

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

In re:

FILED

Complaint against

MAY 27 2016

Timothy Eric Bellew, Esq.

225 Shaffer Drive NE BOARD OF PROFESSIONAL CONDUCT

Warren, Ohio 44484

16 - 019 25

No. _____

Attorney Registration No. (0067573)

COMPLAINT AND CERTIFICATE

Respondent,

(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

RECEIVED

MAY 18 2016

Relator.

BOARD OF PROFESSIONAL CONDUCT

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

1. Respondent, Timothy Eric Bellew, was admitted to the practice of law in the state of Ohio on May 12, 1997.
2. Respondent is subject to the Code of Professional Responsibility, the Rules of Professional Conduct, and the Rules for the Government of the Bar of Ohio.
3. In each count of this complaint in which it is alleged that respondent received legal fees or advanced costs from a grievant but did not earn the fees or incur the costs on the grievant's behalf, respondent should be required to pay restitution to the grievants.
4. Respondent has been suspended from the practice of law in Ohio on numerous occasions and has remained suspended from the practice of law at all times since January 21, 2015.

Respondent has also been found in contempt by the Supreme Court of Ohio. His prior suspensions from the practice of law and contempt finding are as follows:

- (a) On January 21, 2015, respondent was suspended from the practice of law pursuant to an interim default suspension. On September 14, 2015, respondent was indefinitely suspended. *Trumbull County Bar Association v. Timothy Eric Bellew*, 2014-2175.
- (b) On December 3, 2015, respondent was found in contempt by the Supreme Court for failure to file an affidavit of compliance in Case No. 2014-2175. *Id.*
- (c) On August 17, 2015, respondent was suspended from the practice of law pursuant to an interim default suspension. On April 14, 2016, respondent was indefinitely suspended. *Disciplinary Counsel v. Timothy Eric Bellew*, 2015-1197.
- (d) On November 3, 2015, respondent was also suspended from the practice of law for failing to file a certificate of registration and pay applicable fees. *11/05/15 Administrative Actions*, 2015-Ohio-4567.
- (e) On January 11, 2016, respondent was suspended from the practice of law pursuant to an interim default suspension. *Trumbull County Bar Association v. Timothy Eric Bellew*, 2016-0032.

COUNT I – The Mitchell Matter

- 5. On January 14, 2015, Jessica Mitchell hired respondent to handle the filing of her divorce action.
- 6. On that same date, Mitchell paid respondent a \$200 retainer and signed a fee agreement acknowledging respondent's representation at the hourly rate of \$75.
- 7. The fee agreement further acknowledged Mitchell's agreement to pay filing costs, to be paid to respondent on January 21, 2015.

8. On January 22, 2015, Mitchell paid an additional \$250 to respondent via Western Union to cover the filing costs in her divorce action.
9. As previously indicated in ¶4(a) above, by order filed January 21, 2015 in Case No. 2014-2175, the Supreme Court of Ohio suspended respondent from the practice of law. Respondent has remained suspended from the practice of law at all times since January 21, 2015.
10. Despite his suspension, respondent filed a complaint for divorce on behalf of Mitchell on January 30, 2015 and paid a deposit for filing costs in the amount of \$300 to the Cuyahoga County Court of Common Pleas, Domestic Relations Division, in the case entitled *Mitchell v. Mitchell*, Case No. DR-15-355594 (“Mitchell Divorce”).
11. After she paid respondent the filing costs, Mitchell made several unsuccessful attempts to contact respondent. On January 30, 2015, Mitchell received a text message from respondent telling her to stop texting him and that he had filed her complaint for divorce.
12. At no time did respondent inform Mitchell that he was suspended from the practice of law. After his text message on January 30, 2015, Mitchell had no further communications with respondent.
13. Shortly thereafter, the court contacted Mitchell advising her that respondent was suspended from the practice of law and that the documents he filed on her behalf contained errors. Mitchell was required to go to court to correct the pleadings filed by respondent in order to proceed with her divorce action.
14. Moreover, Mitchell learned that the check that respondent issued to the court to pay for her filing fees was returned for insufficient funds.

15. On March 19, 2015, the court in the Mitchell Divorce issued a Judgment Entry ordering Mitchell to again pay the filing fee of \$300 in order to avoid a dismissal of her case. In its entry, the court noted that the deposit for filing costs in the amount of \$300 paid by respondent on January 30, 2015 was returned on February 10, 2015 for insufficient funds.
16. In its entry, the court stated that, in the interest of judicial fairness, Mitchell was granted an additional 30 days to pay the fee or the case would be dismissed without prejudice.
17. Despite the fact that Mitchell had already paid respondent a total of \$450, which included both a retainer fee and the \$300 filing fee, respondent fraudulently issued payment to the court for the filing costs in the form of a personal check from respondent's closed business bank account at Talmer Bank and Trust (fka: First Place Bank). Consequently, this check was returned for insufficient funds.
18. The business account upon which respondent issued the check for the payment of filing costs in the Mitchell Divorce was closed on December 31, 2009, more than five years earlier, and respondent has not had any other account with Talmer Bank and Trust (fka: First Place Bank) since that date.
19. Although Mitchell had already paid the filing fee to respondent, she again paid the \$300 in filing fees to the court on April 16, 2015 in order to avoid the dismissal of her case. The payment of the additional fees created an unnecessary financial burden on Mitchell, as she was unemployed at that time.
20. Mitchell did not hire subsequent counsel but proceeded to represent herself in her divorce proceeding, which was finalized on November 17, 2015.

