

IN THE SUPREME COURT OF OHIO

Ohio State Bar Association :
1700 Lake Shore Drive : Case No. _____
Columbus, Ohio 43204, :
Relator, :
vs. :
: :
Joshua Scott Albright (0087867) :
217 Maplecrest Street NW :
North Canton, Ohio 44720, :
Respondent. :

RELATOR’S MOTION FOR INTERIM REMEDIAL SUSPENSION

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**RELATOR’S MOTION FOR IMMEDIATE INTERIM REMEDIAL SUSPENSION
PURSUANT TO GOV. BAR R. V, §19 & S. CT. PRAC. R. 4.01 (A) and (C);
AND FOR APPOINTMENT OF COUNSEL UNDER GOV.BAR R. V, §19 AND §26**

INTRODUCTION

Relator, the Ohio State Bar Association, hereby requests that the Supreme Court of Ohio grant Relator’s Motion for Immediate Interim Remedial Suspension of Joshua Scott Albright’s privilege of practicing law for his violations of the Rules of Professional Conduct as outlined in the Relator’s Complaint, which has filed with the Board of Professional Conduct and certified pursuant to Respondent’s Waiver of Probable Cause. A copy of the Complaint alleging the violations is attached hereto, along with Respondent’s waiver of probable cause. [Ex. A] In addition, Respondent is currently suspended from the practice of law [Ex. B] and has engaged in continued misconduct, including the practice of law while under a suspension. [Ex. C]

Relator is a bar association which sponsors a certified grievance committee and is authorized to file this Motion and Memorandum pursuant to Gov. Bar R. V, § 19. This Memorandum in support of the Relator’s Motion is based upon the receipt by Relator of substantial, credible evidence demonstrating that Respondent has committed numerous, repeated and serious violations of the Ohio Rules of Professional Conduct.

Since the filing of the Complaint, Respondent continues to flaunt the Rules of Professional Conduct.

Respondent, Joshua Scott Albright (Attorney Registration Number 0087867), was admitted to the practice of law in Ohio on November 7, 2011. He primarily practiced family and

criminal law in Miami County and Shelby County. Roberts, Kelly & Bucio, LLP (RKB), which has offices, among other places, in Troy and Sidney, Ohio, employed Respondent as an associate attorney from November 2, 2011 until terminating his employment on August 26, 2014.

Upon learning that Respondent had taken, and misappropriated, fees belonging to RKB, one of the charges of misconduct set out in the Complaint, RKB met with Respondent on August 25th and August 26th and terminated his employment at the meeting on August 26, 2014. After Respondent was terminated, as RKB reviewed his files and attempted to assist clients upon his termination, many other matters of misconduct quickly surfaced. See Affidavit of Christopher Clark [Ex. D] and Affidavit of Roberta Fay [Ex. E].

Relator's Complaint is predicated upon extensive misconduct. It is supported in part by Respondent's admissions, to both RKB and the Troy Police Department, confirming his misappropriation of fees from payments made by RKB clients to him while employed by RKB, which the Troy Police Department Detective intends to take to the grand jury. [Ex. F]

However, the theft from his employer, RKB, is just the tip of the iceberg. That is simply how the mistreatment of clients by Respondent has come to light.

Respondent has engaged in serious and continuing misconduct that has harmed his clients and the public. He has engaged in theft, misrepresentation and fraud. Since approximately early 2013, he has stolen client fees which should have been paid to RKB. Instead of accounting for and delivering such fees to his (now former) employer, he surreptitiously pocketed the fees, and then, in an extensive number of cases, failed to perform services for his clients. In order to cover this fraudulent activity, he has lied to his employer; and in order to cover his misconduct in

failing to carry out his professional responsibility to clients, he has lied repeatedly to them, engaged in charades, and produced fraudulent court pleadings, including a forged court order, in attempts to convince clients that he was working on their case or had completed the work he was employed to perform, when in fact he had done nothing. In two situations, he blamed the delay on the court. Respondent's contempt for the administration of justice and the courts is palpable.

