

ORIGINAL

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

In Re: : **11 - 1401**

Complaint against : **Case No. 11-013**

David L. Martin : **Findings of Fact,**
Attorney Reg. No. 0039953 : **Conclusions of Law and**
: **Recommendation of the**

Respondent **Board of Commissioners on**
Toledo Bar Association **Grievances and Discipline of**
the Supreme Court of Ohio

Relator

FILED:
AUG 15 2011:
CLERK OF COURT
SUPREME COURT OF OHIO

On March 15, 2011, a hearing panel was assigned to this matter. The panel consisted of Commissioners Lawrence R. Elleman, Martha Butler Clark and Keith A. Sommer, chair. None of the panel members is from the appellate district from which the complaint arose or served as a member of the probable cause panel that considered this matter. This matter was submitted to the hearing panel as a consent to discipline matter, pursuant to BCDG Proc. Reg. 11. Within 60 days after the appointment of the hearing panel, the panel chair granted the parties a 30-day extension pursuant to BCGD Proc. Reg. 11(B) to file a written agreement. A timely agreement was entered into on June 7, 2011, and filed with the Board on June 9, 2001, which was within the 30-day extension granted by the panel chair.

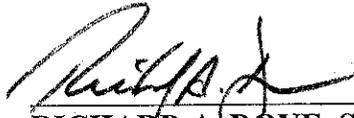
~~The hearing panel finds that the agreement conforms to BCGD Proc. Reg. 11, and~~
recommends acceptance of the agreement for discipline by consent, including the statement of facts and the violation of the Gov. Bar R. V, Section 4(G) (Duty to Cooperate) and the Prof. Cond.

R. 8.1. The panel members further concur in the agreed sanction of a one-year stayed suspension, with probation and monitoring agreed upon by Respondent and Relator.

Board Recommendation

Pursuant to Gov. Bar Rule V, Section 6(L), the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio considered this matter on August 12, 2011. The Board voted to accept and adopt the agreement entered into by Relator and Respondent. The agreement sets forth the misconduct and the sanction of a one-year stayed suspension, with probation and the appointment of a monitoring lawyer agreed to by the parties, and that is the recommendation of the Board. The Board further recommends that the cost of these proceedings be taxed to Respondent in any disciplinary order entered, so that execution may issue.

Pursuant to the order of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio, I hereby certify the foregoing Findings of Fact, Conclusions of Law, and Recommendation as those of the Board.



**RICHARD A. DOVE, Secretary
Board of Commissioners on
Grievances and Discipline of
the Supreme Court of Ohio**

FILED

JUN 09 2011

BOARD OF COMMISSIONERS
ON GRIEVANCES & DISCIPLINE

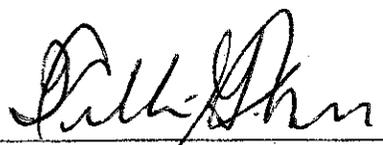
BEFORE THE BOARD OF COMMISSIONERS
ON GRIEVANCES AND DISCIPLINE OF
THE SUPREME COURT OF OHIO

In re:)	Case No. 11-013
)	
Toledo Bar Association)	
)	
Relator)	<u>Agreement for Discipline by Consent</u>
)	
-vs-)	
)	
David L. Martin)	
)	
Respondent)	

Relator, the Toledo Bar Association, and Respondent, David L. Martin, desiring to enter into an agreement for discipline by consent pursuant to Gov. Bar Rule V, Section 11(A)(3)(c) and BCGD Proc Reg. 11, hereby agree as follows:

1. This agreement is conditioned upon its acceptance by the Board of Commissioners on Grievances and Discipline. If it is not accepted under the above Rules and Regulations, it shall be of no effect.
2. The facts as stated in the agreed statement of facts attached hereto as Appendix I are true.
3. Respondent admits that the facts in Appendix I constitute misconduct as stated therein.
4. Respondent admits that he has committed the misconduct stated in the complaint.
5. An appropriate, agreed disciplinary sanction for the misconduct is a suspension of Respondent's license to practice law for a period of one year, with the entire suspension stayed.
6. Respondent was admitted to practice law in 1988 and has no history of disciplinary action.
7. Following retention of counsel by Respondent, he has cooperated in the disciplinary process.
8. Respondent has acknowledged the wrongful nature of his conduct.