21. Mitchell attempted to contact respondent through multiple text messages, voice mails, social media and email requesting a refund of the funds that she paid to respondent. He failed to respond.
22. On August 24, 2015, Mitchell filed a grievance with relator's office requesting a refund of the funds she paid to respondent.
23. To date, respondent has failed to provide Mitchell with a refund of any portion of the \$450 in attorney fees and advanced costs that she paid to respondent.
24. Respondent's conduct, as alleged in Count I of the Complaint in this matter, violates the following provisions of the Ohio Rules of Professional Conduct:
 - (a) Although Mitchell entered into a fee agreement for legal services to be provided by respondent prior to his suspension, respondent was suspended from the practice of law at the time he filed the complaint for divorce as Mitchell's attorney. By continuing to engage in the practice of law in the *Mitchell v. Mitchell* action after he was suspended from the practice of law on January 21, 2015, respondent violated Prof. Cond. R. 5.5(a) [a lawyer shall not practice law in a jurisdiction in violation of the regulation of the practice of law in that jurisdiction];
 - (b) By failing to notify Mitchell of his suspension from the practice of law and his consequent disqualification from continued representation of Mitchell in her divorce proceeding, respondent violated Prof. Cond. R. 1.4(a)(3) [a lawyer shall keep the client reasonably informed about the status of the matter];
 - (c) By fraudulently issuing payment to the court for the Mitchell Divorce filing costs in the form of a personal check drawn upon respondent's closed business bank account at Talmer Bank and Trust (fka: First Place Bank), thereby (1) causing the

check to be returned for insufficient funds; (2) causing the Mitchell Divorce to be subject to dismissal; and (3) causing Mitchell to incur an additional financial burden in the amount of \$300, respondent violated Prof. Cond. R. 8.4(c) [it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation];

(d) By fraudulently issuing payment to the Cuyahoga County Court of Common Pleas for the Mitchell Divorce filing costs in the form of a personal check drawn upon respondent's closed business bank account at Talmer Bank and Trust (fka: First Place Bank), thereby causing the check to be returned for insufficient funds, and causing the Mitchell Divorce to be subject to dismissal by the court, respondent violated Prof. Cond. R. 8.4(d) [it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice].

(e) By continuing to engage in the practice of law in violation of the Supreme Court's January 21, 2015 suspension order and fraudulently issuing payment to the court for the Mitchell Divorce filing costs in the form of a personal check drawn upon respondent's closed business bank account at Talmer Bank and Trust (fka: First Place Bank), thereby (1) causing the check to be returned for insufficient funds; (2) causing the Mitchell Divorce to be subject to dismissal; and (3) causing Mitchell to incur an additional financial burden, respondent engaged in egregious conduct that adversely reflects upon his fitness to practice law in violation of Prof. Cond. R. 8.4(h);

(f) By filing the complaint for divorce and issuing payment for filing costs to the court in the Mitchell Divorce on January 30, 2015, respondent knowingly disobeyed the Supreme Court's January 21, 2015 suspension order directing him to cease the

practice of law in violation of Prof. Cond. R. 3.4(c) [a lawyer shall not knowingly disobey an obligation under the rules of a tribunal];

(g) By failing to promptly refund to Mitchell any portion of the \$450 that was paid to respondent for retainer fees and costs, respondent violated Prof. Cond. R. 1.15(d) [a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive].

COUNT II – The Simpson Matter

25. On June 13, 2015, despite his suspension from the practice of law on January 21, 2015, as previously indicated in ¶4(a) above, respondent met with Jessie Simpson at a local McDonald's to discuss her legal needs and an upcoming court date that she had.
26. During this meeting, Jessie Simpson hired respondent to handle a child custody/visitation and child support matter in the Trumbull County Juvenile Court.
27. Respondent and Simpson signed a fee agreement acknowledging respondent's representation at the hourly rate of \$75 and Simpson paid a \$200 retainer to respondent.
28. Prior to her court date, Simpson attempted to contact respondent via telephone and text message with no response from respondent.
29. Thereafter, respondent failed to attend Simpson's court date on July 8, 2015. At that time, the court informed Simpson that respondent was suspended from the practice of law.
30. The court allowed Simpson a continuance of the court date so that she could hire a new attorney.
31. Simpson hired another attorney to handle her juvenile court matter. However, she had to pay an additional \$500 to the subsequent attorney to complete the work that she

originally hired respondent to handle on her behalf, causing Simpson an additional financial burden.

