

BEFORE THE BOARD OF PROFESSIONAL CONDUCT
THE SUPREME COURT OF OHIO

RECEIVED

AUG 18 2015

In Re:

Complaint against

BOARD OF PROFESSIONAL CONDUCT

Eric Lee LaFayette (0077662)
415 East Broad Street, Suite 113
Columbus, Ohio 43215

15 - 052 a 42a

No. _____

Respondent,

COMPLAINT AND CERTIFICATE

Columbus Bar Association
175 South Third Street, Suite 1100
Columbus, Ohio 43215-5134

(Rule V of the Supreme Court Rules for
the Government of the Bar of Ohio.)

FILED

Relator.

AUG 27 2015

Now comes the Relator and alleges that Eric Lee LaFayette (Registration No. 0077662), an Attorney at Law, duly admitted to the practice of law in this State is guilty of the following misconduct:

1. Respondent, Eric Lee LaFayette, was admitted to the practice of law in the state of Ohio on November 11, 2004.
2. Respondent is subject to the Ohio Rules of Professional Conduct and the Rules for the Government of the Bar of Ohio.
3. Respondent is, and at all relevant times was, a sole practitioner in Franklin County, Ohio.

COUNT ONE (Rapalo Grievance)

4. In early 2006, Abel and Martha Rapalo retained respondent to legalize Mr. Rapalo's presence in the United States.
5. Mr. Rapalo, a citizen of Honduras, entered the United States, without authorization, on December 30, 2000.

6. He later met Martha Rapalo, a United States citizen, and they married in June 2003.
7. On February 8, 2006, respondent filed a petition, on behalf of the Rapalos, with the Citizenship and Immigration Services to have Mr. Rapalo classified as an immediate relative of a United States citizen.
8. The petition was approved on July 6, 2006.
9. After researching the matter, respondent filed an application for a green card based on his belief that Mr. Rapalo was eligible under the Legal Immigration Family Equity (LIFE) Act.
10. The LIFE Act permits a person to pay a \$1,000 fine and apply for a green card provided that the person has been in the United States continually since December 20, 2000, and filed with Immigration prior to April 30, 2001.
11. Mr. Rapalo met neither of these requirements. He entered the United States on December 30, 2000, and did not file with Immigration before April 30, 2001. His application for a green card was rejected.
12. Respondent then filed an application for Temporary Protective Status (TPS) and stated on the application form that Mr. Rapalo was from Honduras and had entered the United States on December 30, 2000.
13. In order to be eligible for TPS, the law requires a Honduran to have entered the United States prior to 1999, a requirement that Mr. Rapalo clearly did not meet.
14. After receiving a Notice of Intent to Deny, respondent went forward and still argued that Mr. Rapalo was somehow eligible for TPS.
15. Respondent then filed an appeal with the administrative appellate agency.

16. The appeal was denied because of lack of eligibility, and deportation proceedings against Mr. Rapalo began.
17. During the failed TPS proceedings, respondent took no further action regarding the petition to classify an alien relative. The petition was deemed abandoned and revoked because respondent took no action within one (1) year of approval at the United States Department of State.
18. As a result, Mr. Rapalo was no longer eligible for a green card under any circumstance.
19. After Mr. Rapalo was put into proceedings for removal, respondent re-filed the petition to classify an alien relative, which was again approved, and sent to the Department of State for processing.
20. Respondent then advised Mr. Rapalo that his best option in the deportation proceeding was voluntary departure.
21. Respondent did not file any waivers for which Mr. Rapalo was potentially eligible.
22. Mr. Rapalo departed the United States on May 22, 2011, leaving behind his wife and their two daughters, who were five-years-old and six-weeks-old at the time.
23. On June 6, 2013, Martha Rapalo filed a grievance with relator's office.
24. As set forth in Count One, respondent's conduct violated the following Ohio Rules of Professional Conduct:

Prof.Cond.R. 1.1 [a lawyer shall provide competent representation to a client];

Prof.Cond.R. 1.3 [a lawyer shall act with reasonable diligence and promptness in representing a client.

Prof.Cond.R. 3.1 [a lawyer shall not bring or defend a proceeding unless there is a basis in law and fact for doing so that is not frivolous].

COUNT TWO (Coles-Morgan Grievance)

25. Alpha Coles-Morgan retained respondent on May 1, 2013, and paid him \$650 to file a Chapter 13 bankruptcy in order to stop the sale of her home, which was scheduled for a sheriff's sale on May 10, 2013.
26. The sheriff's sale was the result of a foreclosure action brought by JPMC Specialty Mortgage LLC, against Ms. Coles-Morgan, in the Franklin County Court of Common Pleas, case number 11-CV-004483. Respondent did not represent Ms. Coles-Morgan in the foreclosure matter.
27. There is no indication that respondent met with Ms. Coles-Morgan before he agreed to represent her in the bankruptcy case.
28. At the time he was retained, respondent did not have malpractice insurance.
29. Respondent does not have the required notice signed by Ms. Coles-Morgan, acknowledging that she was aware of respondent's lack of malpractice insurance.
30. Though Ms. Coles-Morgan requested a Chapter 13 bankruptcy, respondent filed a Chapter 7 bankruptcy petition on May 9, 2013.
31. Ms. Coles-Morgan signed the bankruptcy petition but did not sign any of the other filed documents. Petitioner's signature is mandatory for these bankruptcy filings.
32. After filing the bankruptcy petition on May 9, 2013, respondent took no effective action to stop the sheriff's sale. Ms. Coles-Morgan's home was sold on May 10, 2013.
33. The order confirming the sale was later vacated after the plaintiff, JPMC, filed a motion notifying the court of the pending bankruptcy.
34. On May 10, 2013, the bankruptcy court sent respondent a notice of deficiency, due to incomplete and erroneous information in the filings.