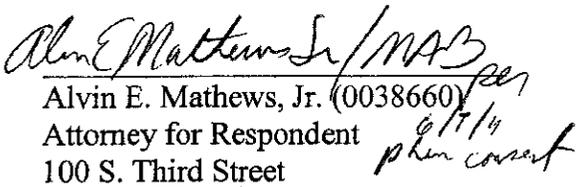
June 7, 2011



William G. Meyer (00055167)
Attorney for Relator
405 Madison Avenue, Suite 1000
Toledo, Ohio 43604
PH: (419) 246-5722
FAX: (419) 246-5764
Email: wgmeyer@att.net



Michael A. Bonfiglio (0029478)
Attorney for Relator
311 N. Superior Street
Toledo, Ohio 43604
PH: (419) 242-9363
FAX: (419) 242-36215
Email: mbonfiglio@toledobar.org



Alvin E. Mathews, Jr. (0038660)
Attorney for Respondent
100 S. Third Street
Columbus, Ohio 43215
PH: (614) 227-2312
FAX: (614) 227-2390
Email: amathews@bricker.com



David Martin
Respondent
P. O. Box 503
Sylvania, Ohio 43560-0503
PH: (419) 283-0468
Email: martinatty@yahoo.com

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

FILED

JUN 09 2011

BOARD OF COMMISSIONERS
ON GRIEVANCES & DISCIPLINE

In re:) Case No. 11-013
)
Toledo Bar Association)
)
Relator) Agreed Statement of Facts and
) Violations (Appendix I to Consent
-vs-) to Discipline Agreement)
)
David L. Martin)
)
Respondent)

RELATOR

The Toledo Bar Association, Relator, through its Certified Grievance Committee, is authorized to file this Action pursuant to Rule V, Section (3)(C) and Rule V, Section (4) of the Supreme Court Rules for the Government of the Bar of Ohio.

RESPONDENT

Respondent David L. Martin is an attorney-at-law duly admitted to practice law in the State of Ohio on the 16th day of May, 1988. He is registered with the Supreme Court under attorney registration number 0039953. He is subject to the Supreme Court Rules for the Government of the Bar of Ohio. He has been regularly and continuously engaged in the private practice of law in Toledo, Ohio since 1988.

COUNT I (Furey & Risk)

1. Anne A. Furey and Gregory A. Risk met with Respondent on November 15, 2007, to discuss preparation of Wills and other estate planning issues. Respondent agreed to prepare Wills and specified a fee of Three Hundred Fifty Dollars (\$350.00).

2. When the Wills were not immediately received, Ms. Furey and Mr. Risk filed a grievance with the Toledo Bar Association. Respondent later reimbursed the \$350.00 fee to Ms. Furey and Mr. Risk.

3. Respondent was first notified by Margaret G. Beck, Co-Chair, Grievance Investigation Committee, of the filing of the grievance by letter dated May 29, 2008. Edward Fischer was appointed to investigate the Complaint and a written narrative response was required to be returned to the investigator within fourteen (14) days of that letter. TBA Furey/Risk Grievance Letter, attached as Exhibit A.

4. Respondent did not respond and was notified by Edward Fischer by letter dated June 20, 2008, of the need to provide the narrative, but did not provide it, and on July 18, 2009, the investigation report was prepared without it. TBA 2nd Furey/Risk Grievance Letter, attached as Exhibit B. Though he did not provide the narrative response, Respondent did appear at a Grievance Committee show cause hearing on July 7, 2009, to explain his conduct related to the matters herein.

5. After the formal complaint was filed against Respondent for his representation of Ms. Furey and Mr. Risk, and further discovery was conducted by the parties, Respondent explained to Relator's satisfaction that Respondent's representation of Ms. Furey and Mr. Risk did not violate the Rules of Professional Conduct.

COUNT II (Black)

6. In October or November of 2000, Respondent was hired to assist in the criminal defense of Ryan Black, including liquidating various personal and real property belonging to Mr. Black to facilitate payment of legal fees relating to the defense of felony drug charges in the Hancock County Court of Common Pleas. Ryan Black filed a grievance with the Toledo Bar Association when the Respondent failed to provide an accounting.

7. Respondent was first notified by Margaret G. Beck, Co-Chair, Grievance Investigation Committee, of the filing of the grievance by letter dated July 8, 2008. Robert Bahret was appointed to investigate the grievance and a written narrative response was required to be returned to the investigator within fourteen (14) days of that letter. TBA Black Grievance Letter, attached as Exhibit C.

8. Respondent did not respond and was notified by Robert Bahret by letter dated July 11, 2008, of the need to provide the narrative but did not provide it and documentation related to the grievance. TBA 2nd Black Grievance Letter, attached as Exhibit D. Though he did not provide the narrative response, Respondent did appear at a Grievance Committee show cause hearing on July 7, 2009, to explain his conduct related to the matters herein.

9. After the formal complaint was filed against Respondent for his representation of Mr. Black, and further discovery was conducted by the parties, Respondent explained to Relator's satisfaction that Respondent's representation of Mr. Black did not violate the former Code of Professional Responsibility or the Rules of

Professional Conduct.