The Strunk matter involving forged pleadings and a forged court order were investigated by the Sidney Police Department and Respondent has since been indicted on five counts of felony forgery (F-5) and is awaiting trial on those counts.

The evidence indicates that Respondent did not file cases and follow through with his undertakings for clients, in part because to do so, he would have had to come out-of-pocket and pay court costs. Relator believes that Respondent did not intend to use any of the money he had misappropriated for anything other than his own uses and benefit.¹

He has admitted to theft of fees from RKB. After stealing fees from his clients and RKB, doing no work in many cases, he has returned none of the fees. He admitted to RKB that he used the misappropriated fees to pay credit cards and "stuff." Some of the "stuff" included his use of the money to pay off one vehicle, which was underwater, and purchase a new BMW and a vacation to Hawaii in September 2014. [Affidavit of Roberta Fay, Ex. E. paragraphs 43-45]

¹ The Taylor matter recited in the Complaint is illustrative of the practice by the Respondent that the flat fees he quoted, in this case for the Taylor's adoption matter, included court costs. See Affidavit of Christopher Clark, Ex. D, paragraph 9, relating Respondent's admission that he spent all the misappropriated fees and was unable to come up with the court costs.

Respondent's voracious appetite for money that belonged to others had no boundaries and was insatiable. He took fees from clients, fees from RKB and even garnishment checks he collected as attorney of record for RKB.

Respondent stated to the Troy Police Department Detective that his theft began around December 2013, but that was a material misstatement; his theft started at least as early as January 2013. His misconduct and theft continued up to the point of his termination, and would likely have continued had RKB not discovered his misconduct. His actions demonstrate a repeated disregard of the Rules of Professional Conduct, of his duties to clients, and the legal rights of his clients.

In short, Respondent has spurned the oath he took as an attorney to "honestly, faithfully and competently discharge his duties as an attorney-at-law."

He is so devoid of any appreciation for the gravity of his misconduct that Relator believes he should not be able to continue the practice of law, by applying for reinstatement, which would permit him to prey on other members of the public.

Initially, during a meeting with his employer on August 26, Respondent informed his employer that he did not wish to practice law any longer. [Exs. D and E] He later dropped a number of files through the RKB mail slot at the Sidney office on or about September 4, 2014 [Ex. G]. In response to a text on August 27 from a client (Vickie Greer) with whom he dealt and who was asking for an update, he told her to contact Roberta Roberts, lead partner with his former employer [Ex. H]. Yet about two weeks later, Respondent did an about-face and demanded, through an attorney, that RKB inform his clients so that he would have the

opportunity to be engaged as their attorney. In a letter addressed to RKB from his attorney, Respondent requested that a letter be sent to “Mr. Albright’s clients” so that they are aware that, although he has left RKB, he “will continue to practice.” After having already admitted to theft from his employer, Respondent nevertheless sloughed off his “disassociation” with RKB as resulting from nothing more than “financial disputes” and “perceived disputes” with RKB. The letter, delivered around the close of business on Friday, September 19th, stated that “time is of the essence due to Mr. Albright having a high number of clients with pending matters” and demanded a response in less than one business day, the following Monday. [Ex. I] This feigned urgency was contradicted by Respondent’s departure for a vacation in Hawaii on or about September 23rd, a vacation he admitted to RKB was paid with fees stolen from them. [Ex. E] Thus, it appears from his actions that Respondent is indifferent to the needs of his clients and has no appreciation whatsoever for the consequences of his misconduct.

