

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

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DEC 01 2014

In re:

Complaint against

Joseph Robert Compoli, Esq.
Joseph Compoli Law Office
612 East 185th Street
Cleveland, OH 44119

BOARD OF COMMISSIONERS
ON GRIEVANCES & DISCIPLINE

No. 14 - 103 - 14

Attorney Registration No. (0031193)

COMPLAINT AND CERTIFICATE

Respondent,

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

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

FILED

DEC 15 2014

Relator.

BOARD OF COMMISSIONERS
ON GRIEVANCES & DISCIPLINE

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

1. Respondent, Joseph Robert Compoli, was admitted to the practice of law in the state of Ohio on May 10, 1982. Respondent is subject to the Code of Professional Responsibility, Rules of Professional Conduct and the Rules for the Government of the Bar of Ohio.
2. On November 1, 2013, respondent was suspended from the practice of law for failing to file a Certificate of Registration and failing to pay applicable attorney registration fees. *11/1/2013 Administrative Actions*, 2013-Ohio-4827. On January 21, 2014, respondent was reinstated to the practice of law.

COUNT I – Failure to Keep Required IOLTA Records

3. On October 17, 2012, relator received an overdraft notice from PNC Bank reporting that respondent overdrew his IOLTA (account number XXXXXX5888) on October 10, 2012. The overdraft notice described check number 1534 in the amount of \$500, which was returned for insufficient funds.
4. On November 14, 2012, relator sent a Letter of Inquiry (LOI) relating to the October 10, 2012 overdraft to respondent by certified mail to respondent's business address as reflected on the records maintained by the Office of Attorney Services.
5. On December 24, 2012, relator received a written response from respondent to the LOI. However, respondent failed to provide all of the requested IOLTA records and failed to fully explain the overdraft.
6. Relator had requested respondent's bank statements for September, October, and November 2012. Respondent provided only his October and November 2012 bank statements.
7. Respondent explained that the "insufficient check" was supposed to be voided. He did not provide client ledgers or a copy of the check that caused the overdraft, as requested.
8. During the months of September and October 2012, respondent used his PNC Bank IOLTA to issue seven checks indicating client related disbursements in the amount of \$500 each. Respondent did not provide client ledgers or settlement statements related to these transactions, as requested.
9. Due to respondent's failure to explain the overdraft in his IOLTA and in furtherance of relator's investigation, relator obtained respondent's PNC Bank account records pursuant to a subpoena duces tecum.

10. During its investigation, relator discovered that respondent has a federal tax lien against him, which was filed January 9, 2013, in the amount of \$162,490.28.
11. On April 15, 2013, respondent deposited personal funds into his PNC Bank IOLTA by depositing a check from Merrill Lynch in the amount of \$30,000. This was the only deposit into respondent's IOLTA in April 2013.
12. Prior to this deposit, respondent's IOLTA had a balance of \$13.68 for the months of January, February and March 2013.
13. From April 17 through April 30, 2013, respondent issued nine checks to himself from his IOLTA account, totaling \$4,750.
14. Respondent issued one check on April 30, 2013 to Ambrosia Davis in the amount of \$250. It is unclear whether this transaction is related to a client matter.
15. The ending balance in respondent's PNC Bank IOLTA for April 2013 was \$25,013.68.
16. On May 9, 2013, respondent authorized a wire transfer in the amount of \$22,500 from his PNC Bank IOLTA into a personal credit union account owned by respondent.
17. In May 2013, respondent issued five checks from his IOLTA to himself totaling \$2,200.
18. The ending balance in respondent's PNC Bank IOLTA for May, June, and July 2013 was \$194.53.
19. In August 2013, respondent issued a check from his IOLTA to himself in the amount of \$175, leaving the balance in his IOLTA at \$21.53 until a November 19, 2013 deposit.
20. On November 19, 2013, respondent deposited a settlement check from Allstate Insurance into his PNC Bank IOLTA in the amount of \$30,500. The settlement check was made jointly payable to respondent and his clients, Brant and Sharon Frederickson.