COUNT III (Cunningham)

10. John D. Cunningham retained Respondent on June 4, 2007, and paid him a retainer of One Thousand Five Hundred Dollars (\$1,500.00). Mr. Cunningham terminated representation on December 2007, and requested a refund of the unused portion of his retainer. On March 5, 2008, Respondent sent Mr. Cunningham a check for Seven Hundred Sixty Dollars (\$760.00) but on January 24, 2009, Mr. Cunningham filed a grievance with the Toledo Bar Association.

11. Respondent was first notified by Karen A. Novak, Co-Chair, Grievance Investigation Committee, of the filing of the grievance by letter dated February 12, 2009. Jane E. Roman was appointed to investigate the Complaint and a written narrative response was required to be returned to the investigator within fourteen (14) days of that letter. TBA Cunningham Grievance Letter, attached as Exhibit E.

12. Respondent did not respond and was notified by Jane E. Roman by letter dated August 19, 2009, of the need to provide the narrative, but did not provide it, and the investigation report was prepared without it. TBA 2nd Cunningham Grievance Letter, attached as Exhibit F. Though he did not provide the narrative response, Respondent did appear at a Grievance Committee show cause hearing on June 2, 2010, to explain his conduct related to the matters herein.

13. After the formal complaint was filed against Respondent for his representation of Mr. Cunningham, and further discovery was conducted by the parties, Respondent explained to Relator's satisfaction that Respondent's representation of Mr.

Cunningham did not violate the Rules of Professional Conduct.

COUNT IV (Donbrosky)

14. Abigail Donbrosky retained Respondent in January of 2008, to file a Chapter 7 bankruptcy on her behalf, and paid a retainer of One Thousand Five Hundred Dollars (\$1,500.00). After having no contact with the Respondent for a period of time, Ms. Donbrosky filed a grievance with the Toledo Bar Association on July 6, 2009.

15. Respondent was first notified by Karen A. Novak, Co-Chair, Grievance Investigation Committee, of the filing of the grievance by letter dated July 16, 2009. Kimberly A. Conklin was appointed to investigate the grievance and a written narrative response was required to be returned to the investigator within fourteen (14) days of that letter. TBA Donbrosky Grievance Letter, attached as Exhibit G.

16. On August 2, 2009, Respondent wrote to the investigator and asked for an additional 10 days to respond, and sent more than one e-mail stating that his response would be forthcoming. Respondent did not provide the narrative, and on October 1, 2009, the investigation report was prepared without it. TBA 2nd Donbrosky Grievance Letter, attached as Exhibit H. Though he did not provide the narrative response, Respondent did appear at a Grievance Committee show cause hearing on June 2, 2010, to explain his conduct related to the matters herein.

17. After the formal complaint was filed against Respondent for his representation of Ms. Donbrosky, and further discovery was conducted by the parties, Respondent explained to Relator's satisfaction that Respondent's representation of Ms. Donbrosky did not violate the Rules of Professional Conduct.

COUNT V (Pratt)

18. Michelle Pratt retained Respondent on July 1, 2008, to represent her in foreclosure actions on her primary residence and rental property and in a proposed bankruptcy. Respondent was paid a retainer of One Thousand Five Hundred Dollars (\$1,500.00). After becoming dissatisfied with the progress of the matter, Ms. Pratt filed a grievance with the Toledo Bar Association on July 31, 2009.

19. Respondent was first notified by Jonathan B. Cherry, Bar Counsel, of the filing of the grievance by letter dated August 14, 2009. Korleen Biolecki was appointed to investigate the grievance and a written narrative response was required to be returned to the investigator within fourteen (14) days of that letter. TBA Pratt Grievance Letter, attached as Exhibit I.

20. Respondent did not respond and was notified by Korleen Biolecki by letter dated September 14, 2009, of the need to provide the narrative, but did not provide it, and on October 6, 2009, the investigation report was prepared without it. TBA 2nd Pratt Grievance Letter, attached as Exhibit J. Though he did not provide the narrative response, Respondent did appear at a Grievance Committee show cause hearing on June 2, 2010, to explain his conduct related to the matters herein.

21. On October 6, 2009, Respondent refunded the entire \$1,500.00 retainer to Ms. Pratt.

22. After the formal complaint was filed against Respondent for his representation of Ms. Pratt, and further discovery was conducted by the parties, Respondent explained to Relator's satisfaction that Respondent's representation of Ms.

Pratt did not violate the Rules of Professional Conduct.

VIOLATIONS

Respondent's failure to cooperate in the investigations in each of the Counts set forth above, the actions or inactions, are both violations of the Rules for the Government of the Bar V(4)(G) and Ohio Rule of Professional Conduct 8.1. Those rules state:

Rule V (4) (G) of the Rules for the Government of the Bar:

(G) *Duty to Cooperate.* The Board, the Disciplinary Counsel, and the president, secretary, or chair of a Certified Grievance Committee may call upon any justice, judge, or attorney to assist in an investigation or testify in a hearing before the Board or a panel for which provision is made in this rule, including mediation and ADR procedures, as to any matter that he or she would not be bound to claim privilege as an attorney at law. No justice, judge, or attorney shall neglect or refuse to assist or testify in an investigation or hearing.

