

BEFORE THE BOARD OF COMMISSIONERS  
ON GRIEVANCES AND DISCIPLINE OF  
THE SUPREME COURT OF OHIO

RECEIVED

SEP 16 2014

In re:

BOARD OF COMMISSIONERS  
ON GRIEVANCES & DISCIPLINE

Complaint against

Charles Allan Runser, Esq.  
Attorney at Law  
Runser & Putman, LLC.  
111 East Main Street, Suite #105  
Van Wert, OH 45891-1757

14 - 067 <sup>c</sup> <sub>22</sub>

No. \_\_\_\_\_

Attorney Registration No. 0017988

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

SEP 17 2014

BOARD OF COMMISSIONERS  
ON GRIEVANCES & DISCIPLINE

Relator.

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

1. Respondent, Charles Allan Runser, was admitted to the practice of law in the state of Ohio on October 27, 1967.
2. As an attorney, 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.

**Count One – Guardianship and Estate of Jeanne Koch**

*Guardianship*

3. On December 23, 2005, respondent was appointed as the emergency guardian of Jeanne Koch. As guardian, respondent agreed to make and file an inventory of Koch's assets

within three months of his appointment. He also agreed to make and file an account annually or as directed by the court. Finally, he agreed to file a final account within 30 days of the guardianship being terminated.

4. During the time that respondent served as Koch's emergency guardian, he failed to file an inventory of Koch's assets or any accounts of the guardianship.
5. Respondent served as Koch's emergency guardian until June 21, 2006. At that time, he was appointed as Koch's permanent guardian. He again agreed to make and file an inventory of Koch's assets within three months of his appointment, as well as to make and file an account of the guardianship annually or as directed by the court.
6. On June 21, 2006, respondent also signed the "Oath of Guardian" and agreed to file timely and accurate reports and accounts of the guardianship.
7. Despite the oath that he signed and several delinquent notices from the Van Wert County Probate Court, respondent did not file a Guardian's Report until June 20, 2008. Similarly, he did not file an inventory until June 26, 2008 – over two years after being appointed as Koch's permanent guardian.
8. Thereafter, respondent failed to file any periodic accounts of the guardianship despite his receipt of the following notices from the Van Wert County Probate Court:
  - a. September 22, 2008 – Notice of Past Due Guardian's report
  - b. September 22, 2008 – Notice of Past Due Account
  - c. November 6, 2009 – Notice of Past Due Account
  - d. January 18, 2011 – Reminder of Guardian's Report Due
  - e. January 18, 2011 – Reminder of Account Due
  - f. April 7, 2011 – Notice of Past Due Account
9. Jeanne Koch died on June 13, 2011. Her death terminated the guardianship.
10. Despite agreeing to file a final account within 30 days of the guardianship's termination, respondent did not file a final account until September 7, 2012.

*Estate*

11. Koch's will nominated respondent to be the executor of her estate.
12. Koch's will directed 1) that the proceeds of a revocable trust be distributed to her stepdaughter and step-grandchildren, 2) that the net proceeds from the sale of her residential property be distributed in equal parts to the First Baptist Church of Van Wert, Ohio and to The Van Wert County Foundation; and 3) that the rest, residue and remainder of her real and personal property be disbursed in equal parts to her nieces and nephew, Syd A. Gibson, Chris A. Wilt, and Lyn O. Detzler.

*Estate Inventory and Accounts*

13. On August 9, 2011, respondent and his law partner, Shaun A. Putman, as attorney for the estate, filed an application to probate Koch's will.
14. On the same day, respondent was appointed as the executor/administrator of Koch's estate and, amongst other responsibilities, he agreed to file an inventory of Koch's real and personal assets within three months of his appointment, i.e. by November 9, 2011.
15. Respondent also agreed to deposit estate funds which came into his possession as executor/administrator of Koch's estate into a lawful depository in the state of Ohio and "to keep estate funds in separate estate accounts at all times during the estate administration."
16. Respondent did not file an inventory of Koch's real and personal assets by November 9, 2011, nor did he do so by April 2, 2012.
17. On April 2, 2012, the Van Wert County Probate Court issued a Notice of Past-Due Inventory, which indicated that an inventory had not yet been filed and that if one was

not filed within 30 days, it may result in respondent's removal as fiduciary and/or the imposition of other sanctions. The court's notice was served upon respondent.

