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

APR 27 2015

BOARD OF PROFESSIONAL CONDUCT

In re:

Complaint against

**Daniel Lee Bennett, Esq.
P.O. Box 369
Bellefontaine, Ohio 43311**

No. 15 - 027 

Attorney Registration No. 0071965

Respondent,

COMPLAINT AND CERTIFICATE

**(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**

Relator.

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

1. Respondent, Daniel Lee Bennett, was admitted to the practice of law in the state of Ohio on May 22, 2000.
2. At all times relevant to the allegations of this Complaint, Respondent has been subject to the Rules of Professional Conduct and the Rules for the Government of the Bar of Ohio.

**COUNT ONE
The Wilson Matter**

3. On or about February 19, 2013, Brittany M. Wilson met with respondent to discuss the possibility of retaining him to represent her in a marital dissolution or divorce proceeding against her husband, Charles Joseph ("Joe") Wilson.

4. Ms. Wilson met with respondent for about an hour. In addition to discussing the amount of his attorney fees and the marital dissolution and divorce process, respondent provided Ms. Wilson with documents she would need to complete in order to initiate the dissolution or divorce process. Respondent and Ms. Wilson also discussed the issues that were most important to her and what she hoped to achieve in the dissolution or divorce. Respondent also asked Ms. Wilson if there was any information about her that her husband could use against her. Ms. Wilson shared this information with respondent. Ms. Wilson told respondent that she wanted to seek an *ex parte* order granting her custody of their children. However, respondent told Ms. Wilson that he would not seek an *ex parte* custody order because there was no imminent danger to the children.
5. Following the conclusion of her consultation with respondent, and after thinking about it, Ms. Wilson decided not to retain respondent to represent her in her anticipated marital dissolution or divorce proceeding. Instead, Ms. Wilson retained attorney Mark Feinstein and his law firm, Feinstein Legal Services, to represent her in the proceeding.
6. On March 14, 2013, Charles Joseph (“Joe”) Wilson retained respondent to represent him in the dissolution or divorce and child custody proceeding against his wife, Brittany M. Wilson. At the time he retained him, Joe Wilson paid respondent an advanced attorney fee of \$2,500.
7. Sometime in mid-March 2013, respondent telephoned Ms. Wilson and informed her that he had been retained to represent her husband, Joe, in connection with the marital dissolution proceeding. At the outset of this telephone conversation, Ms. Wilson told respondent that she was represented by attorney Mark Feinstein. Despite being told that she was represented by an attorney, respondent continued to talk with Ms. Wilson about

the dissolution proceeding. Ms. Wilson's conversation with respondent lasted about 45 minutes.

8. During the course of his conversation with her, respondent told Ms. Wilson that, at the time he was hired by Joe Wilson, he did not recall that he previously had a consultation with her and that one of the secretaries in his office had later reminded him of the consultation. Respondent told Ms. Wilson that, "I probably shouldn't be doing this" but that he felt it was okay for him to represent Joe Wilson despite his earlier consultation with Ms. Wilson because, based upon what Ms. Wilson had told respondent during their initial consultation, he believed the parties were close to reaching an agreement. Respondent then asked Ms. Wilson whether she objected to his continued representation of Joe Wilson in the matter. In response, Ms. Wilson stated, "I guess not."
9. Respondent never provided Ms. Wilson with any document or other writing that discussed the conflict of interest in representing her husband in the marital dissolution proceeding after respondent had previously had a consultation with her. Likewise, Ms. Wilson never signed any document in which she consented to his continued representation of her husband in the dissolution proceeding.
10. The Wilsons were unable to reach agreement on a marital dissolution. Therefore, on October 18, 2013, respondent filed a complaint for divorce on behalf of Joe Wilson and sought an *ex parte* order designating Joe as the temporary residential parent and legal custodian of their children.
11. Shortly after the divorce proceeding was filed, Ms. Wilson had a conversation with Ryan Reed, the attorney at Feinstein Legal Services who was assigned to her dissolution/divorce matter. During the course of their conversation, Ms. Wilson

mentioned to Reed that, prior to retaining Feinstein Legal Services, she had participated in a consultation with respondent about the possibility of retaining him to represent her in the dissolution or divorce proceeding.