Ohio Rule of Professional Conduct Rule 8.1: In connection with a bar admission application or in connection with a disciplinary matter, a lawyer shall not do any of the following: . . .

(b) in response to a demand for information from an admissions or disciplinary authority, fail to disclose material facts or knowingly fail to respond, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

WITHDRAWN ALLEGED VIOLATIONS

Upon further investigation after the commencement of formal disciplinary action, Relator is electing not to proceed with claims against the Respondent on the allegations relating to the underlying attorney-client relationships as originally set forth in Relator's Complaint because it believes it cannot establish, *by clear and convincing evidence*, that Respondent's handling of those matters, individually or collectively violated of Rule

1.15(d), Rule 1.3, Rule 1.4(a)(2)(3) and (4), Rule 8.4 of the Ohio Rules of Professional Conduct.

Those Rules state:

a. Rule 1.15:

(d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client or a third person, confirmed in writing, 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. Upon request by the client or third person, the lawyer shall promptly render a full accounting regarding such funds or other property.

b. Rule 1.3: A lawyer shall act with reasonable diligence and promptness in representing a client.

c. Rule 1.4(a) (2), (3) and (4): A lawyer shall do all of the following: . . .

(2) Reasonably consult with the client about the means by which the client's objectives are to be accomplished.

(3) Keep the client reasonably informed about the status of the matter.

(4) Comply as soon as practicable with reasonable requests for information from the client.

d. Rule 8.4: It is professional misconduct for a lawyer to do any of the following:

. . . (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. (DR 1-102 (A)(4))

. . . (h) engage in any other conduct that adversely reflects on the lawyer's fitness to practice law. (DR 1-102(A)(6))

Although Relator is concerned about the multiple grievances filed against Respondent during 2008-2009, had Respondent answered the grievances during Relator's investigation of each of them, and provided sufficient information to Relator to explain his conduct, each of them would have been dismissed. In all cases, Respondent either

performed part of the work and/or reimbursed the client funds for legal services which were not performed as requested by the clients.

AGGRAVATION AND MITIGATION

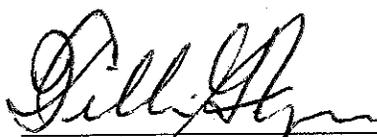
Respondent has practiced law in Ohio for 23 years with no disciplinary history. While Respondent's failure to cooperate with Relator's inquiries by preparing a narrative response to each grievance is an aggravating factor, further investigation and discovery of the underlying client matters, after the formal complaint was filed, did not reveal actionable violations (individually or collectively), of the rules of professional conduct in respect to Respondent's representation of the clients. It does not appear any of the complaining clients were financially harmed, as some legal matters were completed by Respondent during Relator's investigation, the unearned or unused retainer fees were refunded by Respondent, and/or other attorneys provided the legal services required by the clients. Additionally, the several client grievances as well as Respondent's failure to cooperate with Relator's investigation which are uncharacteristic of Respondent's conduct over his 23 years of practice, all arose during Respondent's handling of the case of *Anton v. SBC Global Services, Inc.*, U.S. District Court, Eastern District of Michigan, Case No. 2:01-CV-40098-SFC, major litigation including trial and appeal spanning over a nine-year period. See Civil Case Docket, attached as Exhibit K. While the client grievances did not rise to the level of disciplinary violations, it appears they were filed because of Respondent's focus on the *Anton* matter and his failure to give the rest of his practice the attention he otherwise would have given it. Likewise, Respondent's focus on the *Anton* matter contributed to his failure to provide Relator with the written narrative responses

Relator requested during its investigation.

STIPULATED SANCTION

Relator and Respondent agree that a proper sanction for the conduct set forth herein is a one year stayed suspension with probation and monitoring by a lawyer agreed upon by Respondent and Relator.

Respectfully submitted,



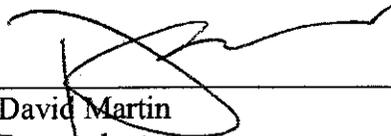
William G. Meyer (00055167)
Attorney for Relator
405 Madison Avenue, Suite 1000
Toledo, Ohio 43604
PH: (419) 246-5722
FAX: (419) 246-5764
Email: wgmeyer@att.net



Michael A. Bonfiglio (0029478)
Attorney for Relator
311 N. Superior Street
Toledo, Ohio 43604
PH: (419) 242-9363
FAX: (419) 242-36215
Email: mbonfiglio@toledobar.org



Alvin E. Mathews, Jr. (0038660) *per*
Attorney for Respondent *6/7/11*
100 S. Third Street *phone consent*
Columbus, Ohio 43215
PH: (614) 227-2312
FAX: (614) 227-2390
Email: amathews@bricker.com