STAY OF PROCEEDINGS BEFORE BOARD

Relator had decided not to pursue a Motion for Interim Remedial Suspension and just file a Complaint before the Board, hoping that the case could come to hearing more expeditiously. In addition, the Respondent has been indicted on Count I (the Strunk Matter) in Shelby County Common Pleas Court [Ex. J, Certified Copy of Indictment]. At the time Relator filed its Complaint, that case was originally scheduled for jury trial on May 12, 2015. However, Respondent filed a motion requesting voluntary recusal by the trial judge *after* already informing the trial judge at the arraignment that he had no objection to the assigned Judge presiding over the case. The assigned judge recused himself, noting the Respondent’s attempt to use that tactic

to delay the case. The trial was rescheduled for August 10, 2015, then to December 9, 2015 after Respondent requested a continuance for personal reasons. Now, the trial has again been continued to April 2016. Thus, the hoped-for resolution of the Strunk matter and a felony suspension if Respondent is convicted is once again delayed.

In addition, the Chair of the Panel of the Board assigned to the case has issued a *sua sponte* Entry staying the entire case, including discovery, due to his concern for the due process and constitutional rights of Respondent because of Respondent's indictment on the facts alleged in Count I of the Complaint. The Complaint involves twenty-two counts of misconduct.² The Chair of the Panel indicated that the Relator could pursue other remedies. As a result of the unanticipated delay, the only remedy available at this point is this Motion.

Relator has discovered that Respondent is *actually* engaging in the practice of law. Recently, Respondent has appeared in Summit County while suspended. [Ex. C] Relator believes the practice of law by Respondent is a danger to the public, for reasons detailed in the Complaint, as well as the reasons detailed in the next section of this Motion. While Respondent's practice may be limited, and he deserves due process, the ultimate reason for the disciplinary system is the protection of the public. See *Disciplinary Counsel v. Hoppel*, 129 Ohio St. 3d 53 (2011). The Relator believes protection of the public trumps any claim by Respondent that he has a right to exercise the privilege to practice law that this Court has previously extended to him. Relator can prove Respondent's misconduct without the testimony of the Respondent, but has

² Respondent's Answer is a general denial of everything, a violation of Rule 11. With the Stay placed in effect over the entire case Relator is prevented from discovery regarding Respondent's misconduct and his current involvement with the public by taking Respondent's deposition. The panel Chair recently held a conference and indicated he would entertain partially lifting the stay.

been stayed from proceeding or even conducting discovery and deposing the Respondent, against whom there is overwhelming evidence of misconduct. Therefore, unless this Court takes action to suspend Respondent, he will continue to engage in misconduct; thus, the protection of the public from further and continuing misconduct by Respondent makes it imperative that this Court grants the relief Relator requests by this Motion.

RESPONDENT'S CURRENT SUSPENSION AND CONTINUED MISCONDUCT

Despite the pendency of the Complaint, Respondent continues to violate the Rules of Professional Conduct.

On November 3, 2015, Respondent was suspended from the practice of law under Gov. Bar R. VI, § 6 (B) due to a failure to register. Respondent is forbidden to practice law under Gov. Bar R. VI, § 6 (C). While it is possible Respondent may apply for reinstatement under Gov. Bar R. VI, § 6 (D), the Court should not permit him to do so, and should grant this Motion under Gov. Bar R. V, §19 pending the completion of the disciplinary process.³

During the pendency of the Complaint, Respondent has claimed on his Facebook page [**Ex. K, Affidavit of Roberta Fay**] that he is an associate attorney with Jackson & Walter, LLP, in Dayton. Relator has been unable to determine that such a firm even exists in Ohio. To Relator's knowledge, Ohio is the only jurisdiction in which he is licensed. Respondent is still listed on the Ohio Supreme Court website as an associate attorney with RKB. Although an LLP is a creature of statute (see Revised Code Section 1775.61 (A)) and must be registered, no such organization is registered with the Ohio Secretary of State. See Certificate of "No Record" from

³ Respondent's violation of Gov. Bar R. VI, §6 (C) forbidding the Respondent to practice law makes granting the Motion under Gov. Bar R. V, §19 all the more crucial.

the office of the Ohio Secretary of State [Ex. L] and Affidavit of Robert Fay. [Ex. K] It appears that Respondent is just engaging in continuing fabrication. Respondent has removed the posting of the firm and his association with it from his Facebook page. That is indicative of the Respondent's knowledge of his fraudulent misrepresentation.