12. Following this conversation with Ms. Wilson, attorney Reed spoke with respondent and informed him that, in light of his earlier consultation with Ms. Wilson, he should withdraw from further representation of Joe Wilson.
13. On October 29, 2013, respondent informed Joe Wilson that he had to withdraw from further representation of him due to a conflict of interest. It was at this time that Joe Wilson learned, for the first time, that respondent had participated in a consultation with his wife prior to the date on which Joe Wilson retained him.
14. Respondent never provided Joe Wilson with any document that discussed or explained the conflict of interest or that asked for his agreement to or waiver of the conflict of interest.
15. When respondent told Joe Wilson that he was withdrawing from his representation of him, Joe demanded a refund of the attorney fees that he had paid to respondent but respondent refused to refund any portion of the \$2,500 that Joe had paid to him.
16. Respondent did not provide Joe Wilson with an accounting for the legal services that he provided on Joe's behalf and has not refunded any portion of the \$2,500 in fees that Joe Wilson paid to him.
17. As a result of respondent's abrupt withdrawal from representation, Joe Wilson was forced to retain another attorney to represent him and to pay that attorney an additional retainer fee of \$2,500. In addition, because respondent withdrew from representation less than ten days prior to a scheduled court hearing on his wife's motion to revoke the court's *ex*

parte child custody order, Joe Wilson's new attorney was required to prepare and file an urgent motion to continue the hearing, which had been scheduled for November 7, 2013.

18. Respondent's conduct, as alleged in Count One of the Complaint in this matter, violates the following provisions of the Ohio Rules of Professional Conduct: (a) Prof. Cond. R. 1.15(d) [upon the client's request, a lawyer shall promptly render a full accounting regarding funds received from or on behalf of the client]; (b) Prof. Cond. R. 1.16(e) [a lawyer who withdraws from employment must promptly refund any part of an advanced fee that has not been earned]; (c) Prof. Cond. R. 1.18(b) [a lawyer who has had discussions with a prospective client shall not use or reveal information learned in the consultation]; (d) Prof. Cond. R. 1.18(c) [a lawyer subject to division (b) shall not represent a client with interests materially adverse to those of a prospective client in the same or a substantially related matter if the lawyer received information from the prospective client that could be significantly harmful to that person in the matter, except as provided in division (d)]; and (e) Prof. Cond. R. 4.2 [a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer].

COUNT TWO
The Williams Matter

19. On or about December 7, 2013, Wayne E. Williams met with respondent about retaining him to represent Williams in several related domestic relations matters. These matters included (a) the defense of a civil protection order ("CPO") that had been filed against him by his estranged wife, Darcie; (b) the defense of three misdemeanor counts of domestic violence that had been filed against him on December 2, 2013 in Bellefontaine

Municipal Court in Case No. 13CRB01730; and (c) the initiation of divorce proceedings against his wife. Respondent quoted Williams a fee of \$2,000 for his legal services. Respondent and Williams never signed any fee agreement relating to the legal services that were to be provided by respondent.

20. Williams telephoned respondent on December 12, 2013 to report that he did not yet have respondent's requested \$2,000 fee. Nevertheless, Williams asked respondent to appear with him at the hearing on the CPO, which was scheduled for the following day. Respondent agreed to appear on Williams' behalf.
21. Respondent appeared at the CPO hearing with Williams on December 13, 2013. At the conclusion of the hearing, the court imposed the CPO against Williams for a period of six months.
22. Williams paid the \$2,000 fee to respondent on December 24, 2013.
23. Respondent filed a Notice of Appearance on behalf of Williams in the domestic violence case on January 3, 2014. On that date, the court granted respondent's request to schedule a second pretrial conference in the domestic violence case for January 28, 2014.
24. At the time of the second pretrial conference, respondent and the assigned prosecutor entered into an agreement by which respondent agreed that Williams would plead no contest to an amended count of domestic violence in violation of R.C. 2919.25(C), a fourth-degree misdemeanor, and the State of Ohio agreed to dismiss the remaining two domestic violence charges. The parties also agreed to a suspended 15-day sentence.
25. On February 19, 2014, the court accepted Williams' no contest plea to the misdemeanor violation of R.C. 2919.25(C) and imposed a suspended 15-day jail sentence upon the condition that Williams not violate the law during the following two years.

