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

In re: :
Complaint against :
 :
THOMAS P. LIPTOCK, ESQ. :
(0036928) :
 :
PO Box 49247 :
West Carrollton, OH 45449 :
 :
Respondent, :
 :
DAYTON BAR ASSOCIATION :
109 N. Main St., Ste. 600 :
Dayton, OH 45402 :
 :
Relator :

Case No. **15 - 002** a d
FILED
JAN 16 2015
COMPLAINT BOARD OF PROFESSIONAL CONDUCT

PROCEDURAL BACKGROUND

1. This Complaint is brought by Relator on behalf of Juanita Beard and Edward Kanienberg, former clients of Respondent, both represented in divorce matters. Also, this Complaint is brought by Relator on behalf of Catherine A. Dempsey, an attorney who was Respondent's opposing counsel in a Montgomery County divorce matter. Finally, this Complaint is brought by Relator on behalf of James F. Long and John D. Everett, attorneys who prosecute cases in the Municipal Court of Kettering, Ohio. Respondent Thomas P. Liptock is an attorney duly licensed to practice law in the State of Ohio with an office in Montgomery County, Ohio and with a general legal practice that includes the representation of clients in domestic relations matters.

2. In January, 2014, Juanita Beard filed a complaint with Relator in the form of a letter regarding the professional conduct of Respondent. The complaint was referred to an investigator on behalf of the Dayton Bar Association.

3. In May, 2014, Edward Kanienberg filed a complaint with Relator in the form of a letter regarding the professional conduct of Respondent. The complaint was referred to an investigator on behalf of the Dayton Bar Association.

4. In April, 2014, Catherine A. Dempsey, attorney, filed a complaint with Relator in the form of a letter regarding the professional conduct of Respondent. The complaint was referred to an investigator on behalf of the Dayton Bar Association.

5. In May, 2014, James F. Long and John D. Everett, attorneys, filed a complaint with Relator in the form of an email regarding the professional conduct of Respondent in Kettering Municipal Court cases. The complaint was referred to an investigator on behalf of the Dayton Bar Association.

6. An investigation was commenced by attorney Gregory T. Scott of the Committee on Professional Ethics of the Dayton Bar Association regarding the Beard complaint. The investigator reviewed documents, file materials and spoke with Juanita Beard. In addition, the investigator spoke with Respondent regarding Beard's complaint letter and the allegations of misconduct. Respondent confirmed the validity of everything Beard had stated to the investigator.

7. While investigating Complainant's claims, Gregory T. Scott discovered that Respondent was under a registration suspension of his license to practice law for noncompliance with Gov. Bar R. VI, effective November 1, 2013. From Erin E. Scanlon, Administrator, Second District Court of Appeals, and from James E. Dare, Court Administrator, Montgomery County Court of Common Pleas, Scott learned that Respondent had continued to practice law while under suspension. Respondent confirmed the validity of everything Scanlon and Dare had stated to Scott.

8. An investigation was commenced by attorney Robert F. Jacques of the Committee on Professional Ethics of the Dayton Bar Association regarding the Kanienberg, Catherine Dempsey and the Long/Everett complaints. The investigator reviewed documents, file materials and spoke with Edward Kanienberg, Catherine Dempsey, James F. Long and John D. Everett. In addition, the investigator spoke with Respondent regarding the Kanienberg and Dempsey complaint letters and the allegations of misconduct. Respondent confirmed the validity of everything

Kanienberg and Dempsey had stated to the investigator. Finally, the investigator attempted to speak with Respondent by telephone regarding the Long/Everett complaint letters and the allegations of misconduct, but Respondent did not return the investigator's calls.

RELEVANT FACTS

Beard

9. Beginning in October, 2011, Respondent and Juanita Beard entered into an attorney-client relationship, such that Respondent was to provide legal representation to Beard regarding a divorce. Beard paid Respondent a retainer for legal services associated with the divorce, totaling \$750.00.

10. Respondent continued to represent Beard, but Respondent never filed for nor obtained a divorce for Beard. Respondent has refunded only \$100.00 of the original \$750.00 retainer.

11. During his investigation, investigator Scott learned from Respondent that Respondent has failed to maintain professional liability insurance in any amounts and has failed to maintain an IOLTA account and a business operating account.

12. Further, investigator Scott learned that from November 1, 2013 up to the present, Respondent has continued to practice law while under a registration suspension for noncompliance with Gov. Bar R. VI by appearing as counsel of record in appellate matters before the Second District Court of Appeals and in trial matters before the Montgomery County Common Pleas Court and the Montgomery County Juvenile Court.

Kanienberg

13. Beginning in July, 2013, Respondent and Edward Kanienberg entered into an attorney-client relationship, such that Respondent was to provide legal representation to Kanienberg regarding a divorce. Kanienberg paid Respondent a retainer for legal services associated with the divorce, totaling \$1000.00.

14. Respondent continued to represent Kanienberg, but Respondent never filed for nor obtained a divorce for Kanienberg. Respondent has not refunded the original \$1000.00 retainer.

