

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

FILED

AUG 07 2015

BOARD OF PROFESSIONAL CONDUCT

In re:

Complaint against:

Matthew Joseph King (Sup. Ct # 0067189)  
(Name of Attorney)

Case No.

**15 - 046** 

1337 W. 10<sup>th</sup> Street-Bridgeview Apts

Cleveland, Ohio 44113

(Address)

**RESPONDENT**

Cleveland Metropolitan Bar Association

1375 E. Ninth Street, Floor 2

Cleveland, Ohio 44114

(Address)

**RELATOR**

**COMPLAINT  
AND  
CERTIFICATE**  
(Rule V of the Supreme Court  
Rules for the Government of  
the Bar of Ohio)

**RECEIVED**

JUL 17 2015

BOARD OF PROFESSIONAL CONDUCT

Now comes the relator, Cleveland Metropolitan Bar Association ("Relator"), and for its Complaint against Respondent Matthew Joseph King ("Respondent"), an Attorney at Law, duly licensed and admitted to the practice of law in the State of Ohio, alleges the following:

**INTRODUCTION**

1. Respondent, Ohio Supreme Court Attorney Registration Number 0067189, was admitted to the practice of law in Ohio on November 12, 1996, and as such is subject to the

Supreme Court Rules for the Government of the Bar of Ohio and the Ohio Rules of Professional Conduct.

2. On March 5, 2015, Respondent was informed via certified and regular mail that Relator had found probable cause for potential violations of the Rules of Professional Conduct related to grievances filed by his former clients Brian Simms and Edward Ackles.

3. Respondent has signed a three-year contract with the Ohio Lawyers Assistance Program ("OLAP").

#### **COUNT I - BRIAN SIMMS**

4. In August 2014, Brian Simms retained Respondent to represent him in a criminal drug trafficking and possession matter.

5. On August 19, 2014, Respondent and Simms signed a fee agreement whereby Respondent agreed to represent Simms at a rate of \$200.00 per hour.

6. Respondent's fee agreement contained the statement:

"Due to the fact that I no longer handle civil matters, I do not carry malpractice insurance; I myself am responsible for all legal proceedings where I am representing clients."

7. Respondent's fee agreement did not inform Simms that he does not maintain professional liability insurance of at least \$100,000 per occurrence and \$300,000 in the aggregate as required by Prof. Cond. R. 1.4(c).

8. Simms agreed to pay a "deposit" of \$2,500.00 and paid \$1,000.00 toward the deposit.

9. Simms paid Respondent an additional \$500.00 toward the \$2,500.00 deposit for a total of \$1,500.00.

10. After that, Respondent could not be found and did not appear at any of Mr. Simms's court hearings.

11. In October 2014, Simms sent Respondent a certified letter asking Respondent to withdraw as counsel, produce an accounting of his time, and refund all of the deposit.

12. Respondent did not respond to Simms's letter.

13. Respondent's actions and omissions described above violated the following provisions of the Ohio Rules of Professional Conduct:

- a. Rule 1.3 – failure to act with reasonable diligence;
- b. Rule 1.4(a)(4) – failure to respond to a client's requests for information;
- c. Rule 1.4(c) – failure to make required disclosure about malpractice insurance;
- d. Rule 1.5(a) – collecting an excessive fee;
- e. Rule 1.16(d) – failing to take steps to protect the client's interests; and
- f. Rule 1.16(e) – failing to refund an unearned fee.

#### **COUNT II - EDWARD ACKLES**

14. In or about July 2014, Edward Ackles hired Respondent over the telephone to defend him against domestic violence and aggravated menacing charges in the Cleveland Municipal Court.

15. Respondent appeared in court with Ackles on August 12, 2014.

16. At court on August 12, 2014, Ackles paid Respondent \$300.00 of a \$1,000.00 fee.

17. Respondent did not present Ackles with a fee agreement, give him a receipt for the \$300.00, or notify him in writing that he does not maintain professional liability insurance.

