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**BEFORE THE BOARD OF PROFESSIONAL CONDUCT DEC 01 2015
OF
THE SUPREME COURT OF OHIO**

BOARD OF PROFESSIONAL CONDUCT

In re:

Complaint against

**Patrick Peter Leneghan, Esq.
Leneghan & Leneghan
9500 Maywood Avenue
Cleveland, Ohio 44102-4800**

15 - 076

No. _____

Attorney Registration No. (0041931)

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**

FILED

DEC 11 2015

Relator.

BOARD OF PROFESSIONAL CONDUCT

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

1. Respondent, Patrick Peter Leneghan, was admitted to the practice of law in the state of Ohio on November 6, 1989.
2. Respondent is subject to the Ohio Rules of Professional Conduct and to the Supreme Court Rules for the Government of the Bar of Ohio.
3. Respondent has a record of prior discipline. By order filed February 14, 2008, the Supreme Court imposed a public reprimand upon respondent in *Cuyahoga Cty. Bar Assn.*

v. Leneghan, 117 Ohio St.3d 103, 2008-Ohio-506. In that matter, the Supreme Court found that respondent violated former DR 6-101(A)(3) [prohibiting a lawyer from neglecting an entrusted legal matter] by failing to either pursue his client's criminal appeal or to properly withdraw from the case. The Supreme Court also found that respondent had failed to timely notify his client of the court of appeals' dismissal of the appeal.

The Cheryl Walunis Matter

4. On January 3, 2013, Cheryl Walunis retained respondent to initiate a divorce proceeding on her behalf and to represent her in that proceeding. On that date, Ms. Walunis paid respondent \$700 in cash, \$500 of which was an advanced attorney fee and \$200 of which was for payment of the filing fee for the divorce complaint. She also provided respondent with the information that he needed to initiate the divorce proceeding, including but not limited to an address at which her husband, Richard Messer, Jr., could be served with the divorce papers.
5. Respondent did not deposit either the \$500 in advanced attorney fees or the \$200 in advanced costs into an IOLTA account.
6. Between January 2013 and January 2014, Ms. Walunis telephoned respondent on many occasions seeking information about the status of her divorce proceeding. Ms. Walunis left many voicemail messages, as well as messages with members of respondent's staff, asking respondent to return her calls. Despite these messages, respondent did not return Ms. Walunis' calls.

7. Commencing in January 2014 and continuing through at least April 29, 2014, Ms. Walunis sent multiple email messages to respondent seeking information about the status of her divorce proceeding. On January 12, 2014, Ms. Walunis emailed respondent and asked him if any progress had been made in her divorce proceeding.
8. On January 23, 2014, respondent replied to Ms. Walunis' January 12, 2014 email. In his email, respondent stated that he needed a good address for her husband because he had not responded to an email that respondent had sent to him at an address that Ms. Walunis had previously provided to him. Alternatively, respondent asked Ms. Walunis to again provide him (i.e., respondent) with her husband's mother's address or his place of employment. Finally, respondent stated in his email that "[o]therwise, I will refund your monies so that you may take further action."
9. On February 20, 2014, Ms. Walunis emailed respondent to report that she had done some research and had obtained a work address for her husband, Richard Messer, Jr. Ms. Walunis provided respondent with the name and address of the company for whom her husband worked. In addition, Ms. Walunis advised respondent that she had been told that her husband's work shift was Monday through Friday in the evening. Ms. Walunis closed her email by asking respondent to "let me know where we go from here."
10. Respondent did not respond to Ms. Walunis' February 20, 2014 email. Therefore, Ms. Walunis again emailed respondent on March 17, 2014 and stated that she needed to know the status of her divorce proceeding and whether respondent had filed and served the divorce papers. Ms. Walunis noted that she had paid the money to respondent more than a year earlier and that she can't even get a response from him. Ms. Walunis further stated that her family believes she should give up on respondent and get her money back. Ms.

Walunis closed her email, stating "Please just let me know. If it's too much of a headache, I can just take a refund and get someone else."

11. Respondent replied to Ms. Walunis' March 17, 2014 email on the same date. In his response, respondent acknowledged that he had received the work address for her husband that Ms. Walunis had sent to him but that he had not followed up with it. Respondent further stated that he was in Arizona but that he would follow up when he returned from Arizona on the weekend.
12. Ms. Walunis did not hear anything further from respondent. Therefore, on April 18, 2014, Ms. Walunis again emailed respondent, complaining that she was still waiting for him to serve her husband with divorce papers. Ms. Walunis noted that she had provided respondent with a valid address, sent emails inquiring about the status of the matter to which he failed to reply and that she had been waiting since January 2013 for him to perform the legal services for which he had been paid. Ms. Walunis ended the email by stating "You may be busy with other things but this cannot wait any longer. I need the services that I paid for to be rendered or I would request a refund." Respondent did not reply to Ms. Walunis' April 18, 2014 email.
13. On April 28, 2014, Ms. Walunis sent an email to respondent notifying him that her husband had been arrested that day and that he was currently in the county jail. Ms. Walunis noted that she had also telephoned respondent and had left him a message. Ms. Walunis urged respondent to send the divorce papers to respondent in the county jail as soon as possible. She assured respondent that her husband would remain in the county jail at least until his court date in June. Finally, Ms. Walunis pleaded with respondent to

call her as soon as he received her email message. Respondent did not reply to Ms. Walunis' email or telephone call.