18. Respondent did not file an inventory within 30 days of the court's April 2, 2012 order.
  19. On July 11, 2012, Putman, as attorney for the estate, filed an application to extend the time for filing an inventory of Koch's real and personal assets. Putman's application was granted, and he was given until August 24, 2012 to file an inventory.
  20. Despite being granted an extension of time until August 24, 2012 to file an inventory, respondent and/or Putman failed to do so.
  21. On November 27, 2012, over 15 months after being appointed as executor/administrator, respondent filed an "Inventory and Appraisal" of Koch's assets.
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22. On April 2, 2012, the Van Wert County Probate Court issued a "Notice of Past Due Account," which indicated that an account of Koch's estate was due on February 9, 2012 and that "prompt action should be taken." The court's notice was served on respondent.
  23. Despite the court's April 2, 2012 notice, respondent did not file an account with respect to Koch's estate, nor did he request an extension of time to file an account.
  24. On June 18, 2013, the Van Wert County Probate Court issued a "Notice of Past Due Account," which indicated that an account of Koch's estate had been due on February 9, 2012 and that failure to file an account within 30 days of the court's June 18, 2013 order may result in respondent's removal as fiduciary and/or the imposition of other sanctions. The court's notice was served on respondent.
  25. Despite the court's June 18, 2013 notice, respondent did not file an account until January 10, 2014.

*Estate Bank Account*

26. On or about January 12, 2012, respondent opened an account at First Federal Savings & Loan Association for the Estate of Jeanne Koch.
27. On May 31, 2012, respondent deposited \$111,987.88 into the Koch estate account. This represented partial proceeds from the sale of Koch's residential property in Van Wert, Ohio.
28. Rather than disbursing these funds to the First Baptist Church of Van Wert, Ohio and the Van Wert County Foundation as directed by Koch's will, respondent began misappropriating funds from the estate by writing checks to himself and/or his law firm, Runser & Putman, LLC.
29. From May 31, 2012 and September 14, 2012, respondent wrote the following checks from the Koch estate account totaling \$80,965:
  - a. May 31, 2012 – Check No. 531 to C. Allan Runser for \$5,000;
  - b. June 2, 2012 – Check No. 541 to Runser & Putman, LLC for \$15;
  - c. June 4, 2012 – Check No. 542 to Runser & Putman, LLC for \$2,000;
  - d. June 13, 2012 – Check No. 543 to Runser & Putman, LLC for \$5,000;
  - e. June 15, 2012 – Check No. 544 to C. Allan Runser for \$1,000;
  - f. June 18, 2012 – Check No. 545 to Runser & Putman, LLC for \$5,000;
  - g. July 2, 2012 – Check No. 562 to Runser & Putman, LLC for \$5,000;
  - h. July 9, 2012 – Check No. 550 to Runser & Putman, LLC for \$5,000;
  - i. July 16, 2012 – Check No. 551 to Runser & Putman, LLC for \$10,000;
  - j. July 19, 2012 – Check No. 552 to Runser & Putman, LLC for \$2,500;
  - k. July 23, 2012 – Check No. 553 to Runser & Putman, LLC for \$2,500;
  - l. July 27, 2012 – Check No. 554 to Runser & Putman, LLC for \$2,500;
  - m. July 30, 2012 – Check No. 555 to Runser & Putman, LLC for \$2,500;
  - n. August 6, 2012 – Check No. 557 to Runser & Putman, LLC for \$2,600;
  - o. August 7, 2012 – Check No. 558 to Runser & Putman, LLC for \$750;
  - p. August 13, 2012 – Check No. 559 to Runser & Putman, LLC for \$2,000;
  - q. August 14, 2012 – Check No. 560 to Runser & Putman, LLC for \$1,000;
  - r. August 15, 2012 – Check No. 563 to Runser & Putman, LLC for \$1,000;
  - s. August 20, 2012 – Check No. 564 to Runser & Putman, LLC for \$1,500;
  - t. August 21, 2012 – Check No. 565 to Runser & Putman, LLC for \$2,500;
  - u. August 22, 2012 – Check No. 566 to Runser & Putman, LLC for \$2,000;
  - v. August 27, 2012 – Check No. 567 to Runser & Putman, LLC for \$6,000;