Furthermore, Respondent apparently still has no trust account. Karen McCall from the Ohio Legal Assistance Foundation has confirmed, by Affidavit, that the OLAF records contain no entry identifying a trust account belonging to or used by Respondent; McCall's affidavit confirms the same for "Jackson & Walter, LLP." [Ex. M, Affidavit of Karen McCall] One would think the filing of the Complaint would sound an alarm for the Respondent. It did not.

Respondent's misconduct as alleged in the Complaint is quite similar to, and just as severe as, the misconduct in a case recently decided by this Court, *Cincinnati Bar Association v. Damon*, 140 Ohio St. 3d 383 (September 3, 2014), which resulted in the respondent's disbarment. As the Court stated in *Damon* at ¶37, "...we have recognized that accepting legal fees but failing to carry out contracts of employment is tantamount to theft of the fee from the client and that the presumptive sanction for that offense is disbarment." Respondent's persistent intentional misconduct is also more egregious than the three successive disciplinary proceedings ending in *Disciplinary Counsel v. Cicero*, 2014– Ohio–4639, all of which involved deceit and lies attendant to the attorney's self-aggrandizement and bloated self-importance, and which finally ended in indefinite suspension. Here, the misconduct has clearly harmed numerous

clients, apart from the harm to the law firm which employed Respondent. His misconduct has also harmed the administration of justice and made a mockery of the courts.⁴

In Relator's opinion, Respondent's professional misconduct described in the Complaint is *so* extensive and *so* egregious that Relator believes this Motion should be granted to protect the public pending the resolution of the Relator's Complaint. This case is more expansive than *Damon* by the significant number of clients harmed; and more severe because of the Respondent's forgery of court pleadings, the serial nature of his deceit, his contempt for the judiciary, the ebbing changes to his stories, his lack of remorse and his attempt to continue to represent clients he has already defrauded. The Complaint has been certified and the Respondent has been indicted on the five forgery charges. His unmitigated response, in which he appears to be oblivious to his misconduct and avowing he is determined to continue to practice law, illustrates the real danger to the public and the reasons for the filing of a Complaint on known matters, before every possible act of misconduct surfaces, and a determination of the findings and recommendations of the Board of Professional Conduct of the Ohio Supreme Court.

Yet, despite the allegations of misconduct, Respondent simply thumbs his nose at the Rules of Professional Conduct, or remains oblivious to his professional obligations.

⁴ Respondent is very adept at mocking the courts and manipulating the justice system for his personal benefit, a system which he disdains on his Facebook page and in his texts to clients. In *Trumbull Cty. Bar Assn. v. Kafantaris*, 121 Ohio St. 3d 387 (2009), the Court disbarred an attorney, finding he "callously disregarded his client's interests" and "showed disrespect for the judicial system as a whole." See also the recent decision in *Lake County Bar Association v. Davies*, 2015-Ohio-4904 (2015).

His deposit of fees to his personal account started at least as early as January 2013. And numerous clients he claimed to be his clients were lied to, defrauded or left hanging with nothing to show for fees he was paid to represent them.

It is for these reasons that the Relator believes that urgency is necessary to avoid imminent danger to the public and to retain the integrity of a self-regulated profession that is envisioned by the Preamble to the Ohio Rules of Professional Conduct.

Moreover, Relator submits that the “interests of justice” justify immediate action on this Motion pursuant to S. Ct. Prac. R. 4.01(C) in light of the continuous pattern of deception, and the severity of Count I, the Strunk Matter, in particular involving forgery of a court order. This Court has recently granted a Motion for an Interim Remedial Suspension in *Columbus Bar Association v. Armengau*, Case No. 2014-0997 (July 8, 2014), despite the Respondent’s argument that he had not been convicted and denied the criminal allegations. Here the Respondent has admitted the theft. The criminal forgery is the subject of an indictment in Shelby County.

