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BOARD OF PROFESSIONAL CONDUCT

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

In re: :

**LORAIN COUNTY BAR ASSOCIATION:
LEGAL ETHICS AND GRIEVANCE
COMMITTEE** :

c/o Lorain County Bar Association :
The Lawyer's Loft :
627 W. Broad Street :
Elyria, Ohio 44035 :

Relator, :

-v- :

KEN JONES, ESQ. :

Jones and Associates Law Group, LLC :
3355 Lenox Road, Suite 750 :
Atlanta, Georgia 30326 :
GA Registration No. 435125 :

Respondent. :

.....

CASE NO. 16 - 040 

CERTIFIED COMPLAINT

FILED

OCT 12 2016

BOARD OF PROFESSIONAL CONDUCT

NOW COMES Relator, Lorain County Bar Association Legal Ethics and Grievance Committee, by and through the undersigned Bar Counsel, subject to the disciplinary authority of Rule 8.5(a) of the Ohio Rules of Professional Conduct, and alleges that Respondent, Ken Jones (GA Registration No. 435125) Attorney at Law, duly admitted and in good-standing to practice law in the State of Georgia, is guilty of the misconduct more fully described below.

INTRODUCTION

1. That Respondent, Ken Jones (“Respondent”), was admitted to the practice of law in the State of Georgia on December 9, 2005.

2. That Respondent is not admitted to practice to law in the State of Ohio yet he is subject to the disciplinary authority of Ohio under Rule 8.5(a) of the Ohio Rules of Professional Conduct as he has provided or offered to provide legal services in the State of Ohio.

3. That as a result of the foregoing, Respondent is subject to the Code of Professional Responsibility; The Ohio Rules of Professional Conduct; and, the Ohio Supreme Court Rules for the Government of the Bar.

4. That upon information and belief, Respondent has no prior Discipline from the Supreme Court of Georgia.

5. That Respondent’s status as an attorney in the State of Georgia is currently “Active Member in Good Standing.”

6. That on March 14, 2016 a Grievance (“The Grievance”) was filed with the Lorain County Bar Association (“LCBA”) against Attorney Anisa Asha Williamson (“Attorney Williamson”) and Jones and Associates Law Group, LLC (“Jones and Associates.”)

7. That the complaining parties were Attorney Zachary Simonoff (“Attorney Simonoff”) and his client, David Chopcinski (“Chopcinski.”)

8. That LCBA, by and through its Certified Legal Ethics and Grievance Committee (“The Committee”), opened an investigation and assigned the case to Attorney Matthew A. Dooley (“Attorney Dooley”), a member of The Committee, for further inquiry.

9. That on or around March 16, 2016 Attorney Dooley sent Attorney Williamson notice of The Grievance via certified mail to her office, Jones and Associates, and requested that she respond within twenty (20) days and include copies of any materials relevant to her response.

10. That on or about March 21, 2016 the certified mail issued to Attorney Williamson by Attorney Dooley was accepted by her law office.

11. That Attorney Williamson failed to respond to The Grievance within twenty (20) days.

12. That on April 13, 2016 Attorney Dooley sent Attorney Williamson a second letter of inquiry wherein he attached his original correspondence of March 16, 2016 and advised that he had not yet received a response to The Grievance, either oral or written.

13. That Attorney Dooley advised Attorney Williamson to contact him within five (5) days of her receipt of his correspondence to discuss The Grievance otherwise a subpoena would issue for her appearance before The Committee.

14. That on April 22, 2016 Attorney Williamson sent Attorney Dooley an email in which she formally replied to The Grievance.

15. That in her response, Attorney Williamson identified Jones and Associates as the original author of the advertising materials that are the subject of The Grievance.

16. That Attorney Williamson also advised that although she was affiliated with Jones and Associates, the advertisement and related materials subject to The Grievance were prepared under Respondent's direction and supervision.

17. That Attorney Williamson further advised that despite her repeated efforts, Respondent and Jones and Associates failed to respond to her request for additional information and materials necessary to investigate The Grievance.

