

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

RECEIVED

DEC 02 2015

In re:

Complaint against

BOARD OF PROFESSIONAL CONDUCT

Robert Hansford Hoskins, Esq.
1040 Richwood Avenue
Cincinnati, Ohio 45208

No. 15 - 077

Attorney Registration No. (0068550)

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

Relator.

DEC 10 2015

BOARD OF PROFESSIONAL CONDUCT

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

1. Respondent, Robert Hansford Hoskins, was admitted to the practice of law in the state of Ohio on November 10, 1997.
2. Respondent is subject to the Ohio Rules of Professional Conduct and the Supreme Court Rules for the Government of the Bar of Ohio ("Gov. Bar R.").
3. Respondent has a record of prior discipline in the following matters:
 - (a) By order filed April 23, 2015 in Case No 2015-0481, the Supreme Court suspended respondent from the practice of law in Ohio for sixty days in accordance with the reciprocal discipline provisions of Gov. Bar R. V(20). The Supreme Court's

suspension order in Case No. 2015-0481 was based upon a sixty-day suspension that had been imposed upon respondent by the Supreme Court of Kentucky on February 19, 2015 in *Kentucky Bar Association v. Robert H. Hoskins*, Case No. 2014-SC-000614-KB. The Supreme Court of Ohio conditioned respondent's reinstatement to the practice of law in Ohio upon, among other things, his reinstatement to the practice of law in Kentucky; his compliance with the Supreme Court of Ohio's suspension order and other orders issued by the Court; and the filing of an order by the Supreme Court of Ohio reinstating him to practice. By order filed November 5, 2015, the Supreme Court found respondent in contempt for his failure to obey the Court's April 23, 2015 suspension order. Respondent has remained suspended from the practice of law in Ohio at all times since April 23, 2015.

(b) Although it is not yet final, on June 15, 2015, the Board of Professional Conduct of the Supreme Court of Ohio ("Board") filed a Report and Recommendation with the Supreme Court in which it has recommended that respondent be indefinitely suspended from the practice of law in Ohio. *See* Supreme Court Case No. 2015-1003 [Board Case No. 2014-014]. Respondent filed objections to the Board's Report on July 14, 2014. After relator Cincinnati Bar Association filed its Answer Brief on August 10, 2015, the Supreme Court scheduled oral argument for December 1, 2015.

COUNT ONE
The Bertke Electric Company, Inc. Matter

4. On February 3, 2015, respondent filed a complaint in the Hamilton County Municipal Court in the case of *Bertke Electric Company, Inc. v. Plum Street, LLC*, Case No. 15 CV 02404 ("*Bertke Electric v. Plum Street*"). The case was assigned to Judge Dwayne

Mallory. Attorney Kenneth R. Reed answered the complaint on behalf of defendant Plum Street, LLC and attorney James Calkins entered a *pro hac vice* appearance as co-counsel to Mr. Reed, based upon Calkins' license to practice law in Florida.

5. On April 29, 2015, six days after the Supreme Court filed its April 23, 2015 suspension order in Supreme Court Case No. 2015-0481 (*see* ¶ 3(a) above), Judge Mallory's clerk conducted a telephonic status conference in the *Bertke Electric v. Plum Street* action. An individual who identified himself as "Thomas Mayes" participated in the status conference, stating that he was new counsel for plaintiff Bertke Electric Company.
6. Between the April 29, 2015 telephonic status conference and June 2015, Calkins received multiple email messages from thomasmayesesq@yahoo.com regarding discovery in the *Bertke Electric v. Plum Street* action. Calkins also sent reply emails to that address.
7. On May 7, 2015, Calkins received an email from respondent's email account (i.e., from rhoskinslaw@gmail.com), requesting additional time to respond to defendant Plum Street's discovery requests.
8. On May 18, 2015, Calkins received Bertke Electric Company's initial discovery responses by email from thomasmayesesq@yahoo.com.
9. On May 20, 2015, Calkins sent a letter by first-class mail and by email to both respondent and to Thomas Mayes, requesting that Bertke Electric Company provide additional and supplemental discovery responses. In order to mail the letter to Mayes, Calkins obtained his mailing address from the Ohio Supreme Court's Attorney Information website. There is only one Thomas Mayes who is admitted to the practice of law in the state of Ohio. At all times between November 2014 and July 1, 2015, Thomas Lee Mayes (Atty. Reg. No. 0090235) was located in Montgomery, Alabama and served as Dean of Admissions at his

alma mater, the Thomas Goode Jones School of Law at Faulkner University in Montgomery, Alabama.