Many of Respondent’s files have already been handled by RKB. However, there may be files that Respondent has in his possession, including the case referenced in **Exhibit C** above. Therefore, Relator requests that if the Court should grant this Motion, it also grant Relator’s request for the appointment of an attorney to obtain the files in Respondent’s possession and address the matters for the protection of the clients. This portion of the Motion is authorized pursuant to Gov. Bar R. V, §§19 (B) and 26.

NOTICE TO RESPONDENT

On December 15, 2015, Relator sent to Respondent, by Federal Express next-day delivery, a Notice of Relator's Intent to file this Motion for Interim Remedial Suspension on or after December 17, 2015, as well as a copy of the Motion and its Exhibits, at the addresses listed in the Certificate of Service.

MEMORANDUM IN SUPPORT OF RELATOR'S MOTION

In August, 2014, the partners at RKB discovered that Respondent, one of the associates at the firm, was engaged in serious misconduct. See Affidavit of Roberta (Fay) Roberts, attached as **Ex. E**. Not only had respondent stolen fees from RKB in over fifty client matters; more importantly, many of the clients themselves had been defrauded by Respondent, who took their fees and in many cases did no work, or did not complete the work, lying to his clients to cover his misconduct.

There are many cases. The Matters addressed in this Motion, especially when considered in conjunction with Respondent's continued misconduct, are sufficient to give this Court the substantial, credible evidence needed to grant Relator's Motion.

The facts pertaining to the matters alleged in Counts I through XXII of the Complaint are alleged therein along with the violations of the Rules of Professional Conduct. Relator incorporates the Complaint in this Motion. The Complaint is attached as **Ex. A**, and the misconduct alleged therein has been thoroughly investigated and is supported by Affidavits and statements of witnesses.

Relator has included in this Motion summaries of the allegations of the Complaint. The

first of these and perhaps the most astounding is the Strunk case.

SUMMARY OF MISCONDUCT ALLEGED IN COMPLAINT

Strunk (Count I)

The Strunk matter is illustrative of the remarkable amount of energy that the Respondent has expended in an elaborate charade of deception and contempt for the administration of justice, instead of practicing law competently and professionally. Respondent has been indicted on this matter and is awaiting trial. A certified copy of the indictment is attached as **Ex. J**.

In May, 2014 Respondent was hired by Christopher M. Strunk to file a reallocation of parental rights and responsibilities. He paid Respondent \$900 cash, but was never given a receipt. The meeting occurred at the Sidney offices of RKB. Shortly thereafter a second meeting was held at the office. Respondent asked for and was paid an additional \$600, because the matter was being contested. Mr. Strunk then paid the additional amount, but again no receipt was given by Respondent. This meeting likewise occurred at the Sidney offices of RKB. Both transactions occurred after normal business hours. None of these funds were turned over to RKB for deposit into an appropriate account. [**Ex. N and Ex. O**]

The case was time sensitive due to the child's entry into school for the upcoming year. Mr. Strunk repeatedly attempted to discover the status of the case from Respondent. In August, 2014, Mr. Strunk visited the Shelby County Clerk of Courts office to determine the status of the case. At that point, he learned nothing had been filed. He then confronted Respondent, who lied, assuring his client that everything was filed and that he had the court documents for him to prove it.

Respondent engaged in a series of text messages with his client:

7/29/2014 – Mr. Strunk asks if his daughter’s mother has been served, stating their daughter has related that the mother says she has not been served. Respondent replies that “no she has been served.” Mr. Strunk says “Ok cool I thought she might be pulling her leg. Thanks.”

8/4/2014 – Respondent has a jury trial in a murder case starting on this date (Monday), but states he will make a “report filing” for school purposes. Respondent relays “I can get it done.”

8/11/2014 – It is now the following Monday. Mr. Strunk says “still haven’t heard any thing or recieved (sic) the first piece of paper...” and his daughter’s mother claims she has not been served, but he is “shore she is lieing... (sic).” Respondent replies – “I’m on it chris **I’ll try something else to put a boot in the court to do something.** This will be done.” Mr. Strunk then asks for paperwork to “see what’s going on.” Respondent replies he can meet Thursday or Friday.