21. On November 20, 2013, respondent transferred \$29,000, of the \$30,500, from his PNC Bank IOLTA into a personal credit union account owned by respondent.
22. On the same date, respondent authorized two personal withdrawals from his IOLTA totaling \$500.
23. The ending balance in respondent's PNC Bank IOLTA for November was \$267.
24. Although respondent paid Frederickson his portion of the Allstate settlement proceeds (approx. \$24,000), he failed to maintain Frederickson's funds in trust and failed to disburse Frederickson's portion directly from his IOLTA.
25. On December 9, 2013, relator received an additional overdraft notice from PNC Bank reporting that respondent overdrew his IOLTA (account number XXXXXX5888) on November 27, 2013. The overdraft notice described check number 1622 in the amount of \$330, which was returned for insufficient funds.
26. Check number 1622 was issued by respondent to himself with "Frederickson" written in the memo line.
27. On April 3, 2014, relator received a third overdraft notice from PNC Bank reporting that respondent overdrew his IOLTA (account number XXXXXX5888) on March 27, 2014. The overdraft notice described check number 1629 in the amount of \$230, which was returned for insufficient funds.
28. On April 16, 17, and 21, 2014, relator received additional overdraft notices from PNC Bank reporting that respondent overdrew his IOLTA (account number XXXXXX5888) on at least five more occasions totaling \$1,850.

29. On April 28, 2014, relator received an additional overdraft notice from PNC Bank reporting that respondent overdrew his IOLTA (account number XXXXXX5888) on April 18, 2014 in the amount of \$525.
30. Respondent's PNC Bank IOLTA monthly statement for April 2014 had a beginning and ending balance of \$0.
31. Respondent's conduct in Count I violates the Ohio Rules of Professional Conduct, specifically Prof. Cond. R. 1.15(a) [a lawyer shall hold property of clients separate from a lawyer's own property]; Prof. Cond. R. 1.15(a)(2) [requiring a lawyer to maintain a record for each client that sets forth the name of the client; the date, amount, and source of all funds received on behalf of the client; the date, amount, payee, and purpose of each disbursement made on behalf of the client; and the current balance for each client]; Prof. Cond. R. 1.15(a)(3) [requiring a lawyer to maintain a record for each bank account that sets forth the name of the account; the date, amount, and client affected by each credit and debit; and the balance in the account]; Prof. Cond. R. 1.15(a)(5) [requiring a lawyer to perform a monthly reconciliation of the lawyer's IOLTA and related documents]; Prof. Cond. R. 1.15 (b) [a lawyer may deposit the lawyer's own funds in a client trust account for the sole purpose of paying or obtaining a waiver of bank service charges].

COUNT II – The Gerber Matter

32. Respondent represented Rosemarie Gerber in her capacity as the appointed fiduciary in the probate administration of her late husband's estate, Probate Court of Cuyahoga County, Case No. 2012 EST 177830.

33. Gerber received periodic settlement checks from asbestos wrongful death claims involving her late husband, Kenneth.
34. On July 25, 2012, respondent filed an application on behalf of Gerber with the Probate Court of Cuyahoga County (probate court) to approve a first partial settlement of the wrongful death claim.
35. On July 26, 2012, the probate court approved the settlement and reflected on the Entry that respondent was the attorney for the fiduciary.
36. On July 27, 2012, respondent filed an Inventory for the partial asbestos settlement as required by the probate court on behalf of his client.
37. On August 23, 2012, Gerber paid respondent \$1,750 by check. Despite receiving a check in the amount of \$1,750, respondent gave Gerber a signed receipt stating “received one thousand seven hundred dollars from Rosemary Gerber. Includes costs advanced of \$250.00 and next partial account. Estate to remain open for two years to receive more asbestos checks”.
38. This payment and receipt included a promise by respondent to handle future work on the asbestos settlements and that he would keep the estate open for two years.
39. Respondent did not deposit Gerber’s check that included payment for future legal work into his PNC Bank IOLTA.
40. Despite his previous assurances, respondent did not perform any future work for Gerber.
41. Gerber was in poor health and relied on respondent to handle the probate matter.
42. On October 16, 2012, respondent and Gerber were sent a Notice to File Account by the probate court regarding the Estate of Kenneth Gerber.

43. Respondent failed to contact the court or Gerber and failed to file the accounting as required.
44. On November 27, 2012, respondent and Gerber were sent a Citation To File Account by the probate court regarding the Estate of Kenneth Gerber.
45. Due to Gerber's inability to locate respondent, she had to file an Application to Extend Administration on her own to avoid being removed as the fiduciary.
46. On May 21, 2013, respondent was again sent a Notice to File Account by the probate court regarding the Estate of Kenneth Gerber.
47. Again, because respondent failed to file the accounting with the probate court, Gerber had to file an Application to Extend Administration on her own to avoid being removed as the fiduciary.
48. Gerber had to pay an additional \$119 to the probate court because respondent ignored the summons from the court.
49. Gerber attempted to reach respondent by telephone but he repeatedly failed to return her calls.
50. In or about early 2013, Gerber finally spoke to respondent by telephone. She told respondent that she wanted a refund and all of her paperwork. Respondent suggested to Gerber that she get another attorney.
51. Gerber has had no further contact with respondent, he did not refund any money or return her paperwork, and he failed to withdraw as the attorney of record for the fiduciary with the probate court.
52. On October 10, 2013, respondent and Gerber were sent a Citation To File Account by the probate court regarding the Estate of Kenneth Gerber.