- w. August 31, 2012 – Check No. 568 to Runser & Putman, LLC for \$5,000;
  - x. September 4, 2012 – Check No. 569 to Runser & Putman, LLC for \$2,500;
  - y. September 7, 2012 – Check No. 570 to Runser & Putman, LLC for \$2,000;
  - z. September 10, 2012 – Check No. 571 to Runser & Putman, LLC for \$2,000;
  - aa. September 11, 2012 – Check No. 572 to Runser & Putman, LLC for \$600; and
  - bb. September 12, 2012 – Check No. 573 to Runser & Putman, LLC for \$1,500.
30. By September 13, 2012, the balance in the Koch estate account was only \$28,477.06 even though it should have been at least \$111,987.88.
31. On September 14, 2012, respondent deposited a check for \$361,472.72 into the Koch estate account. These funds represented the proceeds of various stock and financial accounts held by Koch.
32. Using these funds and the \$28,477.06 that remained in the estate account, respondent made partial distributions of \$90,000 each to Syd Gibson, Lyn Detzler, and Chris Wilt. He also paid various debts of the Koch estate, including Ohio estate taxes in the amount of \$96,272.90.
33. As of April 11, 2013, and after paying the above-mentioned debts and estate taxes, and making the partial distribution to the estate's residual beneficiaries, there was only \$4,057.20 remaining in the estate account.
34. On April 15, 2013, respondent wrote check no. 582 to Runser & Putman, LLC for \$4,000, which nearly depleted the assets in the Koch estate account.
35. On September 5, 2013, respondent wrote check no. 584 to Runser & Putman, LLC for \$900. This check overdrew the Koch estate account by over \$800.
36. On September 16, 2013, respondent deposited \$71,108.93 of personal funds into the estate account to partially replace the funds he had misappropriated; however, he also resumed writing checks to Runser & Putman, LLC. Between September 30, 2013 and

October 21, 2013 respondent wrote the following additional checks from the Koch estate account:

- a. September 30, 2013 – Check No. 585 to Runser & Putman, LLC for \$5,000;
  - b. October 2, 2013 – Check No. 586 to Runser & Putman, LLC for \$2,000;
  - c. October 21, 2013 – Check No. 587 to Runser & Putman, LLC for \$5,000.
37. As of January 13, 2014, the balance in the Koch estate account was \$59,424.68.
  38. On January 14, 2014, respondent deposited \$56,938.01 into the Koch estate account bringing the balance in the account to \$115,774.69.
  39. The \$56,938.01 that respondent deposited into the Koch estate account was from respondent's IOLTA, and it appears to be either personal funds of respondent or funds that he was holding on behalf of one or more clients.
  40. Respondent used the \$115,774.69 in the Koch estate account to make partial distributions of \$51,403.04 each to the First Baptist Church of Van Wert, Ohio and the Van Wert County Foundation.
  41. These distributions were made over 18 months after he had deposited the proceeds from the sale of Koch's residential property into the estate account. Respondent also used funds in the estate account to make additional distributions of \$3,400 each to Syd Gibson, Lyn Detzler, and Chris Wilt.
  42. Throughout the entire administration of the estate, at least two of the three beneficiaries of the estate had been attempting to reach respondent regarding the status of Koch's estate. They had an extremely hard time reaching respondent, and when they were able to speak with respondent, he was unable/unwilling to provide them with any substantive information regarding the estate.

43. When relator inquired into the funds that respondent had withdrawn from the Koch estate account, respondent attempted to minimize his conduct by stating that the funds were for attorney and executor fees for him and Putman. Respondent neither requested, nor received, permission from the Van Wert County Probate Court to receive attorney or executor fees from the Koch estate.
44. Respondent's conduct as outlined above violates the Rules of Professional Conduct, specifically Prof. Cond. R. 1.3 (requiring a lawyer to act with reasonable diligence and promptness in representing a client); Prof. Cond. R. 1.4(a)(4) (requiring a lawyer to comply as soon as practicable with reasonable requests for information from the client); Prof. Cond. R. 1.15(a) (requiring a lawyer to hold property of clients separate from the lawyer's own property); Prof. Cond. R. 1.15(d) (requiring a lawyer to promptly deliver funds to a client or third party); Prof. Cond. R. 3.4(c) (prohibiting a lawyer from knowingly disobeying an obligation under the rules of a tribunal); Prof. Cond. R. 8.4(c) (prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation); and Prof. Cond. R. 8.4(d) (prohibiting a lawyer from engaging in conduct that is prejudicial to the administration of justice).

#### **Count Two – Barbara Mary Shackley Trust**

45. From January 1, 2011 to July 17, 2014, respondent was the sole trustee of the Barbara Mary Shackley Trust.
46. Mary Ann Jensen was a beneficiary of the trust.
47. In or about April 2014, Jensen retained the services of Marshall & Melhorn, LLC after respondent failed to provide her with annual reports of the trust's property, liabilities, receipts, and distributions.