15. During his investigation, investigator Jacques learned from Respondent that Respondent has failed to maintain professional liability insurance in any amounts and has failed to maintain an IOLTA account and a business operating account.

16. Further, investigator Jacques learned that from November 1, 2013 up to the present, Respondent has continued to practice law while under a registration suspension for noncompliance with Gov. Bar R. VI by appearing as counsel of record in: a Montgomery County foreclosure, Barclay Square Condo Assn. v. Jones; two Montgomery County divorces, Yahya v. Wojtczak and Qetari v. Ballard; a Montgomery County civil matter, Jackson v. McKinney; and a state tax collection case, Ohio Department of Taxation v. Norris.

Dempsey

17. In October, 2013, Respondent filed an Answer and Counterclaim in a Montgomery County divorce, Baker v. Baker. Complainant Dempsey represented the Plaintiff-wife in the divorce.

18. From November 1, 2013 up to August 25, 2014, the date of the final, uncontested divorce hearing in Baker, Respondent has continued to practice law while under a registration suspension for noncompliance with Gov. Bar R. VI by appearing as counsel of record for the Defendant-husband in the Baker divorce.

Long/Everett

19. From November 1, 2013, up to the present, Respondent has continued to practice law while under a registration suspension for noncompliance with Gov. Bar R. VI by appearing as counsel of record and representing clients in at least five (5) traffic cases and one (1) civil case in Kettering Municipal Court, through the filing of pleadings and the negotiation of dispositions. Complainants Long and Everett either prosecuted the traffic cases referenced above or have personal knowledge of the traffic cases and the civil case referenced above.

COUNT ONE – VIOLATION OF CONDUCT RULE 1.1 (Beard)

20. Relator incorporates by reference all of the facts and allegations set out above.

21. Respondent's conduct in providing legal services to Juanita Beard constitutes a violation of Rule 1.1 of the Ohio Rules of Professional Conduct, to wit: failing to provide competent representation to Beard.

COUNT TWO – VIOLATION OF CONDUCT RULE 1.3 (Beard)

22. Relator incorporates by reference all of the facts and allegations set out above.

23. Respondent's conduct in providing legal services to Juanita Beard constitutes a violation of Rule 1.3 of the Ohio Rules of Professional Conduct, to wit: failing to act with reasonable diligence and promptness in representing Beard.

COUNT THREE – VIOLATION OF CONDUCT RULE 1.15 (a) & (c) (Beard)

24. Relator incorporates by reference all of the facts and allegations set out above.

25. Respondent's conduct in providing legal services to Juanita Beard constitutes a violation of Rule 1.15 (a) & (c) of the Ohio Rules of Professional Conduct, to wit: failing to maintain an IOLTA account and records of funds held on behalf of Beard, failing to maintain a business/operating account and failing to deposit into a client trust account Beard's \$750.00 divorce retainer.

COUNT FOUR – VIOLATION OF CONDUCT RULE 1.4 (c) (Beard)

26. Relator incorporates by reference all of the facts and allegations set out above.

27. Respondent's conduct in failing to maintain professional liability insurance, in failing to inform Juanita Beard of Respondent's failure to maintain professional liability insurance and in failing to provide Beard with the mandated acknowledgment form regarding professional liability insurance constitutes a violation of Rule 1.4 (c) of the Ohio Rules of Professional Conduct.

COUNT FIVE – VIOLATION OF CONDUCT RULE 8.4 (a)(c)(d) & (h) (Beard)

28. Relator incorporates by reference all of the facts and allegations set out above.

29. Respondent's conduct in representation of Juanita Beard, in mishandling Beard's divorce retainer, in failing to maintain professional liability insurance and in continuing to practice law while under a registration suspension constitutes a violation of the Ohio Rules of Professional Conduct, conduct involving dishonesty or misrepresentation, conduct that is prejudicial to the administration of justice and conduct that adversely reflects on Respondent's fitness to practice law, in violation of Rule 8.4 (a)(c)(d) & (h) of the Ohio Rules of Professional Conduct.

COUNT SIX – VIOLATION OF CONDUCT RULE 1.1 (Kanienberg)

30. Relator incorporates by reference all of the facts and allegations set out above.

31. Respondent's conduct in providing legal services to Edward Kanienberg constitutes a violation of Rule 1.1 of the Ohio Rules of Professional Conduct, to wit: failing to provide competent representation to Kanienberg.

COUNT SEVEN – VIOLATION OF CONDUCT RULE 1.3 (Kanienberg)

32. Relator incorporates by reference all of the facts and allegations set out above.

33. Respondent's conduct in providing legal services to Edward Kanienberg constitutes a violation of Rule 1.3 of the Ohio Rules of Professional Conduct, to wit: failing to act with reasonable diligence and promptness in representing Kanienberg.