8/15/2014 – On Friday, after setting up a meeting at 4, Respondent says something has come up and he would like to meet Sunday at 7:30 or 8. Mr. Strunk replies – “Seriously.” Respondent delays until 4:30. Mr. Strunk replies – “Ok but I need to see TODAY!! Went to the clerk of courts they say nothing had been filed!”

Respondent replies by text message that “I have the copies in my jand (sic) Hand.” After saying he needs to see them, Respondent replies – “Ok that’s fine I’ll have done make copies.”

With little time to meet the demands of his client Respondent provided forged documents in an attempt to convince Mr. Strunk that nothing was amiss. In his fraudulent attempt to convince Mr. Strunk that his case was filed and that he had temporary custody of his child, Respondent provided Mr. Strunk with file-stamped copies of pleadings, including a court order, purportedly filed in the Shelby County Juvenile Court, all of which are attached to Mr. Strunk's affidavit. [Ex. N] Mrs. Brandie Strunk, who was present at all three meetings, specifically recalls the Magistrate's Order was part of the court documents given to her husband and that Respondent represented that her husband had temporary custody pending a later hearing on permanent custody. See the Sworn Statement of Brandie Strunk [Ex. P]

As it turned out, Respondent misrepresented everything. Nothing had been filed. All the documents were forged (purporting to be a genuine copy of an original file stamped document when no such original file-stamped copy existed), apparently cut out of other pleadings and an Order and pasted by Respondent. The certified docket of the Strunk case is attached hereto as an exhibit. [Ex. Q] The facts pertaining to the Strunk matter are elaborated in the Affidavit of Christopher M. Strunk and the Sworn Statement of Brandie Strunk. [Exs. N and P] The documents are forged as is evident by reviewing the court's docket in the case [Ex. Q] and comparing the file-stamp to the file-stamps in another case handled by Respondent. [Ex. R] The certified docket indicates that the last entry on the docket is September 30, 2003. One of the lawyers from RKB has since filed pleadings in the case. In the affidavit of Krystal A. Lawson, an employee of RKB, she states that the file-stamps on the fraudulent documents presented by

Respondent to Mr. Strunk match the file-stamps on the pleadings in another unrelated case (the Malott case) handled by RKB, which pleadings *were* actually filed in the Court. [Ex. R-F]

The forged Magistrate's Order Granting Temporary Custody, signed by Respondent was file-stamped August 5, 2014 at 2:36 p.m. and bore a stamp "ORIGINAL SIGNED" above the signature line for the judge or magistrate. The file-stamp (dated August 5, 2014) on the forged Magistrate's Order is not only identical, but in the same exact position as the file-stamp on the Notice of Administrative Determination of Paternity in the Malott case. In scurrying to save face by misleading his client, the forged court order that Respondent created granted temporary custody to **Plaintiff**, when his client, Mr. Strunk, was the Defendant.

In addition, the "ORIGINAL SIGNED" above the Magistrate's Order referred to above and given to Mr. Strunk to make him believe he had temporary custody of his minor child, was cut from an order in a second unrelated case (Barlow) attached as Exhibit G to the Affidavit of Ms. Lawson. [Ex. R-G] Ms. Lawson placed a yellow sheet behind the cut out portion to indicate it was missing and the documents have been turned over to the Sidney Police Department. Affidavit of Krystal Lawson, paragraph 11. The "cut and paste" file-stamps and "original signed" signature were taken from case pleadings that were handled by Respondent and listed on the case list of clients he gave to RKB when he admitted he stole fees from them.

Respondent gave the forged Magistrate's Order to Mr. Strunk who, believing it to be accurate, turned it in to the daughter's school, thereby unknowingly defrauding a third party. Respondent knew or should have known that this would be the consequence of his attempt to protect himself from discovery of his neglect and lies. As soon as Mr. Strunk learned that he had

been duped he promptly informed the school. See email from Mrs. Jo Demotte, Principal of Fairlawn Local Schools, **Ex. S**; and Sworn Statement of Brandie Strunk, **Ex. P**.

