

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

RECEIVED

NOV 23 2016

In re:

BOARD OF PROFESSIONAL CONDUCT

Complaint against

Robert Hansford Hoskins, Esq.
Law Offices of Robert H. Hoskins
1040 Richwood Ave
Cincinnati, Ohio 45208

No. 16 - 058

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

NOV 04 2016

Relator.

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 Rules of Professional Conduct and the Supreme Court Rules for the Government of the Bar of Ohio.

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 on 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 in Ohio. Respondent has remained suspended from the practice of law in Ohio at all times since April 23, 2015.
- (b) By order filed November 5, 2015 in Case No. 2015-0481, the Supreme Court found respondent in contempt for his failure to obey the Court's April 23, 2015 suspension order. Thereafter, by order filed June 28, 2016, the Court imposed a fine against respondent in the total amount of \$600 for engaging in the practice of law on three occasions while his license was suspended. The Court ordered respondent to pay the fine by cashier's check or money order within 30 days from the date of the court's order. As of the date of the filing of this Complaint, respondent has not paid the \$600 fine ordered by the Court. *See Disciplinary Counsel v. Hoskins*, 2016-Ohio-4594.

(c) By opinion and order filed June 28, 2016 in Case No. 2015-1003, the Supreme Court indefinitely suspended respondent from the practice of law. In addition to requiring respondent to comply with the requirements set forth in Gov. Bar R. V(25), the Court ordered that respondent's reinstatement to the practice of law will be conditioned upon his completion of a CLE course focused on law office management, his passage of the Multistate Professional Responsibility Examination and his payment of the costs of the proceeding. *See Cincinnati Bar Assn. v. Hoskins*, ____ Ohio St.3d ____, 2016-Ohio-4576.

(d) On October 10, 2016, the Board of Professional Conduct filed its Findings of Fact, Conclusions of Law and Recommendation in *In re Complaint against Robert Hansford Hoskins*, Board Case 2015-077, in which the Board recommended that respondent be permanently disbarred from the practice of law in Ohio. The Board's Report and the record of its proceedings have been docketed with the Supreme Court as Case No. 2016-1496.

4. In its April 23, 2015 suspension order in Case No. 2015-0481, the Supreme Court of Ohio specifically ordered respondent, among other things, to notify his clients in writing of his suspension from the practice of law, to return all papers or other property pertaining to each client's matter, and to refund all unearned attorney fees and unexpended advanced costs to his clients within 30 days of the Court's order.
5. Howard W. McClain retained respondent on March 27, 2015 to prepare and file a Chapter 7 bankruptcy proceeding on his behalf and to represent him in that proceeding.

6. McClain paid respondent a total of \$1,850 in advanced attorney fees and for the filing fee in the bankruptcy proceeding. McClain paid these fees to respondent in three separate installments, with \$250 paid on March 27, 2015; an additional \$1,000 paid on April 11, 2015; and the final installment of \$600 paid on April 30, 2015.
7. Prior to his payment to respondent of the final \$600 installment on April 30, 2015, McClain provided respondent with all of the information and documentation that respondent needed to prepare the bankruptcy petition on McClain's behalf.
8. Unbeknownst to McClain, the third installment of \$600 was paid to respondent one week after respondent was suspended from the practice of law, effective April 23, 2015, in Supreme Court Case No. 2015-0481.
9. In late July or early August 2015, McClain was served with the summons and complaint in a collection action filed in the Brown County Court of Common Pleas entitled *Cach, LLC v. Howard W. McClain*, Case No. CVH 2015-0466 ("*Cach LLC v. McClain* action"). This action was based upon a credit card debt that McClain owed to Bank of America, N.A.
10. McClain met with respondent at his law office on August 17, 2015 to discuss the summons and complaint in the *Cach LLC v. McClain* action and the status of his bankruptcy proceeding. Respondent printed out a document from his computer and instructed McClain to file it with the Clerk's Office of the Brown County Court of Common Pleas. Respondent told McClain that the document would delay the case long enough for respondent to file the bankruptcy petition on his behalf. Respondent promised McClain that he would file the bankruptcy petition within 60 days of their August 17, 2015 meeting.

