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JUL 23 2015

BOARD OF PROFESSIONAL CONDUCT
BEFORE THE BOARD OF PROFESSIONAL CONDUCT
OF THE
SUPREME COURT OF OHIO

IN RE: COMPLAINT AGAINST
RAYMOND JOHN MASEK
183 West Market Street, Suite 300
Warren, Ohio 44481
Attorney Registration No. 0041023

CASE NO. — **15 - 045**

Respondent

COMPLAINT AND CERTIFICATE

TRUMBULL COUNTY BAR ASSOCIATION
CERTIFIED GRIEVANCE COMMITTEE
120 High Street NW
P. O. Box 4222
Warren, Ohio 44482

(RULE V OF THE SUPREME COURT
RULES FOR THE GOVERNMENT OF
THE BAR OF OHIO)

FILED

Relator

AUG 07 2015

BOARD OF PROFESSIONAL CONDUCT

1. Relator says that Respondent, RAYMOND JOHN MASEK, Ohio Supreme Court Registration No. 0041023, was admitted to the practice of law in the State of Ohio on November 4, 1977.

2. Respondent is subject to the Ohio Rules of Professional Conduct and the Rules for the Government of the Bar of Ohio and has heretofore been given notice of the allegations of this Complaint and the opportunity to respond thereto.

3. This Complaint is filed as a result of an investigation conducted by the Trumbull County Bar Association Certified Grievance Committee and a majority of the Committee members constituting a quorum determining that this Complaint is warranted.

4. Respondent is a solo practitioner whose present office address is 183 West Market Street, Suite 300, Warren, Ohio 44481.

5. To Relator's knowledge Respondent has not heretofore been the subject of disciplinary proceedings.

COUNT ONE

THE ALAN HINTON MATTER

6. Respondent was retained on February 27, 2012, by the Grievant, Alan Hinton, (hereafter "Hinton") to represent Hinton in an action for wrongful termination of employment against Hinton's former employer, Trinity Highway Products LLC.

7. On February 27, 2012, Respondent had Hinton sign a written fee contract memorializing in writing the terms and conditions of Respondent's representation of him. The contract described the legal services to be provided as "action against Trinity Highway Products and related parties, a \$5,000.00 retainer fee equivalent to 27 plus hours, billed at \$185.00 per hour, and any minimum fee for phone calls, travel, etc. and any one-third contingent fee above the retainer was waived". The fee agreement does not state that Hinton would be charged any additional fees beyond the retainer, fees for phone calls and travel were waived, and contingent fees were deleted. The agreement also deletes Respondent's right to withdraw from representing Hinton.

8. On February 27, 2012, Hinton paid Respondent \$5,000.00 and Respondent gave Hinton a receipt for same).

9. On March 26, 2012, Hinton paid Respondent an additional \$240.00 as and for a court cost filing fee and received a receipt from Respondent.

10. On or about March 26, 2012 Respondent filed a civil action on behalf of Hinton and against Trinity Highway Products, LLC under Case No. 2012 CV 00678 of the Trumbull County, Ohio Common Pleas Court, therein alleging that Hinton's termination as an employee of Trinity was based upon his race and his age.

11. On or about May 1, 2012 Trinity removed the lawsuit from the Trumbull County, Ohio Common Pleas Court and to the United States District Court for the Northern District of Ohio, such being assigned to the docket of James S. Gwin and Magistrate Judge Nancy A. Veccharelli. The parties subsequently agreed that the case should be referred from Judge Gwin's docket to the docket of Magistrate Judge Veccharelli who would conduct a bench trial in the case.

12. Respondent also sought to represent Hinton in a claim for unemployment compensation, claiming that by having Respondent represent Hinton in both matters, Hinton would have better leverage with Trinity. Hinton was, however, unable to raise an additional \$2,000.00 retainer required by Respondent, and subsequently Hinton obtained legal representation from Attorney Michele Wrona Fox who was employed by Community Legal Services.

13. At approximately the same time as filing the unemployment compensation claim, Hinton also filed a grievance through his Union. Subsequently, he lost both the unemployment claim and the Union grievance.

14. Hinton says that at all times his only goal was regaining his job with Trinity, rather than a monetary settlement with no job, and that he made his goals clearly known to Respondent.

15. Respondent claims he had authority from Hinton to settle Hinton's case for \$7,000.00 and Hinton would not get his job back. Hinton denies giving Respondent authority to settle just on a monetary figure, without the settlement including Hinton being returned to his former employment position with Trinity.

