney Joseph Durham's client.

16. Respondent was responsible for transfer of the liquor license to Durham's client, and also to hold \$35,000 of the sales proceeds in escrow until the license was transferred.

17. On December 13, 2012, January 9, 2013, and January 14, 2013, Durham attempted to contact Respondent via email to determine when the liquor license transfer would be filed. He received no response.

18. On January 15, 2013, Durham reached Respondent by telephone, and requested a status update on the transfer of the liquor license.

19. On January 24, 2013, seventy-nine days after the sale closed, Respondent filed the liquor license transfer application.

20. Through late January and early February 2013, Durham emailed Respondent several times to determine the status of the application with no response.

21. On March 13, 2013, Durham called Respondent but was unable to leave a voicemail for Respondent, because the message box was full.

22. Through March and April 2013, Durham continued to attempt to contact Respondent via telephone and email with no response.

23. On April 19, 2013, despite receiving no verbal or written contact from Respondent, Durham received a check from Respondent for fifteen dollars, apparently as part of the escrowed funds

24. Durham continued his attempts to contact Respondent to have the check written for the correct amount, with no response.

25. Durham then filed a grievance with Relator.

26. At the November 15, 2013, deposition, Respondent admitted Durham's request for money came at a time when, "I was buried with the project I was working on...it was a fairly complicated project."

27. Respondent admitted he sent the fifteen dollar check, and did not re-send the replacement check in the amount of \$35,000 until May 22, 2013.

28. Respondent admitted he was not in contact with his client, or the buyer's attorney as much as he should have been, due to the large project he was working on during this time.

29. Respondent's knowing acts and failures to act, as set forth above, are in violation of the following provisions of the Ohio Rules of Professional Conduct:

- | | |
|--------------|---|
| ORPC 1.1 | [Failing to provide competent representation]; |
| ORPC 1.3 | [Failing to act with reasonable diligence and promptness]; |
| ORPC 1.4 | [Failing to keep his client reasonably informed]; |
| ORPC 1.15(d) | [Failing to promptly deliver to a client or a third person funds they are entitled to receive]; |
| ORPC 8.4(h) | [Engaging in conduct which adversely reflects on fitness]. |

COUNT THREE: JOHNNIE WILLIAMS

30. In 2009, Mr. Williams hired Respondent to probate an estate.

31. As of July 2013, the estate was still open, and Respondent had failed to respond to Williams' attempts to contact him for an update.

32. Williams then filed a grievance with Relator.

33. At the November 15, 2013 deposition, Respondent claimed that the issue with the estate was a home that was vandalized and difficult to sell.

34. Respondent admitted that he did not respond to Williams' attempts to contact him, and failed to inform him when Respondent changed offices.

35. On March 5, 2014, nearly five years after he was retained, Respondent finalized the estate.

36. Respondent's knowing acts and failures to act, as set forth above, are in violation of the following provisions of the Ohio Rules of Professional Conduct:

- ORPC 1.1 [Failing to provide competent representation];
- ORPC 1.3 [Failing to act with reasonable diligence and promptness];
- ORPC 1.4 [Failing to keep his client reasonably informed];
- ORPC 1.15(d) [Failing to promptly deliver to a client or a third person funds they are entitled to receive];
- ORPC 8.4(h) [Engaging in conduct which adversely reflects on fitness].

COUNT FOUR: MARLENE JONES

37. On April 5, 2011, Ms. Jones paid Respondent \$400 to complete an estate.

38. Then, Respondent moved his office and failed to notify Jones of his new office address.

39. As a result, Ms. Jones attempted to contact Respondent for several months via email and telephone with very little response.

40. In Respondent's three responses, he failed to address any of Jones' questions from her previous emails.

41. At the November 15, 2013, deposition, Respondent failed to respond to Relator regarding Ms. Jones' grievance; instead, he claimed has stopped taking new clients to ensure he completes his open cases.

42. Respondent admitted his voicemail was full while representing Jones.

43. To date, Respondent has failed to complete the work, and has failed to refund any of the fee.

44: Respondent's knowing acts and failures to act, as set forth above, are in violation of the following provisions of the Ohio Rules of Professional Conduct:

- ORPC 1.1 [Failing to provide competent representation];
- ORPC 1.3: [Failing to act with reasonable diligence and promptness];
- ORPC 1.4 [Failing to keep his client reasonably informed];

ORPC 8.4(h) [Engaging in conduct which adversely reflects on fitness].

COUNT FIVE: BRENDA SPEARS-PACK and LARRY DAVIS

45: In September 2012, Respondent was hired by Dottie Colburn to administer the Estate of Charles Spears, of which, Ms. Spears-Pack, the decedent's cousin, and Mr. Davis, decedent's uncle, are beneficiaries.

46. Spears-Pack and Davis have been unable to speak with Respondent since April 2013, despite their numerous attempts to contact him.