11. At respondent's direction, McClain immediately took the document respondent had given to him, which was McClain's *pro se* answer to the complaint, and filed it with the Clerk's Office.
12. Between August 17, 2015 and October 1, 2015, McClain repeatedly telephoned respondent at both his law office and on his cell phone to inquire about the status of his bankruptcy proceeding and to discuss a status conference that was scheduled for October 5, 2015 in the *Cach, LLC v. McClain* action. On each occasion, McClain left a voicemail message asking respondent to return his call. During this same time period, McClain also sent multiple text messages to respondent inquiring about the status of his bankruptcy proceeding. He also went to respondent's law office in Georgetown, Ohio to speak with respondent about his bankruptcy and the collection action against him. However, respondent failed to return any of McClain's telephone messages or text messages and was not present when McClain attempted to meet with him at his law office.
13. McClain appeared *pro se* at the October 5, 2015 telephonic status conference in the *Cach, LLC v. McClain* action and explained his financial situation to the court and to counsel for Cach, LLC. The court set a further telephonic status conference for December 10, 2015.
14. After the October 5, 2015 status conference, McClain continued his efforts to contact respondent about his bankruptcy proceeding, sending text messages and leaving voicemail messages for respondent on both his law office telephone and his cell phone. Respondent did not contact McClain or otherwise respond to his messages.

15. In early October 2015, McClain was served with a summons and complaint in a second collection action. The action, entitled *Portfolio Recovery Associates, LLC v. Howard W. McClain*, Case No. CVF 1500389, was filed in the Brown County Municipal Court and was based on a credit card debt that McClain owed to Citibank, N.A.
16. Respondent never filed the bankruptcy petition on behalf of McClain.
17. Respondent never refunded to McClain any portion of the \$1,850 that he had received as advanced attorney fees and as the filing fee for the bankruptcy proceeding.
18. Respondent never informed McClain, either orally or in writing, that he had been suspended from the practice of law effective April 23, 2015 or that he was not entitled to practice law in the State of Ohio or to represent McClain in a bankruptcy proceeding in the U.S. Bankruptcy Court for the Southern District of Ohio.
19. McClain did not learn about respondent's suspension from the practice of law until January 21, 2016, when he was told by his roommate, who had spoken with another attorney, that respondent was suspended from the practice of law.
20. On December 15, 2015, Cach, LLC voluntarily dismissed its collection action in Case No. CVH 2015-0466 because McClain did not have sufficient non-exempt assets from which his debt to Cash, LLC could be collected.
21. On May 19, 2016, the Brown County Municipal Court in Case No. CVF 1500389 granted Portfolio Recovery Associates, LLC's motion for judgment on the pleadings and entered a judgment against McClain in the amount of \$5,179.01. To date, McClain has not been able to pay any portion of the judgment against him.

22. McClain has not been able to hire a new attorney to file a bankruptcy proceeding on his behalf because he doesn't have enough money to pay the attorney fees and filing fee for the proceeding in light of respondent's failure to refund any portion of \$1,850 in attorney fees and filing fee that McClain paid to him in March and April 2015.
23. On April 27, 2016, relator mailed a Letter of Inquiry ("LOI") to respondent by certified mail, return receipt requested, addressed to him at the address that he has registered with the Supreme Court's Office of Attorney Services as both his business address and his residence address, i.e., 1040 Richwood Avenue, Cincinnati, Ohio 45208. The Letter of Inquiry asked respondent to reply to the allegations of McClain's grievance and to respond to relator's additional questions and requests for copies of specified documents.
24. On May 4, 2016, relator's LOI was returned to relator by the U.S. Postal Service with a label stating "Return to Sender – Not Deliverable as Addressed – Unable to Forward."
25. Thereafter, on May 19, 2016, relator sent a second Letter of Inquiry ("Second LOI") to respondent by first-class mail addressed to him at his Richwood Avenue address. Relator also emailed a copy of the Second LOI to respondent at rhoskinslaw@gmail.com, the email address that he has registered with the Supreme Court's Office of Attorney Services. In the email to respondent, relator asked respondent to immediately respond to the LOI and, additionally, to provide relator and the Office of Attorney Services with an updated address at which he could be contacted if the Richwood Avenue address was no longer valid.