53. Respondent failed to take any action on Gerber's behalf.
54. On December 3, 2013, the probate court removed Gerber as fiduciary of her husband's estate for failure to file a required account. The Judgment Entry ordered that Gerber file a final account forthwith. Respondent was served with the Judgment Entry but failed to take any action on his client's behalf.
55. On February 13, 2014, respondent and Gerber were sent a hearing notice from probate court for a Motion to Dismiss the Estate of Kenneth Gerber.
56. On March 10, 2014, the probate court, on its own motion, dismissed the case for failure to file the required accounting and assessed costs to Gerber.
57. Due to respondent's neglect of Gerber's probate matter, the probate court removed Gerber as the fiduciary and dismissed the case; thereby, preventing her from receiving future settlements in the asbestos wrongful death claim involving her late husband, as the settlements required approval by the probate court before distribution could be made.
58. In or about April 2014, Gerber was notified by the law firm of Bevan & Associates that she was entitled to additional asbestos wrongful death settlements for her late husband. Gerber had to hire new counsel and incur attorney fees in the amount of \$3,777.50 in order to get the settlements approved by the probate court.
59. On September 8, 2014, Gerber's new attorney filed a motion with the probate court to re-open the estate of her late husband and reinstate her as the executor based upon respondent's failure to file the required accounting or any other pleadings to continue the administration of Kenneth Gerber's estate. The probate court granted the motion.
60. Respondent's conduct in Count II violates the Ohio Rules of Professional Conduct, specifically Prof. Cond. R. 1.3 [a lawyer shall act with reasonable diligence and

promptness in representing a client]; Prof. Cond. R. 1.4(a)(2) [a lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished]; Prof. Cond. R. 1.4(a)(3) [a lawyer shall keep the client reasonably informed about the status of the matter]; Prof. Cond. R. 1.4(a)(4) [a lawyer shall comply as soon as practicable with reasonable requests for information from the client]; Prof. Cond. R. 1.5(a) [a lawyer shall not make an agreement for, charge, or collect an illegal or clearly excessive fee]; Prof. Cond. R. 1.15(c) [a lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance]; Prof. Cond. R. 1.16 (d) [a lawyer shall promptly deliver to the client papers and property]; and, Prof. Cond. R. 8.4(d) [a lawyer shall not engage in conduct that is prejudicial to the administration of justice].

COUNT III – Failure to Cooperate

61. Relator incorporates the allegations contained in paragraphs 1-60 as if restated herein.
62. On August 14, 2013, relator sent an LOI to respondent relating to Gerber's grievance (Count II) by certified mail to his business address. The LOI was returned to sender, with a label from the U.S. Postal Service indicating that the letter was "unclaimed" and "unable to forward".
63. On August 29, 2013, respondent told relator that he had been having trouble with mail delivery at his business address but that he was having no trouble with mail delivery at his residential address. Respondent confirmed with relator that his residential address was 1844 Drayton Road, Mayfield Heights, OH 44124. This was the same residential address that respondent had provided to the Office of Attorney Services.

64. On August 30, 2013, relator re-sent the Gerber LOI to respondent by first-class and certified mail to his residential address. The letter of inquiry sent by certified mail was returned to sender, with a label from the U.S. Postal Service indicating “not deliverable as addressed” and “unable to forward”.
65. On September 4, 2013, relator sent a letter by certified and first-class mail to respondent’s residential address requesting additional information in furtherance of relator’s investigation of Count I of this complaint.
66. Relator’s letter sent by certified mail to respondent’s residential address was returned to sender, with a label from the U.S. Postal Service indicating that the letter was “not deliverable as addressed” and “unable to forward”.
67. On September 24, 2013, relator’s investigator attempted to contact respondent at his business address located at 612 E. 185th St., Cleveland, Ohio 44119 to hand-deliver relator’s September 4, 2013 letter and the Gerber LOI. The exterior door was locked but a male individual was partially visible inside. Relator’s investigator accessed the two-way speaker system and the individual disappeared from sight, refusing to answer the door. However, relator’s investigator was told through the speaker system by a male voice that respondent was not there; that respondent was at home. The individual provided a cell phone number to contact respondent. The male voice identified himself as an attorney but provided a name other than respondent.
68. Relator’s investigator called the cell phone number provided but respondent did not answer. However, the investigator observed respondent’s car in the rear parking lot of his business address.