18. That as a result of Attorney Williamson's response to The Grievance, on or around May 18, 2016 Attorney Dooley sent Respondent notice of The Grievance via certified mail to his office, Jones and Associates, and requested that he respond within twenty (20) days and include copies of any materials relevant to his response.

19. That the certified mail issued to Respondent by Attorney Dooley was accepted by his law office, yet the return receipt was undated.

20. That Respondent failed and refused to respond to The Grievance.

21. That based upon the results and findings of Attorney Dooley's investigation, including Respondent's failure to timely and properly respond to The Grievance, on June 27, 2016, at a regularly scheduled meeting of The Committee, affirmative votes were recorded finding probable cause that Respondent had committed multiple violations of the Ohio Rules of Professional Conduct and the Ohio Supreme Court Rules for the Government of the Bar.

22. That the matter was assigned to Attorney D. Chris Cook, undersigned, Bar Counsel to LCBA, for prosecution.

23. That on August 12, 2016 a Notice of Intent to File with a copy of the Certified Complaint was served upon Respondent by Bar Counsel.

24. That due to Respondent's failure to timely and properly respond to The Grievance and because Respondent is an out-of-state attorney, The Committee, at its regularly scheduled meeting of June 27, 2016, voted to waive its local rules which would have given Respondent the opportunity to appear at a regularly scheduled meeting of The Committee to address the Certified Complaint and allegations contained therein prior to filing same with the Board.

FACTUAL ALLEGATIONS

25. Relator incorporates and realleges the allegations contained in paragraphs 1-24 above as if fully rewritten herein.

26. That on or about January 18, 2016 Attorney Williamson, under Respondent's direct supervision, sent written advertising materials to David Chopcinski ("Chopcinski") advising him that a Notice of Lis Pendens had been filed on December 28, 2015 with the Lorain County Recorder's Office and marketed her ability and that of Respondent, and their law firm, Jones and Associates, to assist him in stopping the foreclosure process.

27. That Jones and Associates maintains a satellite office in Cincinnati, Ohio and its main office in Atlanta, Georgia.

28. That Attorney Williamson was identified on the advertising materials' letterhead as the licensed Ohio attorney for Jones and Associates while Respondent was identified as the licensed Georgia attorney for the firm.

29. That the advertising materials Attorney Williamson sent to Chopcinski advised that a foreclosure attorney had been hired to represent Wells Fargo Bank NA or his current servicer in the foreclosure process as authorized by Ohio Revised Code Sec. 5301.1 through Sec. 5301.99, *et seq.*

30. That Chopcinski was advised by the advertising materials that Ohio state law required him to respond within 28 days of receipt of the Notice of Lis Pendens or a default judgment could be entered in his case and an expedited foreclosure sale could be conducted.

31. That the advertising materials sent by Attorney Williamson also advised Chopcinski that if his home was not vacant at the time of a Sherriff's Sale, the new owner may exercise rights under Ohio Revised Code Sec. 1923.01 through Sec. 1923.101, *et seq.* and immediately begin eviction proceedings

32. That based on the foregoing, the advertisement stated in bold, capitalized print: "IT IS NOT TOO LATE TO SAVE YOUR HOME."

33. That the letter issued to Chopcinski by Attorney Williamson described in detail the services that she, Respondent and Jones and Associates could provide him to stop the foreclosure process, keep his home, and reduce his monthly mortgage payments, without the need to file for bankruptcy.

34. That the advertising materials marketed Jones and Associate's ability to perform a Securitization Audit of Chopcinski's file to reveal defects, including fraud, robo-signing, improper assignments, and MERS violations that could result in stopping any foreclosure action.

35. That as a consequence, the advertisement urged Chopcinski to call Jones and Associates IMMEDIATELY for a FREE case evaluation.

36. That in February, 2016 after receipt of the letter from Attorney Williamson, Chopcinski went to the office of Attorney Zachary Simonoff (“Attorney Simonoff.”)

37. That Chopcinski did not realize the letter was an advertisement and based on its content was concerned that he was going to lose his home very soon.