David Martin
Respondent
P. O. Box 503
Sylvania, Ohio 43560-0503
PH: (419) 283-0468
Email: martinatty@yahoo.com

FILED

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

JUN 09 2011

BOARD OF COMMISSIONERS
ON GRIEVANCES & DISCIPLINE

In re:)
)
Toledo Bar Association)
)
Relator)
)
-vs-)
)
David L. Martin)
)
Respondent)

Case No. 11-013

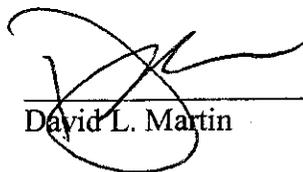
Affidavit of Respondent
(B.C.G.D. Proc. Reg. 11)

STATE OF OHIO)
) ss:
COUNTY OF LUCAS)

Now comes David L. Martin, Respondent, being first duly sworn, and states as follows:

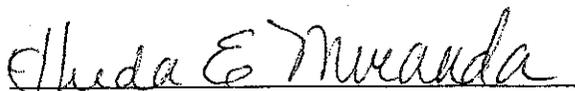
1. Respondent has entered into an agreement, dated June 7, 2011, (hereinafter "the Agreement") for discipline by consent.
2. Respondent admits committing the misconduct listed in the Agreement.
3. Respondent admits that grounds exist for imposition of a sanction against Respondent for the misconduct.
4. Respondent admits that the Agreement sets forth all grounds for discipline currently pending before the Board.
5. Respondent admits to the truth of the material facts relevant to the misconduct listed in the Agreement.
6. Respondent agrees to the sanction to be recommended to the Board.
7. Admissions herein and in the Agreement are freely and voluntarily given, without coercion or duress, and that Respondent is fully aware of the implications of the admissions and Agreement on his or her ability to practice law in Ohio.

8. Respondent understands that the Supreme Court of Ohio has the final authority to determine the appropriate sanction for the misconduct admitted herein.



David L. Martin

Sworn to before me and subscribed in my presence this 17th day of June, 2011 by David L. Martin.



Notary Public



HILDA E. MIRANDA
NOTARY PUBLIC - OHIO
MY COMMISSION EXPIRES 03-15-2015


Alvin E. Mathews, Jr. (0038660) *per 6/7/11 phone consent*
Attorney for Respondent
100 S. Third Street
Columbus, Ohio 43215
PH: (614) 227-2312
FAX: (614) 227-2390
Email: amathews@bricker.com

FILED
FEB 14 2011

BOARD OF COMMISSIONERS
ON GRIEVANCES & DISCIPLINE

RECEIVED

DEC 06 2010

BOARD OF COMMISSIONERS
ON GRIEVANCES & DISCIPLINE

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

In re: : No. 11-013
Complaint Against: : COMPLAINT AND CERTIFICATE
David L. Martin : Rule V of the Supreme Court Rules for the
P.O. Box 503 : Government of the Bar of Ohio
Sylvania, Ohio 43560 :
Respondent, :
Toledo Bar Association :
311 N. Superior Street :
Toledo, Ohio 43604 :
Relator. :

Now comes the Relator, The Toledo Bar Association, and alleges that David L. Martin, an attorney-at-law, duly admitted to the practice of law in the State of Ohio, is guilty of the following misconduct:

JURISDICTION

1. The Toledo Bar Association ("Relator") through its Certified Grievance Committee, is authorized to file this Complaint pursuant to Rule V, Section (3)(C) and Rule V, Section (4) of the Supreme Court Rules for the Government of the Bar of Ohio.

2. Respondent David L. Martin ("hereinafter referred to as "Martin" or "Respondent") was admitted to the practice of law in the State of Ohio on May 16, 1988, and is subject to the Supreme Court Rules for the Government of the Bar of Ohio and registered with the Supreme Court under Attorney Registration Number 0039953.

COUNT I (Furey & Risk)

3. Anne A. Furey and Gregory A. Risk met with the Respondent on November 15, 2007 to discuss preparation of Wills and other estate planning issues. Respondent agreed to prepare Wills and specified a fee of Three Hundred Fifty Dollars (\$350.00).

4. Mr. Risk paid the \$350.00 fee and the check was negotiated by Respondent on November 20, 2007.

5. When the wills were not received Ms. Furey made several phone calls to Respondent, starting in the beginning of March 2008. Ms. Furey and Mr. Risk became dissatisfied with Respondent's lack of performance and filed a complaint with the Toledo Bar Association. (Respondent did finally reimburse the \$350.00 fee on November 25, 2008.)

4. Pursuant to that Complaint, Respondent was first notified by Margaret G. Beck, Vice-Chair, Grievance Investigation Committee, of the filing of the Complaint by letter dated May 29, 2008.