26. On May 25, 2016, respondent replied to relator by email, confirming that he had received the emailed version of relator's Second LOI and requesting that further communications be made with him by email because his work schedule limited his ability to regularly pick up his mail.
27. Respondent did not reply to McClain's grievance or to the questions and document requests included in relator's LOI and Second LOI.
28. By the foregoing conduct, respondent violated 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 failing to notify McClain that he had been suspended from the practice of law on April 23, 2015 and that he was not eligible to practice law in the State of Ohio or to represent McClain with respect to the bankruptcy proceeding for which he had been retained, respondent violated Prof. Cond. R. 1.4(a)(3) [a lawyer shall keep the client reasonably informed by the status of the matter];
 - (b) By failing to respond to McClain's many telephone calls and text messages seeking information about the status of his bankruptcy proceeding, 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 accepting the third installment payment of \$600 from McClain on April 30, 2015, one week after he had been suspended from practice by the Supreme Court, respondent collected an illegal fee in violation of Prof. Cond. R. 1.5(a) [a lawyer shall not make an agreement for, charge or collect an illegal or clearly excessive fee];

- (d) By failing to notify McClain that he had been suspended from the practice of law effective April 23, 2015 and by failing to refund to McClain the \$1,850 in advanced attorney fees and filing fee for McClain's bankruptcy proceeding in violation of the Supreme Court's suspension order in Case No. 2015-0481, respondent violated Prof. Cond. R. 3.4(c) [a lawyer shall not knowingly disobey an obligation under the rules of a tribunal];
- (e) By failing to refund to McClain the advanced attorney fees he had been paid to represent McClain in a bankruptcy proceeding that he never filed on his behalf, respondent violated Prof. Cond. R. 1.15(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 failing to refund to McClain the advanced filing fee that he received for the bankruptcy petition that was never filed on McClain's behalf, respondent violated Prof. Cond. R. 1.15(d) [a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive].
- (g) By preparing a *pro se* answer for McClain to file with the Brown County Court of Common Pleas and by assuring McClain that he would file the bankruptcy petition on his behalf within 60 days of their August 17, 2015 meeting when, in reality, he was suspended from the practice of law, respondent engaged in the practice of law while suspended and falsely held himself out to McClain as entitled to practice law in violation of Prof. Cond. R. 5.5(a) [a lawyer shall not practice law in a jurisdiction in violation of the regulation of the profession in that jurisdiction];

- (h) By failing to respond to relator's Letters of Inquiry regarding the grievance filed against him by McClain, respondent violated Prof. Cond. R. 8.1(b) [a lawyer shall not knowingly fail to respond to a demand for information from a disciplinary authority];
- (i) By failing to respond to relator's Letters of Inquiry regarding the grievance filed by McClain, respondent violated Gov. Bar R. V(9)(G) [a lawyer shall not neglect or refuse to assist or testify in an investigation or hearing].

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.

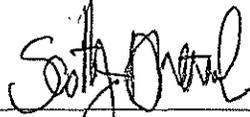


Scott J. Drexel (0091467)
Disciplinary Counsel
250 Civic Center Drive, Suite 325
Columbus, Ohio 43215-7411
(614) 461-0256
(614) 461-7205 – fax
scott.drexel@sc.ohio.gov

CERTIFICATE

The undersigned, Scott J. Drexel, Disciplinary Counsel, of the Office of Disciplinary Counsel of the Supreme Court of Ohio hereby certifies that I am duly authorized to represent relator in this proceeding and that I have 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: October 26, 2016



Scott J. Drexel
Disciplinary Counsel