COUNT EIGHT – VIOLATION OF CONDUCT RULE 1.15 (a) & (c)
(Kanienberg)

34. Relator incorporates by reference all of the facts and allegations set out above.

35. Respondent's conduct in providing legal services to Edward Kanienberg constitutes a violation of Rule 1.15 (a) & (c) of the Ohio Rules of Professional Conduct, to wit: failing to maintain an IOLTA account and records of

funds held on behalf of Kanienberg, failing to maintain a business/operating account and failing to deposit into a client trust account Kanienberg's \$1000.00 divorce retainer.

COUNT NINE – VIOLATION OF CONDUCT RULE 1.4 (c) (Kanienberg)

36. Relator incorporates by reference all of the facts and allegations set out above.

37. Respondent's conduct in failing to maintain professional liability insurance, in failing to inform Edward Kanienberg of Respondent's failure to maintain professional liability insurance and in failing to provide Kanienberg with the mandated acknowledgment form regarding professional liability insurance constitutes a violation of Rule 1.4 (c) of the Ohio Rules of Professional Conduct.

COUNT TEN – VIOLATION OF CONDUCT RULE 8.4 (a)(c)(d) & (h) (Kanienberg)

38. Relator incorporates by reference all of the facts and allegations set out above.

39. Respondent's conduct in representation of Edward Kanienberg, in mishandling Kanienberg's divorce retainer, in failing to maintain professional liability insurance and in continuing to practice law while under a registration suspension constitutes a violation of the Ohio Rules of Professional Conduct, conduct involving dishonesty or misrepresentation, conduct that is prejudicial to the administration of justice and conduct that adversely reflects on Respondent's fitness to practice law, in violation of Rule 8.4 (a)(c)(d) & (h) of the Ohio Rules of Professional Conduct.

COUNT ELEVEN – VIOLATION OF CONDUCT RULE 5.5 (b) (Dempsey)

40. Relator incorporates by reference all of the facts and allegations set out above.

41. Respondent's conduct in continuing to practice law in a Montgomery County divorce, Baker v. Baker, while under a registration suspension for noncompliance with Gov. Bar R. VI constitutes the unauthorized practice of law and a violation of Rule 5.5(b) of the Ohio Rules of Professional Conduct.

COUNT TWELVE – VIOLATION OF CONDUCT RULE 5.5 (b) (Long/Everett)

42. Relator incorporates by reference all of the facts and allegations set out above.

43. Respondent's conduct in continuing to practice law as counsel of record, representing clients in traffic cases and a civil case in Kettering Municipal Court, while under a registration suspension for noncompliance with Gov. Bar R. VI constitutes the unauthorized practice of law and multiple violations of Rule 5.5(b) of the Ohio Rules of Professional Conduct.

COUNT THIRTEEN – VIOLATION OF CONDUCT RULE 5.5 (b)

44 Relator incorporates by reference all of the facts and allegations set out above.

45. Respondent's conduct in continuing to practice law while under a registration suspension for noncompliance with Gov. Bar R. VI before the Second District Court of Appeals, before the Montgomery County Common Pleas Court and before the Montgomery County Juvenile Court constitutes the unauthorized practice of law and multiple violations of Rule 5.5(b) of the Ohio Rules of Professional Conduct.

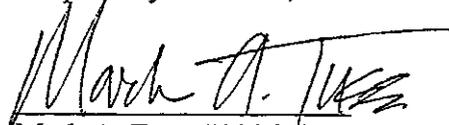
COUNT FOURTEEN – VIOLATION OF CONDUCT RULE 5.5 (b)

46 Relator incorporates by reference all of the facts and allegations set out above.

47. Respondent's conduct in continuing to practice law while under a registration suspension for noncompliance with Gov. Bar R. VI by appearing as counsel of record in: a Montgomery County foreclosure, Barclay Square Condo Assn. v. Jones; two Montgomery County divorces, Yahya v. Wojtczak and Qetari v. Ballard; a Montgomery County civil matter, Jackson v. McKinney; and a state tax collection case, Ohio Department of Taxation v. Norris constitutes the unauthorized practice of law and multiple violations of Rule 5.5(b) of the Ohio Rules of Professional Conduct.

WHEREFORE, Relator respectfully requests that the Board of Commissioners find that Respondent has violated the above referenced sections of the Ohio Rules of Professional Conduct and that Respondent be appropriately disciplined and sanctioned in accordance with the Ohio Rules of Professional Conduct and the Rules for the Government of the Bar.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark A. Tuss", with a horizontal line drawn across the bottom of the signature.

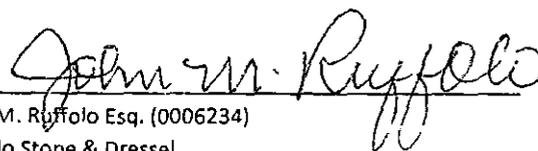
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ATTORNEY FOR RELATOR

CERTIFICATE

The undersigned Bar Counsel of the Dayton Bar Association hereby certifies that Mark Tuss, 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 12-1-14



John M. Ruffolo Esq. (0006234)
Ruffolo Stone & Dressel
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Dayton, OH 45459-5318