5. Respondent was notified in that correspondence that Edward Fischer was appointed to investigate the Complaint and that a written narrative response was required to be returned to the investigator within fourteen (14) days of that letter.

6. Respondent did not respond and was notified by Edward Fischer by letter dated June 20, 2008 of the need to provide the narrative.

7. Respondent did not provide the narrative, and on July 18, 2009, the investigation report was prepared without it.

8. Respondent David L. Martin has thereby violated the following Rules of Professional Conduct:

a. Rule V(4)(G) of the Rules for the government of the Bar:

(G) *Duty to Cooperate*. The Board, the Disciplinary Counsel, and the president, secretary, or chair of a Certified Grievance Committee may call upon any justice, judge, or attorney to assist in an investigation or testify in a hearing before the Board or a panel for which provision is made in this rule, including mediation and ADR procedures, as to any matter that he or she would not be bound to claim privilege as an attorney at law. No justice, judge, or attorney shall neglect or refuse to assist or testify in an investigation or hearing.

b. Rule 8.1:

In connection with a bar admission application or in connection with a disciplinary matter, a lawyer shall not do any of the following: . . .
(b) in response to a demand for information from an admissions or disciplinary authority, fail to disclose material fact or knowingly fail to respond, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

COUNT II (Black)

9. In October or November of 2000, Respondent was hired to assist in the criminal defense of Ryan Black.

10. The Respondent's role was to represent and liquidate various personal and real property belonging to Mr. Black to facilitate payment of legal fees related to the defense of felony drug charges in the Hancock County Court of Common Pleas.

11. Respondent sold a pick-up truck and two (2) Corvettes, and attempted to sell a home belonging to Mr. Black.

12. Mr. Black was never supplied with a summary of the funds recovered by the sale of the property, nor was he ever given a specific outline of the fees charged by Respondent and co-counsel.

13. Conviction of the criminal charges resulted in the incarceration of Mr. Black for several years.

14. Upon release, inquiry was made of Respondent by Mr. Black regarding the disposition of his house.

15. It was discovered that the real property had been transferred to Area Title Agency, and that Respondent had been collecting rents and making mortgage payments on said property, with the mortgage still in Mr. Black's name, for the years Mr. Black was imprisoned.

16. Mr. Black demanded an accounting of the income and expenses relating to the real property which has not been supplied by Respondent.

17. The original fees for the criminal defense work conducted in Hancock County Common Pleas Court was \$15,000.00.

18. Ryan Black filed a Complaint with the Toledo Bar Association when the Respondent failed to provide an accounting.

19. Pursuant to that Complaint, Respondent was first notified by Margaret G. Beck, Vice-Chair, Grievance Investigation Committee, of the filing of the Complaint by letter dated July 8, 2008.

20. Respondent was notified in that correspondence that Robert Bahret was appointed to investigate the Complaint and that a written narrative response was required to be returned to the investigator within fourteen (14) days of that letter.

21. Respondent did not respond and was notified by Robert Bahret by letter dated July 11, 2008 of the need to provide the narrative.

22. Mr. Bahret requested the narrative and additional documentation from Respondent on several occasions through September 9, 2008.

23. Respondent did not provide the requested narrative, documentation, or any cooperation.

24. Respondent David L. Martin has thereby violated the following Rules of Professional Conduct and Disciplinary Rules:

a. Rule 1.15(d)

(d) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client or a third person,

confirmed in writing, 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. Upon request by the client or third person, the lawyer shall promptly render a full accounting regarding such funds or other property.

b. Rule V(4)(G) of the Rules for the Government of the Bar:

(G) *Duty to Cooperate*. The Board, the Disciplinary Counsel, and the president, secretary, or chair of a Certified Grievance Committee may call upon any justice, judge, or attorney to assist in an investigation or testify in a hearing before the Board or a panel for which provision is made in this rule, including mediation and ADR procedures, as to any matter that he or she would not be bound to claim privilege as an attorney at law. No justice, judge, or attorney shall neglect or refuse to assist or testify in an investigation or hearing.

c. Rule 8.1: In connection with a bar admission application or in connection with a disciplinary matter, a lawyer shall not do any of the following:
(b) in response to a demand for information from an admissions or disciplinary authority, fail to disclose material fact or knowingly fail to respond, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

COUNT III (Cunningham)

25. John D. Cunningham retained Respondent on June 4, 2007 and paid him a retainer of One Thousand Five Hundred Dollars (\$1,500.00). Mr. Cunningham terminated representation in December of 2007, and requested a refund of the unused portion of his retainer. On March 25, 2008 Respondent sent Mr. Cunningham a check for Seven Hundred Sixty Dollars (\$760.00) with no statement of charges. After several requests for a statement from Respondent went unheeded, Mr. Cunningham filed a complaint with the Toledo Bar Association on January 24, 2009.