10. In late May 2015, Mayes received the May 20, 2015 letter from Calkins. The letter from Calkins included the email address thomasmayesesq@yahoo.com, which is the email address from which Calkins had received communications regarding the *Bertke Electric v. Plum Street* action on and after April 29, 2015.
11. On May 27, 2015, Calkins received supplemental discovery responses by email from thomasmayesesq@yahoo.com.
12. On June 20, 2015, Calkins was contacted by an individual who identified himself as Thomas Mayes. During this telephone call, Mayes informed Calkins that he had received Calkins' May 20, 2015 letter and motion for sanctions in the *Bertke Electric v. Plum Street* action. However, Mayes told Calkins that he has no knowledge of the litigation, that he did not serve discovery response or participate in a telephone status conference with the court on behalf of Bertke Electric Company, that thomasmayesesq@yahoo.com is not his email address and that he did not receive or respond to emails directed to him at that address.
13. Mayes did not create the thomasmayesesq@yahoo.com email address, has never used that email address and has no information about the owner of that email address.
14. In their June 20, 2015 telephone conversation, Mayes informed Calkins that he had previously worked at a law office with respondent.
15. After speaking with Mayes on June 20, 2015, Calkins reviewed his office telephone records for April 20, 2015, the date of the telephonic status conference with the court in the *Bertke Electric v. Plum Street* action. The person who identified himself as Thomas

Mayes on April 29, 2015 had called Calkins' office prior to the status conference in order to coordinate the conference call with Calkins and the court. Calkins' telephone records show that the call came from (513) 379-6450, which is the same telephone number that is registered by respondent with the Office of Attorney Services.

16. Respondent continued to practice law following the Supreme Court's April 23, 2015 suspension order by impersonating Thomas Lee Mayes (Atty. Reg. No. 0090235). Respondent created an email account in the name of Thomas Mayes and otherwise posed as Thomas Mayes in communicating with both opposing counsel and with the Hamilton County Municipal Court in the *Bertke Electric v. Plum Street* action.
17. On October 5, 2015, relator sent a Letter of Inquiry to respondent by certified mail, return receipt requested, addressed to him at the address maintained by respondent with the Supreme Court's Office of Attorney Services. In its Letter of Inquiry, relator asked respondent to provide a written response to the allegations that he had engaged in the unauthorized practice of law in the *Bertke Electric v. Plum Street* action and that he had falsely posed as Thomas Mayes in order to facilitate his unauthorized practice of law. Although relator's Letter of Inquiry was delivered to respondent's address on October 8, 2015, respondent did not reply to relator's Letter of Inquiry, either by the specified due date of October 19, 2015, or at any later time.
18. In light of respondent's failure to respond to relator's initial Letter of Inquiry, on October 23, 2015, relator sent a second 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. In its second Letter of Inquiry, relator noted that respondent had not responded to the initial Letter of Inquiry and asked respondent to

provide an immediate response to that letter, a copy of which was enclosed with the second Letter of Inquiry. Although relator advised respondent that his response to the Letter of Inquiry must be received by relator on or before November 6, 2015, respondent has not provided any written response to relator.

19. 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 and of the Supreme Court Rules for the Government of the Bar of Ohio:
 - (a) By falsely identifying himself to the court at the telephonic status conference on April 29, 2015 in the *Bertke Electric v. Plum Street* action as Thomas Mayes, respondent violated Prof. Cond. R. 3.3(a) [a lawyer shall not knowingly make a false statement of fact to a tribunal];
 - (b) By falsely identifying himself to and communicating with opposing counsel in the *Bertke Electric v. Plum Street* action as Thomas Mayes, respondent violated Prof. Cond. R. 4.1(a) [a lawyer shall not knowingly make a false statement of material fact to a third person];
 - (c) By continuing to engage in the practice of law in the *Bertke Electric v. Plum Street* action after he was suspended from the practice of law by the Supreme Court of Ohio on April 23, 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];
 - (d) By impersonating and falsely identifying himself to the court and to opposing counsel as Thomas Mayes in the *Bertke Electric v. Plum Street* action in order to facilitate his continued practice of law in violation of the Supreme Court of Ohio's April 23, 2015

suspension order, 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];

- (e) By impersonating and falsely identifying himself to the court and to opposing counsel as Thomas Mayes in the *Bertke Electric v. Plum Street* action in order to facilitate his continued practice of law in violation of the Supreme Court's April 23, 2015 suspension order, 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 knowingly failing to respond to relator's demands for information in connection with its disciplinary investigation of the allegations of this Court, respondent violated Prof. Cond. R. 8.1(b);
- (g) By neglecting or refusing to assist in relator's disciplinary investigation of the allegations contained in this Court, respondent violated Gov. Bar R. V(9)(G).