18. On August 12, 2014, Ackles's case was continued to August 28, 2014.

19. Respondent failed to appear in court on August 28, 2014, and could not be reached by phone.

20. Still unable to reach Respondent, Ackles hired another attorney who was able to eventually get the case dismissed.

21. Respondent's actions and omissions described above violated the following provisions of the Ohio Rules of Professional Conduct:

- a. Rule 1.3 – failure to act with reasonable diligence;
- b. Rule 1.4(a)(4) -- failure to respond to a client's requests for information;
- c. Rule 1.4(c) – failure to make required disclosure about malpractice insurance; and
- d. Rule 1.16(e) – failing to refund an unearned fee.

### **COUNT III – FAILURE TO COOPERATE**

22. In November and December 2014, Relator sent 4 letters to Respondent at the address listed for him on Attorney Registration requesting his written response to the grievances filed by Simms and Ackles. Respondent did not respond.

23. In December 2014, Relator asked a private investigator to attempt to locate Respondent. The efforts of the investigator were unsuccessful.

24. Also in December 2014, Relator asked the Office of Attorney Services to provide Respondent's home address.

25. In January 2015, Relator sent letters to Respondent's home address, which is the address for Respondent's parents, but Respondent did not respond.

26. In March 2015, Relator was notified that Respondent had signed a 3-year OLAP contract.

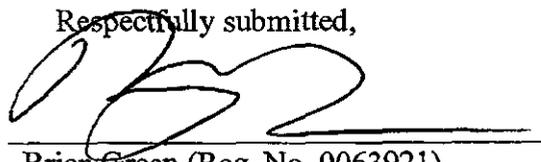
27. On March 27, 2015, during a telephone call with Relator's Bar Counsel, Respondent acknowledged that he had received copies of the grievances that had been sent to his parents' house.

28. Respondent was asked to provide documentation and written responses to the grievances during the week of April 13, 2015. Respondent has not provided any information.

29. Respondent's conduct as described in Count III amounts to violations of Gov. Bar Rule V(9)(G) and Prof. Cond. Rule 8.1(b).

WHEREFORE, Relator prays that Respondent be appropriately disciplined for his misconduct.

Respectfully submitted,



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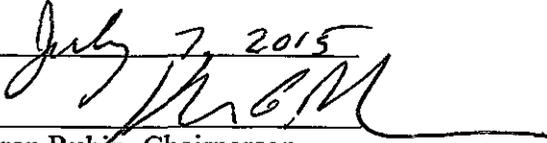
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*Bar Counsel,  
Cleveland Metropolitan Bar Association*

**CERTIFICATE**

The undersigned, **KAREN E. RUBIN, CHAIRPERSON**, of the **CLEVELAND METROPOLITAN BAR ASSOCIATION'S CERTIFIED GRIEVANCE COMMITTEE**, hereby certifies that **BRIAN GREEN** and **MICHAEL I. SHAPERO** 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: \_\_\_\_\_

  
\_\_\_\_\_  
Karen Rubin, Chairperson  
Certified Grievance Committee

**Rule V of the Supreme Court Rules for the Government of the Bar of Ohio, Section (10)**

(E)(1) Content of the Complaint. A complaint filed with the Board shall be filed in the name of either disciplinary counsel or the bar association that sponsors the certified grievance committee, as relator. The complaint shall include all of the following:

- (a) Allegations of specific misconduct including citations to the rules allegedly violated by the respondent, provided that neither the panel nor the Board shall be limited to the citation to the disciplinary rule in finding violations based on all the evidence if the respondent has fair notice of the charged misconduct;
- (b) If applicable, an allegation of the nature and amount of restitution that may be owed by the respondent or a statement that the relator cannot make a good faith allegation without engaging in further discovery;
- (c) A list of any discipline or suspensions previously imposed against the respondent and the nature of the prior discipline or suspension;
- (d) The respondent's attorney registration number and his or her last known address;
- (e) The signatures of one or more attorneys admitted to the practice of law in Ohio, who shall be counsel for the relator and, where applicable, by bar counsel;
- (f) A written certification, signed by disciplinary counsel or the president 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.