26. Pursuant to that Complaint, Respondent was first notified by Karen A. Novak, Co-Chair, Grievance Investigation Committee, of the filing of the Complaint by letter dated February 12, 2009.

27. Respondent was notified in that correspondence that Jane E. Roman was

appointed to investigate the Complaint and that a written narrative response was required to be returned to the investigator within fourteen (14) days of that letter.

28. Respondent did not respond and was notified by Jane E. Roman by letter dated August 19, 2009 of the need to provide the narrative.

29. Respondent did not provide the narrative, and the investigation report was prepared without it.

30. Respondent David L. Martin has thereby violated the following Rules of Professional Conduct:

a. Rule V(4)(G) of the Rules for the Government of the Bar:

(G) Duty to Cooperate. The Board, the Disciplinary Counsel, and the president, secretary, or chair of a Certified Grievance Committee may call upon any justice, judge, or attorney to assist in an investigation or testify in a hearing before the Board or a panel for which provision is made in this rule, including mediation and ADR procedures, as to any matter that he or she would not be bound to claim privilege as an attorney at law. No justice, judge, or attorney shall neglect or refuse to assist or testify in an investigation or hearing.

b. Rule 8.1: In connection with a bar admission application or in connection with a disciplinary matter, a lawyer shall not do any of the following: . . .
(b) in response to a demand for information from an admissions or disciplinary authority, fail to disclose material fact or knowingly fail to respond, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

COUNT IV (Donbrosky)

Abigail Donbrosky retained Respondent in January of 2008 to file a Chapter 7 bankruptcy on her behalf, and paid a retainer of One Thousand Five Hundred Dollars (\$1,500.00). Respondent failed to file the bankruptcy petition, and failed to return numerous phone calls and e-mail messages from Ms. Donbrosky. Several months after retaining Respondent, Ms. Donbrosky called Respondent's office, and was advised that Respondent was no longer there, and further information on his present office was not available. After having no

contact with the Respondent for an extended period, Ms. Donbrosky filed a complaint with the Toledo Bar Association on July 6, 2009.

32. Pursuant to that Complaint, Respondent was first notified by Karen A. Novak, Co-Chair, Grievance Investigation Committee, of the filing of the Complaint by letter dated July 16, 2009.

33. Respondent was notified in that correspondence that Kimberly A. Conklin was appointed to investigate the Complaint and that a written narrative response was required to be returned to the investigator within fourteen (14) days of that letter.

34. On August 2, 2009, Respondent wrote to the investigator and asked for an additional 10 days to respond.

35. On August 14, 2009, in response to the investigator's voicemail, Respondent sent an email stating that his response was forthcoming.

36. On August 21, 2009, Respondent filed a bankruptcy petition on behalf of Ms. Donbrosky.

37. On August 25, 2009, in response to the investigator's email, Respondent sent an email stating he "expected to work further on [his] response in the next few days."

38. Respondent did not provide the narrative and on October 1, 2009, the investigation report was prepared without it.

39. Respondent David L. Martin has thereby violated the following Rules of Professional Conduct:

- a. Rule 1.3: A lawyer shall act with reasonable diligence and promptness in representing a client.
- b. Rule 1.4(a)(2),(3) and (4): A lawyer shall do all of the following:
 - (2) Reasonably consult with the client about the means by which the clients objectives are to be accomplished.
 - (3) Keep the client reasonably informed about the status of the matter.

(4) Comply as soon as practicable with reasonable requests for information from the client.

c. Rule V(4)(G) of the Rules for the government of the Bar:

(G) *Duty to Cooperate*. The Board, the Disciplinary Counsel, and the president, secretary, or chair of a Certified Grievance Committee may call upon any justice, judge, or attorney to assist in an investigation or testify in a hearing before the Board or a panel for which provision is made in this rule, including mediation and ADR procedures, as to any matter that he or she would not be bound to claim privilege as an attorney at law. No justice, judge, or attorney shall neglect or refuse to assist or testify in an investigation or hearing.

c. Rule 8.1: In connection with a bar admission application or in connection with a disciplinary matter, a lawyer shall not do any of the following: . . .

(b) in response to a demand for information from an admissions or disciplinary authority, fail to disclose material fact or knowingly fail to respond, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

COUNT V (Pratt)

Michelle Pratt retained Respondent on July 1, 2008 to represent her in foreclosure actions on her primary residence and rental property and in a proposed bankruptcy. Respondent was paid a retainer of One Thousand Five Hundred Dollars (\$1,500.00). Aside from exchanging several e-mail messages with Ms. Pratt, Respondent filed no appearance in the foreclosure actions, did not file a bankruptcy petition on behalf of Ms. Pratt, and failed to communicate with her regarding the progress, or lack thereof, of her case. On May 4, 2009, Ms. Pratt sent Respondent a certified letter requesting return of her documents and a refund of her retainer. On July 17, 2009, Respondent acknowledged receipt of the letter of termination and stated that a refund was forthcoming. Ms. Pratt received no refund and had no further contact from Respondent, and filed a complaint with the Toledo Bar Association on July 31, 2009.