16. Unknown to Hinton, Respondent conveyed a \$7,000.00 settlement demand to Trinity's lawyers, but did not include a demand that Hinton be returned to his prior employment. Trinity accepted that settlement offer.

17. When Hinton learned of the settlement proposal Respondent had made to Trinity's counsel, Hinton rejected same.

18. Thereafter Trinity filed a Motion in U. S. District Court to enforce the settlement Respondent had offered.

19. On September 5, 2012, Hinton filed his grievance with Relator and against Respondent.

20. The grievance was assigned for investigation to Trumbull County Bar Association Certified Grievance Committee member Curtis J. Ambrosy and a copy of the Complaint and notice of assignment of investigator was sent to Respondent.

21. Upon receipt of the grievance complaint and related materials Ambrosy interviewed Hinton, Masek, and counsel for Trinity, and Attorney Fox who handled Hinton's unemployment claims.

22. Judge Veccharelli scheduled a hearing on Trinity's motion to enforce the settlement Respondent offered Trinity for September 18, 2012 while Respondent was still representing Hinton. In the hearing before Judge Veccharelli, the same judge who was to

hear and decide the case if it was to go forward on the merits, Respondent became adversarial towards Hinton, and made the following statements:

- a. Mr. Hinton is known for making threats (Hearing Trans. P 6, L 8-13);
- b. You know, his conduct in the plant, the plant environment, having done this for over 35 years, I consider him to be highly dangerous. I personally would not want him back with the type of pejorative comments and statements that were made toward a coworker (Hearing Trans. P. 18, L 21).
- c. I found Mr. Hinton to be a difficult client. He has chosen not to follow my advice. As I dictated...he hasn't paid my bills for that matter (Hearing Trans. P. 18, L 23-25).

23. During the hearing Respondent further berated Hinton to the Court by complaining that Hinton had not hired Respondent to represent Hinton in his unemployment compensation hearing arising from his termination from Trinity, and that Hinton had acted recklessly in not hiring Respondent, but what Respondent did not tell the Court was that Hinton was unable to pay Respondent a \$2,000.00 retainer demanded by Respondent.

24. Then during the course of the hearing, without any forewarning to Hinton, Respondent made an oral motion to withdraw as Hinton's Attorney

25. Respondent's conduct as described herein violates the Ohio Rules of Professional Conduct, to-wit:

(A) Rule 1.1 a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

(B) Rule 1.6(A) (C) a lawyer shall not reveal information relating to the representation of a client including the information protected by attorney client privilege under applicable law, unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is otherwise permitted by rule.

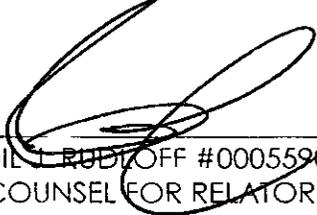
(C) Rule 1. (A) (2) a lawyer's continued representation of a client creates a conflict of interest if there is a substantial risk that the lawyer's ability to consider, recommend, or carry out an appropriate course of action for that client will be materially limited by the lawyer's responsibilities to another client, a former client, or a third person, or by the lawyer's own personal interests.

(D) Rule 1.16(D) as part of termination of representation, a lawyer shall take steps, to the extent reasonably practicable, to protect the client's interests.

CONCLUSION

WHEREFORE, pursuant to Gov Bar R V and the Rules of Professional Conduct, Relator says that Respondent is chargeable with misconduct and requests that the Respondent be disciplined pursuant to Rule V of the Rules for the Government of the Bar of Ohio.

TRUMBULL COUNTY BAR ASSOCIATION

By 
RANDIL J. RUDLOFF #0005590
BAR COUNSEL FOR RELATOR
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CERTIFICATION

The undersigned, Samuel F. Bluedorn, Chairman of the Trumbull County Bar Association Certified Grievance Committee hereby certifies that Randil J. Rudloff is authorized to represent the Relator in the premises and has accepted the responsibility of prosecuting the Complaint herein to its conclusion. After investigation, Relator believes reasonable cause exists to warrant a hearing on such complaint.

Dated: May 4, 2015



SAMUEL F. BLUEDORN, CHAIRMAN
TRUMBULL COUNTY BAR ASSOCIATION
CERTIFIED GRIEVANCE COMMITTEE

CERTIFICATE OF SERVICE

A copy of the foregoing Complaint was served upon Respondent by Certified and ordinary U.S. Mail the 20 day of July, 2015 at the address set forth above.



Randil J. Rudloff
Trumbull County Bar Counsel