26. As part of its order in the CPO matter, the court permitted Williams' estranged wife, Darcie, to remain in the couple's home and Williams was required to live elsewhere. Williams told respondent that he was concerned that Darcie would sell, give away, destroy or otherwise dispose of his personal property. Therefore, Williams repeatedly urged respondent to file the divorce complaint immediately and to obtain a protective order prohibiting Darcie from disposing of his personal property.
27. Williams repeatedly called respondent in order to determine whether the divorce complaint had been filed and to urge him to file the divorce proceedings immediately. However, Williams was unable to reach respondent. On most occasions, respondent's voicemail was full and Williams was unable to leave a message for him. On those occasions when Williams was able to leave a voicemail message for respondent inquiring about the status of his divorce proceeding and asking for a return call, respondent did not return Williams' calls as requested.
28. Between the time he retained respondent on December 7, 2013 and mid-January 2014, the only occasions on which Williams was able to speak with respondent by telephone were December 12, 2013 when Williams asked respondent to appear with him at the CPO hearing the following day and on January 2, 2014, the day before respondent entered his appearance on Williams' behalf with respect to the domestic violence charges.
29. Respondent did not file a divorce complaint on Williams' behalf and never sought an order from the court prohibiting Williams' estranged wife, Darcie, from disposing of Williams' personal property.
30. Because of respondent's failure to file the divorce complaint or to take any action to protect his assets, Williams terminated his services in the divorce matter in mid-January

2014 and requested the immediate return of his client file and papers. Williams then retained attorney Miranda Warren of the law firm of Goslee & Goslee to file the divorce complaint on his behalf. Respondent had been employed at the Goslee & Goslee law firm until the third week of December 2013.

31. Ms. Warren filed Williams' divorce complaint on February 20, 2014 in a proceeding entitled *Wayne Williams v. Darcie J. Williams*, Logan County Court of Common Pleas Case No. DR 14-02-0030. On that date, Ms. Warren also filed an *ex parte* motion for a temporary restraining order prohibiting the parties from, among other things, "[m]ortgaging, selling, disposing, secreting, damaging, destroying, or changing the location of any of the property, both real and personal and wherever situated, of the parties whether the property is individually or jointed owned."
32. By order filed March 26, 2014, the court filed a Magistrate's Order/*Ex Parte* Temporary Restraining Order prohibiting the disposition "of any and all property, real or personal, owned by both or either spouse or a child (including household goods, vehicles, financial accounts, and the personal property of each) without the prior written consent of the spouse or the Court."
33. On March 13, 2014, relator mailed a Letter of Inquiry to respondent, by certified mail, return receipt requested, regarding the grievance that Williams had filed against him. Respondent received the Letter of Inquiry on March 18, 2014.
34. Respondent replied to relator's Letter of Inquiry on March 27, 2014. In his reply, respondent acknowledged that Williams asked him to turn over all of the documents he had provided to respondent regarding his divorce to his former law office, Goslee & Goslee. Respondent stated in his reply that he placed the Williams file in Goslee &

Goslee's mailbox at the Logan County Court of Common Pleas Court and that he never received a single call or any correspondence from the firm regarding the matter.