COUNT TWO
The Preferred Interiors Drywall Systems Matter

- 20. On July 23, 2014, a complaint for damages was filed in the Clermont County Court of Common Pleas in an action entitled *Preferred Interiors Drywall Systems, LLC, et al. v. Justin Allen Fletcher*, Case No. 2014 CVH 00984 ("*Preferred Interiors Drywall v. Fletcher* action"). Respondent was counsel of record for the plaintiffs in that action.
- 21. On February 6, 2015, the court set a scheduling conference in the *Preferred Interiors Drywall v. Fletcher* action to be held on June 19, 2015, at 8:30 a.m.

22. As previously stated at ¶ 3(a) above, on April 23, 2015 in Case No. 2015-0481, the Supreme Court of Ohio suspended respondent from the practice of law in the state of Ohio. Respondent has remained suspended from the practice of law in Ohio at all times since April 23, 2015.
23. The scheduling conference in the *Preferred Interiors Drywall v. Fletcher* action was conducted on June 19, 2015. Counsel for defendants personally appeared at the scheduling conference while respondent participated in the conference by telephone. During the scheduling conference, respondent identified himself as counsel for plaintiff Preferred Interiors Drywall Systems, LLC and made no mention of the fact that the Supreme Court had suspended him from the practice of law effective April 23, 2015 or that he was not entitled to practice law. At the conclusion of the conference, the court scheduled a follow-up conference for September 18, 2015, at 8:30 a.m. Respondent confirmed that the date of the follow-up conference was available on his calendar.
24. Thereafter, respondent scheduled the deposition of defendant Justin Fletcher for July 7, 2015 at respondent's law office at 750 E. State Street in Georgetown, Ohio 45121. Defendant Fletcher appeared at the deposition, along with his counsel, Jeffrey S. Hale of Kroener Hale, Inc.
25. Shortly after the commencement of the deposition, Hale asked respondent whether he had been reinstated to the practice of law in Ohio, stating as follows:

MR. HALE: If I could, just real quickly, Robert – if we could just clarify, I sent you an e-mail request – and in speaking with the Supreme Court yesterday – ***have you been reinstated in Ohio?***

MR. HOSKINS: ***I have.***

MR. HALE: Do you have anything showing that?

MR. HOSKINS: I don't.

MR. HALE: Because, as of yesterday when I spoke with disciplinary council's [sic] attorney, they said that you had not been reinstated.

MR. HOSKINS: *I had spoken with them yesterday and I had been.* But I don't have anything from them.

MR. HALE: Okay.

MR. HOSKINS: I didn't bring anything.

MR. HALE: Okay. I just wanted to clarify. So if your representation is that you've been reinstated, then we'll take it, take it on the value." (Emphasis added.)

26. While Fletcher's deposition was being taken, Hale's law partner, Melissa A. Kroener, contacted the Board of Professional Conduct and learned from Senior Counsel Allan Asbury that respondent had not been reinstated to the practice of law in Ohio. Ms. Kroener relayed this information to Hale by text message. Thereafter, during a break in the deposition, Hale contacted Honorable Richard Ferenc, the assigned judge in the *Preferred Interiors Drywall v. Fletcher* action, to notify him about respondent's participation in the Fletcher deposition despite his suspension from the practice of law. While Hale was on the telephone with Judge Ferenc, respondent came to the location from which Hale was making the telephone call and told him that the deposition was over. Respondent then rushed everyone out of his law office.

27. After confirming that respondent was still suspended from the practice of law in Ohio, Judge Ferenc issued an order in the *Preferred Interiors Drywall v. Fletcher* action staying all further proceedings until further order of the court. Judge Ferenc also prohibited respondent from participating in any way in the *Preferred Interiors Drywall v. Fletcher* action and directed him to immediately advise his clients of his inability to practice law in Ohio.