35. On May 22, 2013, respondent filed the amended schedules, including Ms. Coles-Morgan's forged signatures.
36. Respondent failed to appear at the first 341 hearing (Meeting of Creditors), so the Trustee continued the hearing.
37. Respondent represented Ms. Coles-Morgan until September 3, 2013, when a discharge was issued in the case.
38. As set forth in Count Two, respondent's conduct violated the following Ohio Rules of Professional Conduct:

Prof.Cond.R. 1.1 [a lawyer shall provide competent representation to a client];

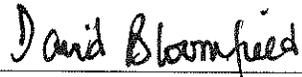
Prof.Cond.R. 1.4(c) [a lawyer shall inform a client if the lawyer does not maintain professional liability insurance and obtain a signed acknowledgment of that notice from the client];

Prof.Cond.R. 3.3(a)(1) [a lawyer shall not knowingly make or fail to correct a false statement of fact or law to a tribunal];

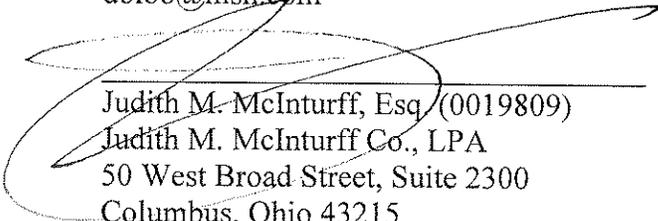
Prof.Cond.R. 3.3(a)(3) [a lawyer shall not knowingly offer evidence that the lawyer knows to be false].

Wherefore, Relator prays that respondent be found to have violated the Ohio Rules of Professional Conduct and the Ohio Rules for the Government of the Bar and that he be appropriately sanctioned.

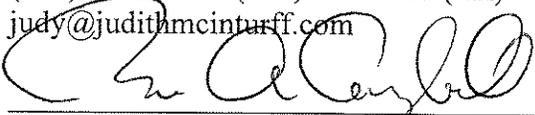
Respectfully submitted,



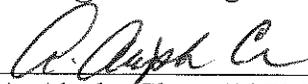
David S. Bloomfield, Esq. (0006701)
Bloomfield & Kempf
175 South Third Street, Suite 505
Columbus, Ohio 43215
(614) 224-9221 / (614) 224-9464 (fax)
dbloo@msn.com



Judith M. McInturff, Esq. (0019809)
Judith M. McInturff Co., LPA
50 West Broad Street, Suite 2300
Columbus, Ohio 43215
(614) 464-2235 / (614) 464-3823 (fax)
judy@judithmcinturff.com



Bruce A. Campbell (0010802)
Bar Counsel
Columbus Bar Association
175 South Third Street, Suite 1100
Columbus, Ohio 43215-5134
(614) 340-2053 / (614) 221-4850 (fax)
bruce@cbalaw.org



A. Alysha Clous (0070627)
Assistant Bar Counsel
Columbus Bar Association
175 South Third Street, Suite 1100
Columbus, Ohio 43215-5134
(614) 340-2034 / (614) 221-4850 (fax)
alysha@cbalaw.org

COUNSEL FOR RELATOR

CERTIFICATE

The undersigned Chair of the Certified Grievance Committee of the Columbus Bar Association hereby certifies that David S. Bloomfield, Esq., Judith M. McInturff, Esq., Bruce A. Campbell, Esq. and A. Alysha Clous, Esq., are duly authorized to represent Relator in the premises and 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: 11/11/14

Signed: John C. Hartranft

John C. Hartranft (0023037)

Chair of the Certified Grievance Committee

(Rule V of the Supreme Court Rules for the Government of the Bar of Ohio.)

Section (11)

(11) *The complaint; Where Filed; By Whom Signed.* A complaint shall mean a formal written complaint alleging misconduct or mental illness of one who shall be designated as the Respondent. Six (6) copies of all such complaints shall be filed in the office of the Secretary of the Board. Complaints filed by a Certified Grievance Committee shall not be accepted for filing unless signed by one or more members of the Bar of Ohio in good standing, who shall be counsel for the Relator, and supported by a certificate in writing signed by the President, Secretary of Chairman of the Certified Grievance Committee, which Certified Grievance Committee shall be deemed the Relator, certifying that said counsel are duly authorized to represent said Relator in the premises and have accepted the responsibility of prosecuting the complaint to conclusion. It shall constitute the authorization of such counsel to represent said Relator in the premises as fully and completely as if designated and appointed by order of the Supreme Court of Ohio with all the privileges and immunities of an offices of such Court. The complaint may also, but need not, be signed by the person aggrieved.

Complaints filed by the Disciplinary Counsel shall be filed in the name of Disciplinary Counsel as Relator.

Upon the filing of a complaint with the Secretary of the Board, Relator shall forward a copy thereof to Disciplinary Counsel, to the Certified Grievance Committee of the Ohio State Bar Association, to the local bar association and to any Certified Grievance Committee serving the county of counties in which the Respondent resides and maintains his office and for the county from which the complaint arose.