14. Finally, on April 29, 2014, Ms. Walunis emailed respondent complaining that, despite her numerous efforts to contact him since she paid for him in January 2013 to represent her in her divorce proceeding, he had accomplished nothing. Therefore, Ms. Walunis demanded a refund of the \$700 she had paid to him by the end of the week, stating that, if she didn't hear from him, she would file a disciplinary complaint against him. Respondent neither responded to Ms. Walunis' email nor refunded any portion of the \$700 she had paid to him.

15. Respondent never filed a divorce complaint on behalf of Ms. Walunis.

16. On or about May 14, 2014, Ms. Walunis retained another attorney, James Shannon, to initiate and to represent her in the divorce proceeding against her husband. Mr. Shannon filed the divorce complaint on her behalf. Ms. Walunis' divorce was finalized as an uncontested divorce on July 29, 2014.

17. Ms. Walunis filed a grievance against respondent with relator on January 8, 2015.

18. On February 25, 2015, relator sent a Letter of Inquiry to respondent by certified mail, return receipt requested, addressed to him at the address that he had registered with the Supreme Court's Office of Attorney Services, i.e., 9500 Maywood Avenue, Cleveland, Ohio 44102-4800. The Letter of Inquiry was returned to relator by the U.S. Postal Service on March 9, 2015, with a label indicating that the letter was "Undeliverable as Addressed."

19. Upon receipt of the returned mail on March 9, 2015, relator's executive administrative assistant, Jennifer Dennis, contacted respondent by telephone and confirmed that the address to which the Letter of Inquiry was sent was correct. Respondent suggested to Ms. Dennis that she re-mail the Letter of Inquiry to him at the same address, which she did on the same date (i.e., March 9, 2015), sending copies of the letters by both certified mail, return receipt requested and by first-class mail. Both copies of this letter were subsequently returned to relator by the U.S. Postal Service on April 21, 2015 and April 27, 2015, respectively. The copy sent to respondent by certified mail bore a label from the U.S. Postal Service stating "Return to Sender – Attempted, Not Known – Unable to Forward." The copy sent to respondent by first-class mail bore a label from the U.S. Postal Service stating "Return to Sender – No Such Number – Unable to Forward."
20. Because relator had not received a response to the Letter of Inquiry that it had re-mailed to respondent on March 9, 2015, relator sent a second Letter of Inquiry to respondent on April 3, 2015 by certified mail, return receipt requested to the official address maintained by respondent with the Supreme Court's Office of Attorney Services (i.e., 9500 Maywood Avenue, Cleveland, Ohio 44102-4800). On April 20, 2015, relator received the U.S. Postal Service's green receipt card reflecting that the second Letter of Inquiry had been delivered to respondent's official address. Nevertheless, respondent did not reply to relator's Letter of Inquiry.
21. On April 28, 2015, relator sent a fourth letter to respondent but mailed this letter to respondent by first-class mail addressed to respondent's home address listed with the Supreme Court's Office of Attorney Services, i.e., 7305 Ville Court, Parma, Ohio 44129-6549. The letter was not returned to relator by the U.S. Postal Service as undeliverable

for any reason. However, respondent did not respond to relator's April 28, 2015 first-class mail letter.

22. Because of respondent's failures to receive and/or to respond to relator's prior letters to him regarding its disciplinary investigation of Ms. Walunis' grievance, relator noticed respondent's deposition to be conducted in relator's office on July 1, 2015. The subpoena *duces tecum* for respondent's deposition and for production of his file relating to Ms. Walunis' matter was served upon respondent's residence address on June 18, 2015. Respondent subsequently appeared at relator's office on July 1, 2015 for his scheduled deposition.
23. At the conclusion of the deposition on July 1, 2015, respondent assured relator that he intended to refund to Ms. Walunis the \$700 that she had paid to him in January 2013. In addition, respondent stated that he would return to Ms. Walunis all of the documents and materials that she had provided to him in connection with her divorce matter. He promised to mail the refund, the file and materials and a cover letter to Ms. Walunis the following day (i.e., July 2, 2015). Respondent also promised that he would contemporaneously provide relator with a copy of the check and the cover letter. Respondent neither provided the promised check and materials to Ms. Walunis nor provided relator with a copy of the check and cover letter as promised.
24. On July 14, 2015, relator sent a letter to respondent by first-class mail addressed to him at both his official address and his home address, as reflected on the records of the Supreme Court's Office of Attorney Services. In his letter, relator stated that he had not received a copy of respondent's check and cover letter to Ms. Walunis as of July 13, 2015. Relator further stated that he had telephoned Ms. Walunis on July 13, 2015 and that Ms. Walunis