35. However, Williams' subsequent attorney, Miranda Warren, advised relator that the firm never received the file that respondent purportedly left in the firm's mailbox at the Logan County Court of Common Pleas. Moreover, Ms. Warren further stated that she attempted to contact respondent by telephone on many occasions, both in connection with Williams' divorce proceeding and in connection with other cases but respondent did not return any of her calls except for a couple of calls relating to matters of firm administration. Respondent did not return any calls from Ms. Warren relating to the Williams divorce.
36. In his March 27, 2014 response to relator's Letter of Inquiry, respondent further stated that, on March 15, 2014, three days prior to his receipt of relator's Letter of Inquiry, he sent Williams a "final bill" and a check for \$250 as a refund of the unearned portion of the \$2,000 fee paid by Williams. In his reply to relator, respondent enclosed a copy of his final bill and the refund check, both of which were dated March 15, 2014.
37. Williams never received either the "final bill" from respondent or the \$250 refund check. Likewise, Williams never received any previous billing statement from respondent.
38. Respondent's conduct, as alleged in Count Two of the Complaint in this matter, violates the following provisions of the Ohio Rules of Professional Conduct: (a) Prof. Cond. R. 1.3 [a lawyer shall act with reasonable diligence and promptness in representing a client]; (b) Prof. Cond. R. 1.4(a)(3) [a lawyer shall keep the client reasonably informed about the status of the matter]; (c) Prof. Cond. R. 1.4(a)(4) [a lawyer shall comply as soon as practicable with reasonable requests for information from the client]; (d) Prof. Cond. R.

1.16(d) [as part of the termination of representation, a lawyer shall take steps to protect a client's interest by, among other things, promptly delivering to the client all papers and property to which the client is entitled]; (e) Prof. Cond. R. 1.16(e) [a lawyer who withdraws from employment shall refund any part of a fee paid in advance that has not been earned]; and (f) Prof. Cond. R. 8.1(a) [in connection with a disciplinary investigation, a lawyer shall not knowingly make a false statement of material fact].

COUNT THREE
The IOLTA Matter

39. At all times relevant to this proceeding, respondent has maintained a client trust account (IOLTA) at PNC Bank (acct. no. xxxxxx0875).
40. On January 12, 2015, relator received a report from PNC Bank indicating that respondent had written a check drawn on the above-referenced IOLTA that was returned for insufficient funds. The overdraft report provided by PNC Bank reflected that a check (#1515) drawn against respondent's IOLTA in the amount of \$6,916.17 was presented for payment on January 2, 2015. However, at the time the check was presented for payment, the balance in respondent's IOLTA was \$6,872.89, resulting in an overdraft in the amount of \$43.28. As a result of the overdraft, the check was returned unpaid.
41. On January 20, 2015, relator sent a Letter of Inquiry to respondent by certified mail, return receipt requested, asking him to explain the overdraft and to provide specified documentation, including (a) a detailed description of the transaction that caused the overdraft; (b) the names, addresses and daytime telephone numbers of any person who might have relevant information about the matter; (c) copies of respondent's bank-generated monthly statements for the month prior to the overdraft, the month of the

overdraft and the month after the overdraft; (d) individual client ledgers for the clients whose funds were affected by the overdraft; (e) a ledger reflecting the amount of any personal funds that respondent was holding in his IOLTA; (f) proof that the IOLTA has been restored to proper pre-overdraft balance and that the overdraft amount and any overdraft fees have been repaid; and (g) copies of any correspondence to clients whose funds may have been affected by the overdraft. Respondent received relator's Letter of Inquiry on January 23, 2015, but he did not submit any response to the letter, either by the specified due date of February 3, 2015, or at any time thereafter.

42. When respondent failed to provide a timely response to the Letter of Inquiry, relator sent a second letter to respondent on February 11, 2015, by certified mail, return receipt requested. Although relator has not subsequently received the U.S. Postal Service's "green card" reflecting delivery of this second letter, the letter itself has not been returned to relator. Respondent has not submitted any response to the second Letter of Inquiry.
43. In light of respondent's continuing failure to respond to relator's Letters of Inquiry, relator subpoenaed and subsequently received from PNC Bank copies of respondent's client trust account records (acct. no. xxxxxx0875) for the time period of October 1, 2014 through February 28, 2015. These client trust account records reflect the following:
 - (a) On October 3, 2014, an "electronic check purchase" was made from respondent's IOLTA in the amount of \$76.86;
 - (b) On November 26, 2014, respondent wrote a check from his IOLTA (no. 1514) payable to "Misty Bennett" in the amount of \$150.
 - (c) On December 31, 2014, respondent wrote a check from his IOLTA (no. 1517) payable to "Misty Bennett" in the amount of \$300.
 - (d) On December 17, 2014, respondent wrote a check from his IOLTA (no. 1515) in the amount of \$6,916.17, payable to the law firm of Dyer, Garofalo, Mann & Schultz and to Dale Clary. The memo line of the check stated "Slesinger Settlement." This was

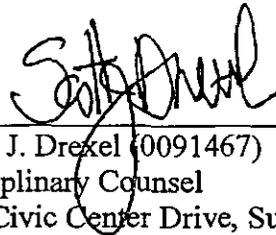
the insufficiently funded check that was returned unpaid by PNC Bank on January 5, 2015.