40. Pursuant to that Complaint, Respondent was first notified by Jonathan B. Cherry, Bar Counsel, Toledo Bar Association of the filing of the Complaint by letter dated August 14, 2009.

41. Respondent was notified in that correspondence that Korleen Bialecki was appointed to investigate the Complaint and that a written narrative response was required to be returned to the investigator within fourteen (14) days of that letter.

42. Respondent did not respond and was notified by Korleen Bialecki by letter dated September 14, 2009 of the need to provide the narrative.

43. Respondent did not provide the narrative, and on October 6, 2009, the investigation report was prepared without it.

44. On October 6, 2009, Respondent refunded the \$1,500.00 retainer to Ms. Pratt.

45. Respondent David L. Martin has thereby violated the following Rules of Professional Conduct:

a. Rule 8.4: It is professional misconduct for a lawyer to do any of the following:

... (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. (DR 1-102(A)(4))

... (h) engage in any other conduct that adversely reflects on the lawyer's fitness to practice law. (DR 1-102(A)(6))

b. Rule 1.3: A lawyer shall act with reasonable diligence and promptness in representing a client.

c. Rule 1.4(a)(2),(3) and (4): A lawyer shall do all of the following:

(2) Reasonably consult with the client about the means by which the clients objectives are to be accomplished.

(3) Keep the client reasonably informed about the status of the matter.

(4) Comply as soon as practicable with reasonable requests for information from the client.

d. Rule V(4)(G) of the Rules for the government of the Bar:

(G) *Duty to Cooperate*. The Board, the Disciplinary Counsel, and

the president, secretary, or chair of a Certified Grievance Committee may call upon any justice, judge, or attorney to assist in an investigation or testify in a hearing before the Board or a panel for which provision is made in this rule, including mediation and ADR procedures, as to any matter that he or she would not be bound to claim privilege as an attorney at law. No justice, judge, or attorney shall neglect or refuse to assist or testify in an investigation or hearing.

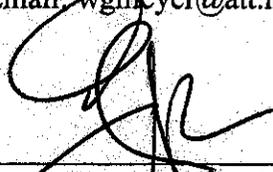
- e. Rule 8.1: In connection with a bar admission application or in connection with a disciplinary matter, a lawyer shall not do any of the following: . . .
(b) in response to a demand for information from an admissions or disciplinary authority, fail to disclose material fact or knowingly fail to respond, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

WHEREFORE, Relator prays that Respondent be found to have engaged in misconduct and that he be disciplined.

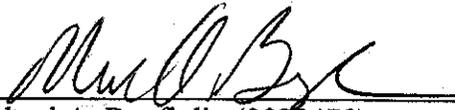
Respectfully submitted,



William G. Meyer (0005516)
Attorney at Law
608 Madison Avenue, Suite 1400
Toledo, Ohio 43604-1121
PH: (419) 246-5722
FAX: (419) 246-5764
Email: wgmeyer@att.net



Gregory L. Arnold (0019027)
Attorney at Law
5749 Park Center Court
Toledo, Ohio 43615
PH: (419) 241-4441
FAX: (419) 720-1289
Email: glalawyer1@aol.com



Michael A. Bonfiglio (0029478)

Bar Counsel

Toledo Bar Association

311 N. Superior Street

Toledo, Ohio 43604

PH: (419) 242-9363

FAX: (419) 242-3614

Email: mbonfiglio@toledobar.org

COUNSEL FOR RELATOR

CERTIFICATE

The undersigned, **Patrick B. Cavanaugh**, Secretary of the Certified Grievance Committee of the **Toledo Bar Association** hereby certifies that **William G. Meyer, Gregory L. Arnold, and Michael A. Bonfiglio** 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 DECEMBER 1, 2010.



Patrick B. Cavanaugh, Secretary

Supreme Court Rules for the Government of the Bar of Ohio, Rule V, Section 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.

(2) **Notice of Intent to File.** No investigation conducted by the Disciplinary Counsel or a Certified Grievance Committee shall be completed, and no complaint shall be filed with the Board, without first giving the judge or attorney who is the subject of the grievance or investigation notice of each allegation and the opportunity to respond to each allegation.

....

(6) **Attachments to Complaint.** Sufficient investigatory materials to demonstrate probable cause shall be submitted with the complaint. The materials shall include any response filed by or on behalf of the respondent pursuant to division (I)(2) of this section and may include investigation reports, summaries, depositions, statements, the response of the respondent, and any other relevant material.

(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.

....

(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.