28. 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) By continuing to engage in the practice of law in the *Preferred Interiors Drywall v. Fletcher* action after he was suspended from the practice of law by the Supreme Court of Ohio on April 23, 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 falsely representing to Jeffrey S. Hale, counsel for defendant Fletcher in the *Preferred Interiors Drywall v. Fletcher* action, at Fletcher's July 7, 2015 deposition that he had been reinstated to the practice of law on July 6, 2015, respondent violated Prof. Cond. R. 4.1(a) [a lawyer shall not knowingly make a false statement of material fact to a third person];
 - (c) By falsely representing to Jeffrey S. Hale, counsel for defendant Fletcher in the *Preferred Interiors Drywall v. Fletcher* action, at Fletcher's July 7, 2015 deposition that he had been reinstated to the practice of law on July 6, 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];
 - (d) By scheduling and conducting a deposition in the *Preferred Interiors Drywall v. Fletcher* action after his suspension from practice, making misrepresentations to counsel for the defendant regarding his reinstatement to the practice of law and ultimately requiring the court to issue an order staying all proceedings pending the resolution of the issues regarding respondent's status and eligibility to practice law,

respondent violated Prof. Cond. R. 8.4(d) [a lawyer shall not engage in conduct that is prejudicial to the administration of justice].

COUNT THREE
The Davion Houchell Adoption Matter

29. As previously indicated in ¶ 3(a) above, by order filed April 23, 2015 in Case No. 2015-0481, the Supreme Court of Ohio suspended respondent from the practice of law in Ohio. Respondent has remained suspended from the practice of law in Ohio at all times since April 23, 2015.
30. On June 5, 2015, respondent filed an adult adoption petition and paid the court costs for a proceeding in the Hamilton County Probate Court entitled *In the Matter of the Adoption of Davion Devante Houchell*, Case No. 2015-002350 (“*Houchell Adoption matter*”).
31. A hearing on the adoption proceeding in the *Houchell Adoption matter* was scheduled for July 6, 2015. On that date, respondent appeared on behalf of the petitioners, Davion Devante Houchell, Jana Houchell and Gerald Houchell. In making his appearance on their behalf, respondent identified himself to the court as follows:

“THE COURT: Okay. We are back on the record. This is a continuation of the docket for Monday, July 6, 2015. Chief Magistrate Paul Rattermann presiding. Next case is that of Davion Devante Houchell, Case No. 1015-002350. ***We are here today on a – in an adult adoption petition, which has been filed. The star of the show, Mr. Davion Houchell, is present, together with the co-petitioners and their attorney.***”

Counsel, please identify yourself for the record.

MR. HOSKINS: ***My name is Robert Hoskins, the attorney for the petitioners.***
(Emphasis added.)

32. Acting in his role as counsel for petitioners at the July 6, 2015 adoption hearing, respondent examined both the adult adoptee, Davion Devante Houchell, and each of the prospective adoptive parents, Jana Houchell and Gerald Houchell.
33. Respondent's conduct, as alleged in Count Three of the Complaint in this matter, violates the following provision of the Ohio Rules of Professional Conduct:
- (a) By engaging in the practice of law in the *Houchell Adoption* matter after he was suspended from the practice of law by the Supreme Court of Ohio on April 23, 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].

COUNT FOUR
The Hanks Matter

34. On or about December 23, 2014, respondent was retained by Robert M. Hanks to represent him in a divorce proceeding in Adams County Court of Common Pleas entitled *Robert Matthew Hanks v. Patricia Lynn Hanks*, Case No. DRB 2014-0524. On the same date, Hanks paid respondent a fee of \$1,500 for his representation.
35. As previously stated in ¶ 3(a), on April 23, 2015 in Supreme Court Case No. 2015-0481, the Supreme Court of Ohio suspended respondent from the practice of law in Ohio. Respondent has remained suspended at all times since April 23, 2015.
36. Despite the Supreme Court's specific requirement in its April 23, 2015 suspension order that respondent provide written notice of his suspension from the practice of law to each of his existing clients and that he refund unearned fees and return client files to each client, respondent failed to provide notice to Hanks of his suspension, either orally or in

writing. Additionally, respondent failed to refund any unearned fees to Hanks or return his client file to him.