44. On March 9, 2015, relator sent a letter to respondent by certified mail, return receipt requested, providing a copy of the subpoenaed records for respondent's client trust account (acct. no. xxxxxx0875) that relator had received from PNC Bank. In its letter, relator asked respondent to explain the transactions referenced in paragraph 43 above and, additionally, asked respondent to explain a cash deposit of \$7,300 that he made to his client trust account on December 11, 2014. Although respondent received relator's March 9, 2015 letter on March 18, 2015, he did not respond to the letter, either by the specified due date of March 23, 2015 or at any time thereafter.
45. Respondent's conduct, as alleged in Count Three of the Complaint in this matter, violates the following provisions of the Ohio Rules of Professional Conduct and the Supreme Court Rules for the Government of the Bar of Ohio: (a) Prof. Cond. R. 1.15(a) [a lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property]; (b) Prof. Cond. R. 1.15(a)(2) [a lawyer shall maintain a record for each client on whose behalf funds are held that sets forth (i) the name of the client; (ii) the date, amount and source of all funds received on behalf of the client; (iii) the date, amount, payee and purpose of each distribution made on behalf of such client; and (iv) the current balance for such client]; (c) Prof. Cond. R. 1.15(a)(3) [a lawyer shall maintain a record for each bank account that sets forth (i) the name of such account; (ii) the date, amount, and client affected by each credit and debit; and (iii) the balance in the account]; (d) Prof. Cond. R. 1.15(a)(4) [a lawyer shall maintain all bank statements, deposit slips and cancelled checks, if provided by the bank, for each bank account]; (e) Prof. Cond. R. 1.15(a)(5) [a

lawyer shall perform and retain a monthly reconciliation of the items contained in divisions (a)(2), (3) and (4)]; (f) Prof. Cond. R. 8.1(b) [a lawyer shall not knowingly fail to respond to a demand for information from a disciplinary authority]; and (g) Gov. Bar R. V(9)(G) and former Gov. Bar R. V(4)(G) [a lawyer shall not neglect or refuse to assist in an investigation or proceeding].

CONCLUSION

Wherefore, pursuant to Gov. Bar R. V, and the 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 Supreme Court Rules of the Government of the Bar of Ohio.

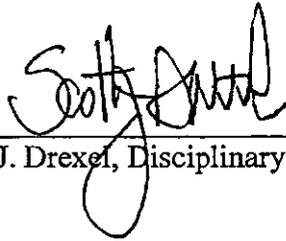


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CERTIFICATE

The undersigned, Scott J. Drexel, Disciplinary Counsel, of the Office of Disciplinary Counsel of the Supreme Court of Ohio hereby certifies that I am 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: April 27, 2015



Scott J. Drexel, Disciplinary Counsel

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

In re:

Complaint against

Daniel Lee Bennett, Esq.
P.O. Box 369
Bellefontaine, OH 43311

Case Nos. B3-2605, B4-0516
and B5-0089

Attorney Reg. No. 0071965

Respondent,

WAIVER OF DETERMINATION
OF PROBABLE CAUSE

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

(Rule V(11)(B) of the Supreme Court
Rules for the Government of the Bar
of Ohio)

Relator.

Pursuant to the provisions of Rule V(11)(B) of the Supreme Court Rules for the Government of the Bar of Ohio, respondent, **Daniel Lee Bennett**, stipulates that there is probable cause for the filing of a Complaint in the above-referenced proceeding and hereby waives the determination of probable cause by a Probable Cause Panel of the Board of Professional Conduct.

Dated: April 20, 2015

By: 
Daniel Lee Bennett (0071965)
Respondent *Pro Se*