

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

FILED

NOV 23 2015

In re:

BOARD OF PROFESSIONAL CONDUCT

Complaint against

Darren Lee Courtney, Esq.
3876 Windyhollow Way
Mason, OH 45040

15 - 066

No. _____

Attorney Registration No. (0064364)

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 Darren Lee Courtney, an Attorney at Law, duly admitted to the practice of law in the state of Ohio, is guilty of the following misconduct:

1. Respondent, Darren Lee Courtney, was admitted to the practice of law in the state of Ohio on May 7, 1996. 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.
2. On June 21, 2013, the Supreme Court of Ohio imposed an Interim Felony Suspension upon respondent, which remains in effect. *In re Courtney*, 136 Ohio St.3d 1220, 2013-Ohio-2551, 991 N.E.2d 248.
3. On November 1, 2013, the Court imposed an Attorney Registration Suspension upon respondent, which remains in effect. *In re Courtney*, 11/1/2013 Administrative Actions, 2013-Ohio-4827.

COUNT ONE

4. From August 1997 through February 15, 2012, respondent was employed as the Chief Legal Officer for Fujitec America, Inc. (“Fujitec”), a Japanese company doing business in the United States.
5. As Chief Legal Officer, respondent was entrusted with, among many other responsibilities, handling and settling all claims against Fujitec.
6. In 2011, respondent began manufacturing fictitious claims against Fujitec, then ostensibly settled the fictitious claims on behalf of Fujitec.
7. In April 2011, in order to effectuate his scheme, respondent set up a mail-forwarding service in Los Angeles, California under the name of Landmark Legal Services so that it would provide the appearance of a vendor address for the sham correspondence that respondent created regarding case details, negotiations, and settlements of the fictitious claims. The P.O. Box was set up to forward all mail to respondent at his home address in Mason, Ohio.
8. In the summer and fall of 2011, respondent opened four business bank accounts for the following fictitious law firms:
 - Gould Hunter
 - Eastlaw Firm
 - Landmark Legal
 - Courtney & Associates
9. Once respondent “settled” the fictitious claims, he requested and received checks from the accounts payable department at Fujitec made payable to the aforementioned sham law firms to pay the settlements. The checks were then sent to the P.O. Box in California, then automatically forwarded to respondent’s home in Mason, Ohio.

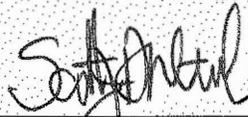
10. In the span of four months, respondent caused Fujitec to issue checks totaling \$150,125, which respondent deposited into the sham law firm accounts identified in ¶ 8. Respondent then used the funds for his personal use.
11. Respondent closed all four bank accounts in December 2011.
12. In addition to the fraudulent settlements, respondent created fraudulent expense reports resulting in an additional theft from Fujitec in the amount of \$17,400, and used the Fujitec credit card for personal expenses totaling \$15,200.
13. In total, respondent misappropriated \$182,725 from Fujitec.
14. Fujitec terminated respondent on February 15, 2012.
15. In June 2012, a Warren County Grand Jury indicted respondent on two felony counts of Aggravated Theft, one felony count of Telecommunications Fraud, and one felony count of Tampering with Records based upon his actions while employed at Fujitec.
16. On March 28, 2013, respondent pled guilty to one count of Aggravated Theft, a 3rd degree felony, in the Warren County Court of Common Pleas, Case No. 12 CR 8271. The remaining charges were dismissed.
17. Judge Donald Oda sentenced respondent to 90 days in the Warren County Jail, 180 days house arrest following the 90-day confinement, and three years community control. Respondent was also ordered to pay \$5,000 to Fujitec, which represented Fujitec's uninsured loss.¹
18. Respondent's conduct in Count One violates:
 - Prof. Cond. R. 8.4(b) [Commit an illegal act that reflects adversely on the lawyer's honesty or trustworthiness];

¹ Chubb Insurance Co. insured Fujitec through a Directors' and Officers' liability policy; consequently, Chubb paid the \$182,725 claim. Although not ordered by the criminal court, respondent should be liable for reimbursement to Chubb.

- Prof. Cond. R. 8.4(c) [Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation]; and,
- Prof. Cond. R. 8.4(h)² [Engage in conduct that adversely reflects on the lawyer's fitness to practice law].

CONCLUSION

Wherefore, pursuant to Gov. Bar R. V, the Code of Professional Responsibility 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



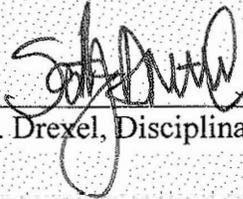
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² Given the level of deception that respondent employed to effectuate and conceal his theft, respondent's conduct is sufficiently egregious to warrant the Prof. Cond. R. 8.4(h) charge in light of *Disciplinary Counsel v. Bricker*, 137 Ohio St.3d 35, 2013-3998.

CERTIFICATE

The undersigned, Scott J. Drexel, Disciplinary Counsel, of the Office of Disciplinary Counsel of the Supreme Court of Ohio hereby certifies that Joseph M. Caligiuri 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: November 23, 2015



Scott J. Drexel, Disciplinary Counsel

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BOARD OF PROFESSIONAL CONDUCT

Waiver of Probable Cause

The Office of Disciplinary Counsel has informed me of its intent to file a formal complaint at the December 2015 meeting of the Board of Professional Conduct. Under Gov. Bar R.V, Section 11(B), I understand that the Board must make a finding of probable cause before certifying the complaint.

I hereby waive probable cause and accept certification.

Signed on this 23rd day of November 2015,



Darren Lee Courtney
Attorney Registration No. 0064364