38. That Chopcinski had been served with a complaint in foreclosure on January 14, 2016 in the matter of *Wells Fargo Bank NA v. David Chopcinski, et al.*, Lorain County Court of Common Pleas, Case No. 15CV188315, and subsequently retained Attorney Simonoff.

39. That on January 22, 2016 Attorney Simonoff entered his appearance in the foreclosure action on behalf of Chopcinski.

40. That on January 29, 2016 Attorney Simonoff was granted leave to plead or otherwise answer until February 19, 2016.

41. That on February 18, 2016 Attorney Simonoff filed an Answer on behalf of Chopcinski in the foreclosure matter.

42. That upon learning of the advertisement from Chopcinski, Attorney Simonoff reviewed the filings of the Lorain County Recorder’s Office and discovered that there had, in fact, not been any filing made as to Chopcinski with the Recorder, let alone a Notice of Lis Pendens on December 28, 2015.

43. That to the contrary, a Complaint for Foreclosure was filed in the Lorain County Court of Common Pleas on December 28, 2015 in the matter of *Wells Fargo Bank NA v. David Chopcinski, et al.*, Lorain County Court of Common Pleas, Case No. 15CV188315.

44. That the advertisement Attorney Williamson sent to Chopcinski was both factually and legally inaccurate.

45. That upon information and belief, Jones and Associates was the original author of the advertising materials issued to Chopcinski by Attorney Williamson.

46. That upon information and belief, the advertisement issued to Chopcinski by Attorney Williamson was prepared under Respondent's direction and supervision.

47. That a result of the false statements outlined in the letter authored by Jones and Associates, under the direction of Respondent, and issued by Attorney Williamson, Chopcinski was misled by the advertising materials.

COUNT ONE

(ORPC 7.1 – COMMUNICATIONS CONCERNING A LAWYER'S SERVICES)

48. Relator incorporates and realleges the allegations contained in paragraphs 1-47 above as if fully rewritten herein.

49. That on or about January 18, 2016 Attorney Williamson, under Respondent's direct supervision, sent written advertising materials to Chopcinski advising him that a Notice of Lis Pendens had been filed on December 28, 2015 with the Lorain County Recorder's Office and marketed her ability and that of Respondent and Jones and Associates to assist him in stopping the foreclosure process.

50. That the advertisement Attorney Williamson sent to Chopcinski made material representations of both fact and law in an attempt to market her, Respondent's and Jones and Associates' services.

51. That the letter issued to Chopcinski by Attorney Williamson described in detail the services she, Respondent and Jones and Associates could provide him to stop the foreclosure process, keep his home, and reduce his monthly mortgage payments, without the need to file for bankruptcy.

52. That upon learning of the advertisement from Chopcinski, Attorney Simonoff reviewed the filings of the Lorain County Recorder's Office and discovered that there had, in fact, not been any filing made as to Chopcinski with the Recorder, let alone a Notice of Lis Pendens on December 28, 2015.

53. That to the contrary, a Complaint for Foreclosure was filed in the Lorain County Court of Common Pleas on December 28, 2015 in the matter of *Wells Fargo Bank NA v. David Chopcinski, et al.*, Lorain County Court of Common Pleas, Case No. 15CV188315.

54. That in addition to factually misrepresenting the status of any lis pendens filing with the Lorain County Recorder's Office, the advertisements contained several material misrepresentations of law by improperly citing irrelevant sections of the Ohio Revised Code.

55. That the advertisement issued to Chopcinski was authored by Jones and Associates under the direction and supervision of Respondent.

56. That Respondent's use of false, misleading and nonverifiable communications about his and his law firm's legal services constitutes a violation of ORPC 7.1.

COUNT TWO

(ORPC 7.3(c) – SOLICITATION OF CLIENTS: DISCLOSE THE IDENTITY AND SPECIFIC LEGAL NEED OF THE ADDRESSEE)

57. Relator incorporates and realleges the allegations contained in paragraphs 1-56 above as if fully rewritten herein.

58. That all as outlined above, on or about January 18, 2016 Attorney Williamson, under the direction and supervision of Respondent, sent written advertising materials to Chopcinski advising him that a Notice of Lis Pendens had been filed on December 28, 2015 with the Lorain County Recorder's Office and marketed her ability and that of Respondent and Jones and Associates to assist him in stopping the foreclosure process.

