

FILED

APR 11 2014

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

DANIEL GLEN WALKER (0071954)
P.O. Box 33723
North Royalton, OH 44133

Respondent,

v.

CLEVELAND METROPOLITAN
BAR ASSOCIATION
1301 E. Ninth Street, Second Level
Cleveland, Ohio 44114,

Relator.

NO. 14-035

COMPLAINT
AND
CERTIFICATE

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

Relator Cleveland Metropolitan Bar Association alleges that Respondent Daniel Glen Walker, an Attorney at Law, duly admitted to the practice of law in the State of Ohio on May 22, 2000, is guilty of the following misconduct:

COUNT I – Holston’s Slip and Fall

1. In March 2010, Respondent was hired by Ms. Norma Quarles Holston to represent her relative to injuries she sustained in South Carolina when she slipped and fell while touring a home in foreclosure in February 2010.

2. Respondent took no action to advance Ms. Holston's claim and did not inform her that he would not handle her claim until November 2011.

3. Respondent incorrectly advised Ms. Holston that the applicable statute of limitations for her claim was two years under Ohio law instead of three years under South Carolina law.

COUNT II – Holston's Automobile Accident

4. In October 2010, Respondent was engaged by Ms. Holston to represent her relative to injuries she sustained in an automobile accident.

5. Respondent filed suit on behalf of Ms. Holston in September 2012 but did not perfect service on the defendant which resulted in the dismissal of the case without prejudice in March 2013

6. Respondent and Ms. Holston discussed settling her automobile accident case.

7. Despite the failure to perfect service, on or about February 2, 2013 (prior to the dismissal), Respondent settled Ms. Holston's claim with Nationwide, the insurance company for the defendant, for \$9,000.

8. Respondent received a check dated February 6, 2013 from Nationwide, representing \$6,500 of the proceeds of the settlement of Ms. Holston's car accident claim, but Nationwide withheld \$2,500 of the proceeds pending resolution of any Medicare liens.

9. Respondent endorsed the \$6,500 Nationwide check without Ms. Holston's consent and deposited into his IOLTA on March 5, 2013.

10. Respondent did not notify Ms. Holston that he had obtained the settlement check for her claim until April 2013.

11. Respondent failed to distribute the net proceeds of the settlement to Ms. Holston, failed to secure a signature on the settlement release from the insurance company, and failed to communicate with Ms. Holston concerning the status of her net settlement proceeds until the grievance was filed by Ms. Holston.

COUNT III – Respondent’s Misconduct Related to His IOLTA

12. In July 2009, Respondent opened an IOLTA, a business account and a corporate account for his law practice.

13. Beginning in 2011 through March 2013, Respondent commingled client funds with his personal funds and used his IOLTA for business and personal transactions.

14. In March 2012, Respondent closed the corporate account and in April 2012 Respondent closed the business account to avoid paying the bank fees associated with those accounts.

15. Between July 2009 and at least March 2013, Respondent did not maintain records for his bank accounts as required by Prof. Cond. R. 1.15.

RESPONDENT VIOLATED THE RULES OF PROFESSIONAL CONDUCT

16. Respondent’s conduct as described above amounts to violations of the following provisions of the Rules of Professional Conduct:

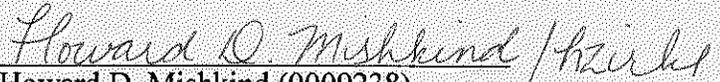
- a. Prof. Cond. R. 1.4(a)(1) – Failure to inform the client of any decision or circumstance with respect to which the client’s informed consent is required;

- b. Prof. Cond. R. 1.15(a) – Failure to keep property of clients separate from a lawyer’s property;
- c. Prof. Cond. R. 1.15(a)(2) and (5) – Failure to perform and retain monthly reconciliation of transactions involving the lawyer’s client trust account; and
- d. Prof. Cond. R. 1.15(d) – Failure to promptly notify a client that funds have been received in which a client had a lawful interest.

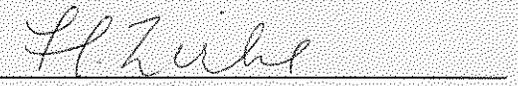
WHEREFORE, Relator requests that Respondent be found to be in violation of the provisions cited and that an appropriate sanction be imposed.

Respectfully submitted,

CLEVELAND METROPOLITAN BAR ASSOCIATION, BY:


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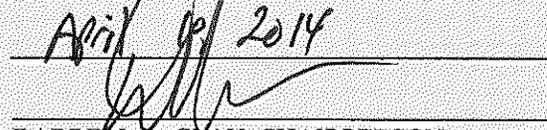

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*Assistant Counsel,
Cleveland Metropolitan Bar Association*

CERTIFICATE

The undersigned, **DARRELL A. CLAY, CHAIRPERSON**, of the **CLEVELAND METROPOLITAN BAR ASSOCIATION'S CERTIFIED GRIEVANCE COMMITTEE**, hereby certifies that **HOWARD D. MISHKIND and HEATHER M. ZIRKE** 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: _____

April 10 2014


DARRELL A. CLAY, CHAIRPERSON
Certified Grievance Committee

**(Rule V of the Supreme Court Rules for the Government of the Bar of Ohio)
Section (4)**

(4)(I)(8) 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 officer 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 or counties in which the Respondent resides and maintains his office and for the county from which the complaint arose.



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BOARD OF COMMISSIONERS
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WAIVER OF PROBABLE CAUSE DETERMINATION

Re: Cleveland Metropolitan Bar Association vs. Daniel Glen Walker

Respondent Robert Daniel Glen Walker hereby waives a probable cause determination of Relator's Complaint by a panel of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio.

Theresa A. Richthammer

Theresa A. Richthammer, Esq.
Counsel for Respondent

4/8/2014

Date