47. The heirs have requested an itemized statement regarding Respondent's work on the estate without response.

48. Respondent was responsible to pay property taxes and utilities from the estate on the home in which one of the heirs was living.

49. Spears-Pack received notice that neither taxes nor utility bills have been paid, and the water is to be shutoff.

50. Spears-Pack filed a grievance with Relator.

51. Respondent has failed to address Spears-Pack grievance.

52. The estate is still open, and the bills remain unpaid.

53. Respondent's knowing acts and failures to act, as set forth above, are in violation of the following provisions of the Ohio Rules of Professional Conduct:

ORPC 1.1	[Failing to provide competent representation];
ORPC 1.3	[Failing to act with reasonable diligence and promptness];
ORPC 1.4	[Failing to keep his client reasonably informed];
ORPC 1.15(d)	[Failing to promptly deliver to a client or a third person funds they are entitled to receive];
ORPC 8.4(h)	[Engaging in conduct which adversely reflects on fitness].

COUNT SIX: JOHN W. STOUT

54. Respondent was retained in July 2009, to probate the estate of Nancy Jo Wood, of which, John W. Stout was a beneficiary.

55. Throughout Respondent's representation, Stout found it difficult to contact Respondent, or to receive responses from Respondent to his questions regarding Ms. Wood's Estate.

56. On January 8, 2013, Mr. Stout attempted to contact Respondent regarding the status of the Estate. Respondent did not respond until March 19, 2013.

57. On May 31, 2013, nearly four years after he was retained, Respondent finalized the Estate of Nancy Jo Wood.

58. To date, Respondent has failed to disburse the monies to the beneficiaries, and Stout has been unable to contact Respondent since the beginning of 2014.

59. Respondent's knowing acts and failures to act, as set forth above, are in violation of the following provisions of the Ohio Rules of Professional Conduct:

- | | |
|--------------|---|
| ORPC 1.1 | [Failing to provide competent representation]; |
| ORPC 1.3 | [Failing to act with reasonable diligence and promptness]; |
| ORPC 1.4 | [Failing to keep his client reasonably informed]; |
| ORPC 1.15(d) | [Failing to promptly deliver to a client or a third person funds they are entitled to receive]; |
| ORPC 8.4(h) | [Engaging in conduct which adversely reflects on fitness]. |

WHEREFORE, Relator prays that Respondent be found in violation of disciplinary regulations and sanctioned appropriately.

Respectfully submitted,



Barbara Petrella, Esq. #0042118
3905 Orchard Way
Powell, OH 43065
(614) 553-7463
bjplths@att.net



Bruce A. Campbell #0010802
Bar Counsel
Columbus Bar Association
175 South Third Street S-1100
Columbus, Ohio 43215-5134
(614) 340-2053/221-4850 (fax)
bruce@cbalaw.org



A. Alysha Clous # 0070627
Asst. Bar Counsel
Columbus Bar Association
175 South Third Street S-1100
Columbus, Ohio 43215-5134
(614) 340-2035/221-4850 (fax)
alysha@cbalaw.org

COUNSEL FOR RELATOR

CERTIFICATE

The undersigned Chair of the Certified Grievance Committee of the Columbus Bar Association hereby certifies that Barbara Petrella, Esq., A. Alysha Clous, Esq., and Bruce A. Campbell, Esq. are duly authorized to represent Relator in the premises and 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: 11/7/14
Signed: John C. Hartranft
*John C. Hartranft, Esq. Chair of
the Certified Grievance Committee*

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

Section (11)

(11) *The complaint; Where Filed; By Whom Signed.* A complaint shall mean a formal written complaint alleging misconduct or mental illness of one who shall be designated as the Respondent. Six (6) copies of all such complaints shall be filed in the office of the Secretary of the Board. Complaints filed by a Certified Grievance Committee shall not be accepted for filing unless signed by one or more members of the Bar of Ohio in good standing, who shall be counsel for the relator, and supported by a certificate in writing signed by the President, Secretary or Chairman of the Certified Grievance Committee, which Certified Grievance Committee shall be deemed the Relator, certifying that said counsel are duly authorized to represent said Relator in the premises and have accepted the responsibility of prosecuting the complaint to conclusion. It shall constitute the authorization of such counsel to represent said Relator in the premises as fully and completely as if designated and appointed by order of the Supreme Court of Ohio with all the privileges and immunities of an offices of such Court. The complaint may also, but need not, be signed by the person aggrieved.

Complaints filed by the Disciplinary Counsel shall be filed in the name of Disciplinary Counsel as Relator.

Upon the filing of a complaint with the Secretary of the Board, Relator shall forward a copy thereof to Disciplinary Counsel, to the Certified Grievance Committee of the Ohio State Bar Association, to the local bar association and to any Certified Grievance Committee serving the county of counties in which the Respondent resides and maintains his office and for the county from which the complaint arose.