37. Notwithstanding respondent's failure to notify Hanks of his suspension from the practice of law, Hanks learned from a neighbor in late May or early June 2015 that respondent had been suspended from the practice of law in Ohio. Hanks accessed the Internet and confirmed that respondent was suspended from the practice of law in Ohio.

38. In early June 2015, Hanks contacted respondent and inquired about his suspension from the practice of law. Respondent falsely stated to Hanks that the allegation that he was suspended from practice was not true and that he was still entitled to practice law in Ohio.

39. However, after the above-referenced conversation with Hanks, respondent stopped communicating with him and failed to return his telephone calls and messages seeking information about the status of his divorce proceedings.

40. In light of respondent's failure or refusal to communicate with him, Hanks was compelled to retain another attorney, David E. Grimes, to represent him in his divorce proceeding and was required to pay him an additional retainer of \$1,750.

41. Hanks requested that respondent refund the \$1,500 retainer that he had paid to him and that he provide him with a copy of his file, including the documents and papers that Hanks had given to respondent in the course of his representation. However, respondent has neither refunded to Hanks any portion of the \$1,500 that he received from Hanks nor provided him with a copy of his file or with any of the documents and papers that Hanks had entrusted to him.

42. Respondent's conduct, as alleged in Count Four of the Complaint in this matter, violates the following provisions of the Ohio Rules of Professional Conduct:
- (a) By failing to notify Hanks of his suspension from the practice of law and consequent disqualification from continued representation of Hanks in his ongoing 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];
 - (b) By failing to respond to Hanks' repeated telephone calls and messages in and after late May 2015 regarding the status of his divorce proceedings and respondent's inability to continue with his representation, 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];
 - (c) By failing to promptly deliver to Hanks, following respondent's suspension from the practice of law and the termination of his employment, a copy of his client file and all papers and property to which Hanks was entitled, respondent violated Prof. Cond. R. 1.16(d) [as part of the termination of representation, a lawyer shall take steps to protect the client's interest, including promptly delivering to the client all client papers and property to which the client is entitled];
 - (d) By failing to promptly refund to Hanks any portion of the \$1,500 that was paid to respondent and remained unearned, 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];
 - (e) By knowingly disobeying the Supreme Court of Ohio's requirement, in its April 23, 2015 suspension order in Case No. 2015-0481, that respondent notify his clients,

including Hanks, of his suspension from the practice of law and consequent inability to continue with his representation of him, respondent violated Prof. Cond. R. 3.4(c) [a lawyer shall not knowingly disobey an obligation under the rules of a tribunal];

- (f) By falsely stating to his client, Robert Hanks, in early June 2015 that he was not suspended from the practice of law in Ohio, 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 FIVE
The Howser Matter

43. On or about October 21, 2014, Laura L. Howser retained respondent to represent her in seeking a modification of the parenting agreement that she had previously entered into with her ex-husband. Respondent agreed to represent Howser for a flat fee of \$850. At respondent's request, Howser promptly paid the \$850 fee in October 2014 and provided respondent with the information he needed for the preparation of the modification motion.
44. Almost immediately after retaining respondent, Howser experienced great difficulty in contacting him and communicating with him. Howser repeatedly called respondent and sent him emails seeking information about the filing and status of her modification motion. Although Howser's emails and voicemail messages asked respondent to contact her about the status of her matter, respondent failed to contact Howser or otherwise respond to her messages.
45. Respondent never filed the motion for modification of the parenting agreement for which he had been retained by Howser.

46. As previously stated in ¶ 3(a) above, on April 23, 2015 in Case No. 2015-0481, the Supreme Court suspended respondent from the practice of law in Ohio. Respondent has remained suspended from the practice of law at all times since April 23, 2015.
47. The Supreme Court's April 23, 2015 suspension order specifically required respondent, among other things, to provide written notification to each of his current clients of his suspension from the practice of law and his consequent inability to continue with his representation of those clients. The Supreme Court's order further required respondent to promptly refund unearned fees to his clients and to promptly deliver to the client all files, paper and property to which the client is entitled.
48. Respondent did not notify Howser of his suspension from the practice of law. Likewise, he neither refunded to her any portion of the \$850 in fees that she had paid to him nor returned to her the client file and materials that she had provided to him in connection with the proposed motion to modify the parenting agreement.
49. On June 3, 2015, Howser sent an email to respondent requesting a refund of the \$850 advanced fee that she had paid to him. When Howser was finally able to speak with respondent in late June 2015, respondent told Howser that he was on vacation but that he would call her when he returned.
50. When respondent failed to call Howser as he had promised, Howser sent him another email on July 9, 2015. Thereafter, on August 20, 2015, respondent told Howser that he would like to schedule a telephone conference with her to discuss her matter. However, respondent thereafter failed to respond to Howser's multiple efforts to contact him by telephone and by email to schedule the conference.