48. On April 29, 2014, Attorney A. Thomas Christensen of Marshall & Melhorn, LLC sent respondent a letter requesting a list of trust assets, trust liabilities, itemized trust receipts and disbursements, and copies of the trust's income tax returns.
49. On May 9, 2014, respondent replied to Christensen's letter. In this letter, respondent admitted that he had "not done a good job in handling Trust activity during the last several years," that he had not responded to all of Jensen's requests for information, and that he had not completed annual trust accountings due to the "anticipated time involved in creating reports." Respondent concluded by saying that he and Jensen had been good friends since childhood and that he would provide the accountings when complete.
50. As of July 17, 2014, respondent still had not provided the requested accountings to Jensen, Christensen, and/or Marshall & Melhorn, LLC.
51. On July 17, 2014, respondent appointed Jensen as co-trustee of the trust. On the same day, he resigned as trustee of the trust. Jensen accepted respondent's resignation on July 23, 2014.
52. On or about July 23, 2014, respondent called Christensen and advised him that he had "inappropriately borrowed funds from the trust."
53. Thereafter, Christensen reviewed records of the trust.
54. Christensen determined that respondent had opened a LPL Financial brokerage account for the Shackley Trust in June 2010.
55. As of March 31, 2011, the balance of the LPL account was \$802,788.86.
56. Between March 2, 2011 and September 13, 2013, respondent wrote over 50 checks from the LPL account totaling \$471,350. The checks were written to either respondent (personally or as trustee) or to Runser & Putman, LLC.

57. Jensen did not authorize any of these transactions, nor was she aware of them.
58. The exact amount of funds that respondent misappropriated from the Shackley Trust is one of the issues to be determined in the pending litigation referenced below in paragraphs 59-65.
59. On July 28, 2014, Jensen filed an Ex Parte Motion for Temporary Restraining Order, as well as a Motion for Preliminary Injunction against respondent, Putman, Runser & Putman, LLC, and C J A & M, Ltd. (a company associated with respondent) in the United States District Court for the Northern District of Ohio. Case No. 3:14-cv-1650, *Mary Ann Jensen, Trustee, et al. v. Runser & Putman, LLC, et al.*
60. With these motions, Jensen sought to prevent respondent and/or Putman from:
- a. taking any action on behalf of the Shackley Trust;
  - b. disposing, transferring, liquidating, encumbering, pledging or assigning any assets or property except for the payment of normal living expenses; and
  - c. using any assets to pay attorney fees in the action.
61. On July 28, 2014, Jensen also filed a Verified Complaint against respondent, Putman, Runser & Putman, LLC, and C J A & M, Ltd. The complaint alleged that respondent had breached his fiduciary duty to the Shackley Trust and that he had engaged in self-dealing, constructive fraud, fraudulent conversion, and legal malpractice. The complaint alleged that Putman had breached his fiduciary duty to the trust and negligently supervised his business and office accounts.
62. On August 1, 2014, the parties entered into a stipulated temporary restraining order which prevented respondent and Putman from taking any action on behalf of Jensen as a fiduciary, trustee, or attorney.
63. The order further prevented respondent and Putman from disposing, transferring, liquidating, encumbering, pledging, or assigning any of their assets or property except for

the normal operating expenses of Runser & Putman, LLC and C J A & M, Ltd. and the normal living expenses of respondent and Putman, unless allowed by an agreement of the parties or an order of the Court.

64. Finally, the order prevented respondent and Putman from using any of their assets to pay attorney fees in the matter, and required them to provide individual financial statements disclosing all assets owned and liabilities owed by them to Jensen's attorneys within ten days of the order.
65. This civil action is still pending.
66. Respondent's conduct as outlined above violates the Prof. Cond. R. 1.3 (requiring a lawyer to act with reasonable diligence and promptness in representing a client); Prof. Cond. R. 1.4(a)(4) (requiring a lawyer to comply as soon as practicable with reasonable requests for information from the client); Prof. Cond. R. 1.15(a) (requiring a lawyer to hold property of clients separate from the lawyer's own property); Prof. Cond. R. 1.15(d) (requiring a lawyer to promptly render a full accounting to a client or third party); and Prof. Cond. R. 8.4(c) (prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation).