69. Relator's investigator immediately returned to respondent's office and knocked on the front door. A male individual was observed seated inside the office behind the reception area counter. This was the same individual that earlier refused to answer the door.
70. Relator's investigator had access to respondent's photograph and recognized the individual seated inside as the respondent. Furthermore, the individual answered the door and acknowledged to relator's investigator that he was respondent.
71. Relator's investigator then personally delivered both of relator's letters to respondent. Respondent failed to reply to relator's letters concerning Count I and Count II of this complaint.
72. On April 4, 2014, relator sent a letter to respondent requiring his response to the November 27, 2013 and March 27, 2014 overdrafts as reflected in Count I. Relator sent the letter to respondent by first-class mail to respondent's business address. According to the records maintained by the Office of Attorney Services, respondent's residential address was now the same as his business address. Respondent failed to reply to relator's letter.
73. On April 4, 2014, relator sent a second Gerber LOI by certified mail to respondent's previously reported residential address, 1844 Drayton Road, Mayfield Heights, OH 44124. The letter was returned by the U.S. Postal Service but the return label was blank.
74. On April 17, 2014, relator sent a third letter requiring respondent's response to relator's previous inquiries regarding the Gerber grievance. Relator's letter was sent to respondent by certified and first-class mail to the address that respondent had provided to the Office of Attorney Services as both his business and residence, i.e., 612 East 185th Street, Cleveland, OH 44119.

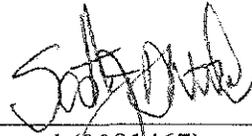
75. The certified letter was returned to sender, with a label from the U.S. Postal Service indicating that the letter was “unclaimed” and “unable to forward”. The first-class mail was not returned to sender. Respondent failed to reply to relator’s letter.
76. To date, respondent has not provided a response to the Gerber grievance, despite being personally served with the Gerber LOI on September 24, 2013.
77. On April 24, 2014, relator sent a letter by certified and first-class mail to respondent’s business address requiring his response to the multiple IOLTA overdrafts in April 2014 as stated in Count I of this complaint. Relator’s letter sent by certified mail was returned to sender, with a label from the U.S. Postal Service indicating that the letter was “unclaimed” and “unable to forward”. The first-class mail was not returned to sender. Respondent failed to reply to relator’s letter.
78. On May 1, 2014, relator sent a letter by first-class mail to respondent’s business address requiring his response to the April 18, 2014 overdraft as stated in Count I. Respondent failed to reply to relator’s letter.
79. Relator scheduled a deposition related to Counts I and II in this complaint for June 5, 2014, and issued a subpoena duces tecum requiring respondent’s appearance.
80. On May 21, 2014 relator sent an email to respondent providing notice of the deposition and a copy of the subpoena duces tecum. Relator sent the email to the email address that respondent had provided to the Office of Attorney Services, i.e., JosephCompoli@sbcglobal.net. The email was returned, delivery failed.
81. Relator’s investigator attempted to personally serve respondent with the deposition notice at respondent’s business address and at his previously reported residential address. Relator’s investigator was unable to locate respondent but taped the deposition notice in

an envelope to the front door of respondent's business address (the same as his residential address as reflected in ¶ 72) on May 22, 2014.

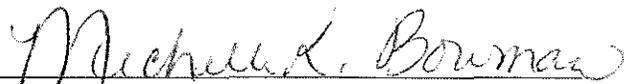
82. On June 3, 2014, relator's investigator observed that the envelope was still taped to respondent's front door of his office. Relator then cancelled the deposition.
83. Respondent's conduct in Count III violates the Ohio Rules of Professional Conduct, specifically Prof. Cond. R. 8.1 (b) [a lawyer shall not fail to disclose a material fact or knowingly fail to respond]; Prof. Cond. R. 8.4(d) [a lawyer shall not engage in conduct that is prejudicial to the administration of justice]; and Gov. Bar R. V(4)(G) [failure to cooperate with relator's investigation].

CONCLUSION

Wherefore, pursuant to Gov. Bar R. V, the Code of Professional Responsibility and 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.



Scott J. Drexel (0091467)
Disciplinary Counsel

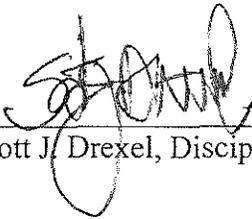


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CERTIFICATE

The undersigned, Scott J. Drexel, Disciplinary Counsel, of the Office of Disciplinary Counsel of the Supreme Court of Ohio hereby certifies that Michelle R. Bowman 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: December 1, 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.