51. To date, respondent has neither refunded to Howser any portion of the \$850 that she paid to him nor returned Howser's client file or paperwork to her.
52. On October 2, 2015, relator sent a Letter of Inquiry to respondent by certified mail, return receipt requested, addressed to him at the address maintained by respondent with the Supreme Court's Office of Attorney Services. In its Letter of Inquiry, relator asked respondent to provide a written response to the allegations made by Laura L. Howser as well as to numerous questions posed by relator. The Letter of Inquiry also asked respondent to provide relator with copies of specified documents. Although notice of the attempted delivery of relator's Letter of Inquiry was left at respondent's address on October 6, 2015, respondent neither signed for nor claimed the certified mail from relator's office. As a result, respondent did not reply to relator's Letter of Inquiry, either by the specified due date of October 16, 2015, or at any later time.
53. In light of respondent's failure to respond to relator initial Letter of Inquiry, on October 23, 2015, relator sent a second Letter of Inquiry to respondent by certified mail, return receipt requested, addressed to respondent at the address that he had registered with the Supreme Court's Office of Attorney Services. In its second Letter of Inquiry, relator noted that respondent had neither accepted delivery of the initial Letter of Inquiry nor responded to that letter. Relator asked respondent to provide an immediate response to that letter, a copy of which was enclosed with the second Letter of Inquiry. Although relator advised respondent that his response to the Letter of Inquiry must be received by relator on or before November 6, 2015, respondent has not provided any written response to relator.

54. Respondent's conduct, as alleged in Count Five of the Complaint in this matter, violates the following provisions of the Ohio Rules of Professional Conduct:
- (a) By failing to prepare and file the motion for modification of the parenting agreement between Howser and her ex-husband for which he had been retained and paid by Howser, respondent violated Prof. Cond. R. 1.3 [a lawyer shall act with reasonable diligence and promptness in representing a client];
 - (b) By failing to notify Howser of his suspension from the practice of law and consequent disqualification from continued representation of Howser with respect to the modification of her parenting agreement, 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 failing to respond to Howser's repeated telephone calls and messages seeking information about the status of her motion for modification of the parenting agreement following his retention in October 2014, 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 promptly deliver to Howser, following respondent's suspension from the practice of law and the consequent termination of his employment, a copy of her client file and all papers and property to which Howser was entitled, respondent violated Prof. Cond. R. 1.16(d) [as part of the termination of representation, a lawyer shall take steps to protect the client's interest, including promptly delivering to the client all client papers and property to which the client is entitled];
 - (e) By failing to promptly refund to Howser any portion of the \$850 that was paid to respondent, all of which remained unearned, 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];
- (f) By knowingly disobeying the Supreme Court of Ohio's requirement, in its April 23, 2015 suspension order in Case No. 2015-0481, that respondent notify his clients, including Howser, of his suspension from the practice of law and consequent inability to continue with his representation of her, respondent violated Prof. Cond. R. 3.4(c) [a lawyer shall not knowingly disobey an obligation under the rules of a tribunal];
- (g) By knowingly failing to respond to relator's demands for information in connection with its disciplinary investigation of the allegations of this Count, respondent violated Prof. Cond. R. 8.1(b);
- (h) By neglecting or refusing to assist in relator's disciplinary investigation of the allegations contained in this Count, respondent violated Gov. Bar R. V(9)(G).

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 Supreme Court Rules of the Government of the Bar of Ohio.

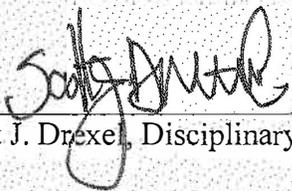


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CERTIFICATE

The undersigned, Scott J. Drexel, Disciplinary Counsel, of the Office of Disciplinary Counsel of the Supreme Court of Ohio hereby certifies that 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 2, 2015



Scott J. Drexel, Disciplinary Counsel