### **Count Three – IOLTA**

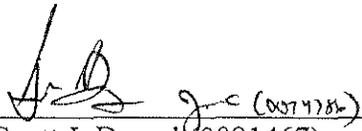
67. On May 1, 2014, First Financial Bank notified relator that respondent's IOLTA was overdrawn on April 30, 2014.
68. On May 9, 2014, relator sent respondent a Letter of Inquiry and requested that he explain the cause of the overdraft in his IOLTA by no later than May 23, 2014.
69. On May 22, 2014, respondent requested an extension of time until June 5, 2014 to respond.

70. On June 5, 2014, respondent requested a further extension of time to respond stating that he wanted to secure the services of a certified public accountant before submitting his response.
71. On June 25, 2014, First Financial Bank informed relator that respondent's IOLTA was again overdrawn on June 24, 2014.
72. Upon receipt of this notice, relator subpoenaed respondent's IOLTA records for the period from January 1, 2014 to June 30, 2014.
73. On July 1, 2014, respondent submitted a response to relator's May 9, 2014 Letter of Inquiry along with a number of supporting documents.
74. Upon review of respondent's response, his supporting documents, and his bank records from January 1, 2014 to June 30, 2014, it is clear that respondent is not managing his IOLTA in a manner consistent with Prof. Cond. R. 1.15.
75. At a minimum, respondent used funds from his IOLTA to repay a personal and/or business line of credit. He also withdrew funds from his IOLTA on an "as needed" basis, rather than "as earned," and he ran estate funds through his IOLTA rather than depositing them into a separate estate account.
76. Furthermore, respondent misappropriated client funds from his IOLTA resulting in a shortage of at least \$15,739.36.
77. Respondent's conduct as outlined above violates the Ohio Rules of Professional Conduct, specifically Prof. Cond. R. 1.15(a) (requiring a lawyer to hold property of clients separate from the lawyer's own property); Prof. Cond. R. 1.15(c) (requiring a lawyer to deposit client fees and/or expenses that have been paid in advance into a client trust account and to only withdraw them as fees are earned or expenses incurred); and Prof. Cond. R. 8.4(c)

(prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation).

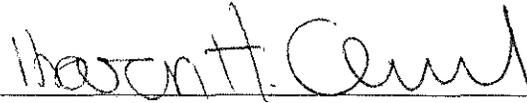
### CONCLUSION

Wherefore, pursuant to Gov. Bar R. V and the Ohio Rules of Professional Conduct, relator alleges that respondent is chargeable with misconduct and requests that respondent be disciplined pursuant to Rule V of the Rules of the Government of the Bar of Ohio.



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Scott J. Drexel (0091467)  
Disciplinary Counsel  
Relator



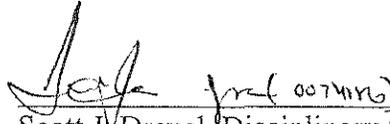
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Counsel for Relator

## CERTIFICATE

The undersigned, Scott J. Drexel, Disciplinary Counsel, of the Office of Disciplinary Counsel of the Supreme Court of Ohio hereby certifies that Karen H. Osmond 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: September 16, 2014

  
\_\_\_\_\_  
Scott J. Drexel, Disciplinary Counsel

### **Gov. Bar R. V, § 4(I) Requirements for Filing a Complaint.**

(1) Definition. "Complaint" means a formal written allegation of misconduct or mental illness of a person designated as the respondent.

\* \* \*

(7) Complaint Filed by Certified Grievance Committee. Six copies of all complaints shall be filed with the Secretary of the Board. Complaints filed by a Certified Grievance Committee shall be filed in the name of the committee as relator. The complaint shall not be accepted for filing unless signed by one or more attorneys admitted to the practice of law in Ohio, who shall be counsel for the relator. The complaint shall be accompanied by a written certification, signed by the president, secretary, or chair of the Certified Grievance Committee, that the counsel are authorized to represent the relator in the action and have accepted the responsibility of prosecuting the complaint to conclusion. The certification shall constitute the authorization of the counsel to represent the relator in the action as fully and completely as if designated and appointed by order of the Supreme Court with all the privileges and immunities of an officer of the Supreme Court. The complaint also may be signed by the grievant.

(8) Complaint Filed by Disciplinary Counsel. Six copies of all complaints shall be filed with the Secretary of the Board. Complaints filed by the Disciplinary Counsel shall be filed in the name of the Disciplinary Counsel as relator.

(9) Service. Upon the filing of a complaint with the Secretary of the Board, the relator shall forward a copy of the complaint to the Disciplinary Counsel, the Certified Grievance Committee of the Ohio State Bar Association, the local bar association, and any Certified Grievance Committee serving the county or counties in which the respondent resides and maintains an office and for the county from which the complaint arose.