59. That the advertisement Attorney Williamson sent to Chopcinski was both factually and legally inaccurate.

60. That upon information and belief, Jones and Associates was the original author of the advertising materials issued to Chopcinski by Attorney Williamson.

61. That upon information and belief, the advertisement issued to Chopcinski by Attorney Williamson was prepared under Respondent's direction and supervision.

62. That a result of the false statements outlined in the letter authored by Jones and Associates, under the direction of Respondent, and issued by Attorney Williamson, Chopcinski was misled by the advertising materials.

63. That Attorney Williamson further failed to accurately and fully disclose the manner in which she, Respondent and Jones and Associates became aware of Chopcinski's identity and specific legal need.

64. That upon learning of the advertisement sent by Attorney Williamson from Chopcinski, Attorney Simonoff reviewed the filings of the Lorain County Recorder's Office and discovered that there had, in fact, not been any filing made as to Chopcinski with the Recorder, let alone a Notice of Lis Pendens on December 28, 2015.

65. That to the contrary, a Complaint for Foreclosure was filed in the Lorain County Court of Common Pleas on December 28, 2015 in the matter of *Wells Fargo Bank NA v. David Chopcinski, et al.*, Lorain County Court of Common Pleas, Case No. 15CV188315.

66. That as a result, Chopcinski had no specific legal need for legal services or assistance from Attorney Williamson, Respondent or Jones and Associates with respect to the filing of a Notice of Lis Pendens.

67. That by failing to accurately and fully disclose the manner in which he became aware of Chopcinski's identity and/or specific legal need, Respondent improperly solicited professional employment in violation of ORPC 7.3(c).

COUNT THREE

(ORPC 7.3(d) – *SOLICITATION OF CLIENTS: VERIFY SERVICE OF CIVIL ACTION*)

68. Relator incorporates and realleges the allegations contained in paragraphs 1-67 above as if fully rewritten herein.

69. That all as outlined above, on or about January 18, 2016 Attorney Williamson, under the direction and supervision of Respondent, sent written advertising materials to Chopcinski advising him that a Notice of Lis Pendens had been filed on December 28, 2015 with the Lorain County Recorder's Office and marketed her ability and that of Respondent and their law firm, Jones and Associates, to assist him in stopping the foreclosure process.

70. That on December 28, 2015 a Complaint for Foreclosure was filed in the Lorain County Court of Common Pleas in the matter of *Wells Fargo Bank NA v. David Chopcinski, et al.*, Lorain County Court of Common Pleas, Case No. 15CV188315.

71. That on January 14, 2016 Chopcinski was served with the complaint in foreclosure.

72. That the advertisement issued to Chopcinski was authored by Jones and Associates under the direction of Respondent.

73. That upon information and belief, Respondent failed to verify that Chopcinski had been served with notice of the foreclosure action prior to sending the advertisement on January 18, 2016 and instead advised of the filing of a Notice of Lis Pendens.

74. That by failing to verify that Chopcinski had been served with notice of the foreclosure action filed against him prior to making a communication soliciting professional employment, Respondent violated ORPC 7.3(d).

COUNT FOUR

(ORPC 5.1(c)(1)&(2)) – *RESPONSIBILITIES OF SUPERVISORY LAWYERS*)

75. Relator incorporates and realleges the allegations contained in paragraphs 1-74 above as if fully rewritten herein.

76. That all as outlined above, on or about January 18, 2016 Attorney Williamson, under the direction and supervision of Respondent, sent written advertising materials to Chopcinski advising him that a Notice of Lis Pendens had been filed on December 28, 2015 with the Lorain County Recorder's Office and marketed her ability and that of Respondent and their law firm, Jones and Associates, to assist him in stopping the foreclosure process.

77. That all as outlined above, the advertisement Attorney Williamson sent to Chopcinski was both factually and legally inaccurate and misleading.

78. That upon information and belief, Jones and Associates was the original author of the advertising materials issued to Chopcinski by Attorney Williamson.