32. To date, Simpson has had no further contact from respondent since she paid his \$200 retainer fee at their initial meeting in June 2015.
33. Although he was suspended from the practice of law and did not perform any legal work on her behalf as promised, respondent has failed to refund to Simpson any portion of the \$200 that she paid for his legal representation.
34. Respondent's conduct, as alleged in Count II of the Complaint in this matter, violates the following provisions of the Ohio Rules of Professional Conduct:
 - (a) By executing a fee agreement in June 2015, accepting payment from Simpson for his legal services and falsely representing to Simpson that he would handle her pending juvenile court matter on July 8, 2015 even though he was suspended from the practice of law, respondent violated Prof. Cond. R. 5.5(b)(2) [a lawyer shall not hold out to the public or otherwise represent that the lawyer is admitted to practice law in that jurisdiction];
 - (b) By accepting payment from Simpson for his legal services and falsely representing to Simpson that he would handle her pending juvenile court matter on July 8, 2015 even though he was suspended from the practice of law, respondent violated Prof. Cond. R. 1.5(a) [a lawyer shall not make an agreement for, charge, or collect an *illegal* or clearly excessive fee];
 - (c) By failing to promptly refund to Simpson any portion of the \$200 retainer that was paid to respondent, which was unearned and constituted an illegal fee, respondent

violated Prof. Cond. R. 1.16(e) [a lawyer who withdraws from employment shall refund promptly any part of a fee paid in advance that has not been earned];

- (d) Despite his suspension from the practice of law, by executing a fee agreement, accepting payment from Simpson for his legal services and falsely representing to Simpson that he would handle her pending juvenile court matter on July 8, 2015, respondent violated Prof. Cond. R. 8.4(c) [it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation].

COUNT III – Failure to Cooperate

35. Relator incorporates the allegations contained in paragraphs 1-34 as if restated herein.
36. On July 16, 2015, relator sent a Letter of Inquiry (“LOI”) to respondent regarding the grievance filed by Jessie Simpson (“Simpson grievance”) by certified mail addressed to him at the residential address maintained by respondent with the Supreme Court’s Office of Attorney Services, i.e., 7695 Glen Oaks Dr. NE, Warren, Ohio 44484.
37. Relator’s LOI relating to the Simpson grievance was returned to sender, with the U.S. Postal Service tracking information indicating “unclaimed”.
38. On August 25, 2015, relator’s investigator attempted to personally serve respondent with LOIs relating to both the Simpson grievance and the grievance filed by Jessica Mitchell (“Mitchell grievance”) at respondent’s residential address as previously identified above in ¶34. Relator’s investigator was unable to locate respondent but found the residence to be vacant with a no trespass notice on the front door and a posted “for sale” sign listing Lakeside Realty.
39. On September 14, 2015, relator sent LOIs to respondent relating to the Simpson and Mitchell grievances by certified mail and first-class mail to the business and residential

addresses maintained by respondent with the Supreme Court's Office of Attorney Services. All of relator's LOIs were returned to sender by the U.S. Postal Service indicating either "unable to forward" or "unclaimed".

40. Relator learned through its investigation that respondent was involved in his own personal divorce litigation, whereby, relator's investigator obtained a new residential address for respondent.
41. In light of the fact that respondent had not provided a valid business address to the Office of Attorney Services, on February 2, 2016, relator's investigator personally served respondent with LOIs relating to both the Simpson and Mitchell grievances at his newly discovered residential address, i.e., 225 Shaffer Dr. NE, Warren, Ohio 44484.
42. In its LOIs, relator asked respondent to provide a written response to the allegations made by both Simpson and Mitchell as well as a response to the allegation that he continued to practice law after the Supreme Court of Ohio filed its Interim Default Suspension Order on January 21, 2015. To date, respondent has failed to contact relator or provide any written response whatsoever to either of relator's LOIs.
43. Additionally, to date, respondent has failed to provide the Office of Attorney Services with his valid office or business address.
44. Respondent's conduct, as alleged in Count III of the Complaint in this matter, violates the following provisions of the Ohio Rules of Professional Conduct:
 - (a) By knowingly failing to respond to relator's demands for information in connection with its disciplinary investigation of the allegations in Count I and II of the Complaint, respondent violated Prof. Cond. R. 8.1(b);

- (b) By neglecting or refusing to assist in relator's disciplinary investigation of the allegations contained in Count I and II of this Complaint, respondent violated Gov. Bar R. V(9)(G).
- (c) By failing to keep the Supreme Court's Office of Attorney Services apprised of his current residence and office address, respondent violated Gov. Bar R. VI(1)(D).

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 Rules of the Government of the Bar of Ohio.



Scott J. Drexel (0091467)
Disciplinary Counsel

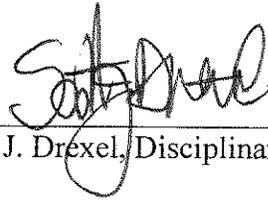


Michelle R. Bowman (0074233)
Assistant Disciplinary Counsel
250 Civic Center Drive, Suite 325
Columbus, Ohio 43215-7411
614.461.0256
614.461.7205 – fax
M.Bowman@sc.ohio.gov

CERTIFICATE

The undersigned, Scott J. Drexel, Disciplinary Counsel, of the Office of Disciplinary Counsel of the Supreme Court of Ohio hereby certifies that Michelle R. Bowman 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: May 18, 2016



Scott J. Drexel, Disciplinary Counsel