reported to relator that she had not received anything from respondent as of that date (i.e., July 13, 2015). Relator asked respondent to provide a written response to relator's letter, to report whether or not he had mailed the cover letter, check and file to Ms. Walunis and, if so, to provide relator with a copy of the cover letter and check. Relator further advised respondent that, if he had not sent the cover letter, check and file to Ms. Walunis, he should do so immediately and, in addition, that he should explain to relator why he had not sent the check and file to Ms. Walunis on or shortly after July 2, 2015, as he had promised at the conclusion of the deposition. Although relator instructed respondent that his response to relator's letter must be received by relator on or before July 23, 2015, respondent has not responded to relator's letter, either by the July 23, 2015 deadline or at any later time.

25. On or about July 19, 2015, respondent delivered a check payable to Ms. Walunis in the amount of \$700 to a mutual acquaintance. That acquaintance then promptly delivered the check to Ms. Walunis. Respondent did not provide Ms. Walunis with her file or with any of the documents that she had provided to him with respect to her divorce. Ms. Walunis has never received any of those materials from respondent.
26. By the foregoing conduct, respondent violated the following provisions of the Ohio Rules of Professional Conduct and the Supreme Court Rules for the Government of the Bar of Ohio:
 - (a) By failing to initiate the divorce proceeding on behalf of Ms. Walunis for which he was retained and by failing to take any action on her behalf to prosecute her divorce and to obtain a final divorce decree on her behalf, respondent violated Prof. Cond. R.

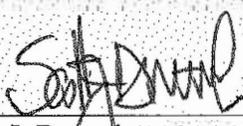
1.3 [a lawyer shall act with reasonable diligence and promptness in representing a client];

- (b) By failing to keep Ms. Walunis reasonably informed about the status of her divorce matter, respondent violated Prof. Cond. R. 1.4(a)(3) [a lawyer shall keep the client reasonably informed about the status of the client's matter];
- (c) By failing to respond to Ms. Walunis' telephone and email inquiries regarding the status of her divorce matter, respondent violated Prof. Cond. R. 1.4(a)(4) [a lawyer shall comply as soon as practicable with reasonable requests for information from the client];
- (d) By failing to deposit the \$500 in advanced attorney fees and \$200 in advanced costs paid by Ms. Walunis on January 3, 2013 into his client trust account, respondent violated Prof. Cond. R. 1.15(c) [a lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred];
- (e) By failing to promptly deliver to Ms. Walunis all papers and property to which she was entitled following the termination of respondent's employment on April 29, 2014, including by not limited to Ms. Walunis' file, the papers she had provided to respondent relating to her divorce and the \$200 in advanced costs, respondent violated Prof. Cond. R. 1.16(d) [as part of the termination of employment, a lawyer shall deliver to the client all papers and property to which the client is entitled];

- (f) By failing to promptly refund to Ms. Walunis the \$500 in unearned advanced fees following the termination of his employment on April 29, 2014, respondent violated Prof. Cond. R. 1.16(e) [a lawyer who withdraws from employment shall promptly refund any part of a fee paid in advance that has not been earned];
- (g) By failing to respond to demands for information from relator regarding Ms. Walunis' grievance, respondent violated Prof. Cond. R. 8.1(b) [a lawyer shall not fail to respond to a demand for information from a disciplinary authority]; and
- (h) By neglecting or refusing to assist with relator's investigation of the grievance filed against him by Ms. Walunis, respondent violated Rule V(9)(G) of the Supreme Court Rules for the Government of the Bar of Ohio.

CONCLUSION

Wherefore, pursuant to Gov. Bar R. V and the Ohio 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.

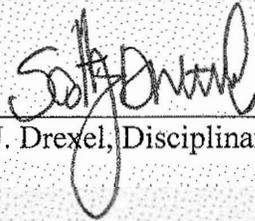


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CERTIFICATE

The undersigned, Scott J. Drexel, Disciplinary Counsel, of the Office of Disciplinary Counsel of the Supreme Court of Ohio hereby certifies that Scott J. Drexel 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: December 1, 2015



Scott J. Drexel, Disciplinary Counsel