79. That upon information and belief, the advertisement issued to Chopcinski by Attorney Williamson was prepared under Respondent's direction and supervision.

80. That a result of the false statements outlined in the letter authored by Jones and Associates, under the direction of Respondent, and issued by Attorney Williamson, Chopcinski was misled by the advertising materials.

81. That upon information and belief, Respondent had managerial and/or direct supervisory authority within Jones and Associates, the law firm in which Attorney Willimason practiced, and had knowledge of the false nature of the advertising materials.

82. That Respondent failed to take reasonable remedial action to avoid the consequences of Attorney Williamson's conduct.

83. That as a result of her conduct, Attorney Williamson is alleged to have committed multiple violations of the Ohio Rules of Professional Conduct and disciplinary proceedings have been initiated by Relator with the Board in the matter of *LCBA v. Anisa A. Williamson*, Case No. 2016-031.

84. That by directing Attorney Williamson's conduct where he had managerial and/or supervisory authority within Jones and Associates and by failing to take reasonable remedial action to avoid or mitigate Attorney Williamson's specific violations of the Ohio Rules of Professional Conduct, Respondent violated ORPC 5.1(c)(1)&(2) and liability for Attorney Williamson's misconduct may be imputed to Respondent.

COUNT FIVE

(ORPC 8.1(b) & GOV. BAR R V§9(G) – *DUTY TO COOPERATE*)

85. Relator incorporates and realleges the allegations contained in paragraphs 1-84 above as if fully rewritten herein.

86. That Respondent failed to cooperate with the investigation by The Committee.

87. That examples of Respondent's failure to cooperate include, but are not limited to:

- A. Respondent failed to timely respond in writing within twenty (20) days of Attorney Dooley's letter of inquiry;
- B. Respondent failed to cooperate with Attorney Williamson's repeated requests for additional information necessary to respond to The Grievance;
- C. Respondent has never provided a response to The Grievance.

88. That Respondent's failure to cooperate in a disciplinary investigation constitutes violations of ORPC 8.1(b) and Gov. Bar R V§9(G).

WHEREFORE, pursuant to Gov. Bar R V, Relator alleges that Respondent, Attorney Ken Jones, has violated the Ohio Rules of Professional Conduct and the Ohio Rules for the Government of the Bar.

As such, Relator respectfully requests that the Board proceed accordingly; certify this matter for prosecution; and allow this matter to progress forthwith.

Respectfully submitted,



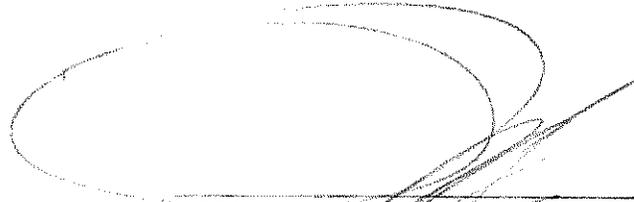
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CHAIRMAN'S AUTHORIZATION

The undersigned, Richard Mellott, Chairman of the Lorain County Bar Association Legal Ethics and Grievance Committee, hereby certifies that Attorney D. Chris Cook, Bar Counsel, is duly authorized to represent Relator in the premises and has accepted the responsibility of prosecuting this complaint to its conclusion. After investigation, Relator believes reasonable cause exists to warrant a hearing on such

Certified Complaint *in re*: KEN JONES

Dated: August 11th, 2016.

A large, stylized handwritten signature in black ink, appearing to read 'Richard Mellott', is written over a horizontal line.

RICHARD MELLOTT
LCBA Legal Ethics and Grievance
Committee

PROOF OF SERVICE

The undersigned represents that a copy of the foregoing Certified Complaint was served upon the following via Fed-Ex and/or Regular U.S. Mail this 12th day of August, 2016:

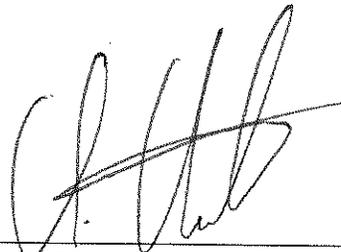
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