Respondent's actions in this matter violated the forgery statute, ORC Section 2913.31(A). See *Office of Disciplinary Counsel v. Ostheimer*, 72 Ohio St. 3d 304 (1995). Respondent's forgery of court documents illustrates his "contempt for the administration of justice, character for dishonesty and lack of truthfulness." *State v. Hamann*, 90 Ohio App.3d 654, 670 (8th Dist. 1993).

Relator has provided substantial, credible evidence of numerous violations of the Ohio Rules of Professional Conduct. Respondent has failed to act with competence and diligence in violation of Prof.Cond.R. 1.1 (competence) and Prof.Cond.R. 1.3 (diligence); and he has failed to reasonably provide information and the status of the client's case, in violation of Prof.Cond.R. 1.4. If those Rules were the extent of the misconduct, Relator would not be making this motion.

Yet, Respondent went even further in his misconduct – much further. He stole fees from his employer. He failed to deposit the fees and costs in trust or give the required disclaimer under Rule 1.5 (d) (3) for non-refundable fees, which he could have done by using the RKB fee agreements. The fact that he did not use a fee agreement is further evidence of his theft from his employer. When he did communicate with his client, it was all lies. Respondent knowingly made a series of false statements to his client, informed him that the case had been filed, the opposing party served, and then forged a court order and "file-stamped" pleadings and presented them to Mr. Strunk to make Mr. Strunk believe he had custody. He has engaged in illegal acts adversely reflecting on his trustworthiness and fitness to practice law; has repetitively engaged in conduct

involving dishonesty, fraud, deceit, or misrepresentation; engaged in conduct that is prejudicial to the administration of justice; and engaged in conduct that adversely reflects on the lawyer's fitness to practice, all in violation of Prof.Cond.R. 8.4 (b), (c), (d) and (h), respectively.

In the course of all his deceptions and ruses, Respondent brazenly and falsely blames the "delay" on the court, by stating "**I'll try *something else* to put a boot in the court to do **something.****" In making this statement, Respondent falsely represents that he *had* done something and also that it was the court's fault Mr. Strunk's case was delayed. He obviously has utter contempt for the administration of justice and for the courts. Respondent is a person who simply cannot be trusted. The citizens of Ohio should not be subjected to further misconduct or even the possibility of it. This matter alone is sufficient to warrant the relief requested by Relator. Yet, this is simply the start of the story of Respondent's serial misconduct.

Markeson (Count II)

In January 2014, Respondent received \$400 from Ms. Katie Markeson to file an increase in child support in Clark County, Ohio. This sum was paid at the offices of RKB in Troy after hours. Ms. Markeson signed an affidavit, but nothing was ever filed. RKB found the original signed and notarized affidavit in the file. Respondent told his client via text message that she had a court date and gave it to her. The court date she wrote in her calendar was June 27th. As the date approached, she became concerned that she had not received any notice about the date and contacted RKB. At that point she was told she was not in their system and not on anyone's calendar for court. She then called Respondent on his cell. He told her that her court date had been moved because the judge was on vacation (again blaming delay on the court). She crossed

the June 27th date off her calendar. She thereafter continued to text Respondent to inquire about the court date. Respondent replied that he would be in Clark County soon and he would check on the status of the court date. Later he responded that there still was no court date. On September 1, 2014, Ms. Markeson received a call from attorney Roberta Fay from RKB to inquire as to the status of her case. Ms. Markeson later learned that no pleadings had been filed in her case. Respondent had kept the fee himself and had not filed the pleadings. [Affidavit of Katie A. Markeson, **Ex. T**; Supplemental Affidavit of Katie Markeson, **Ex. T-1**; and Affidavit of Krystal A. Lawson, **Ex. U**]

Edwards (Count III)

Ms. Edwards paid Respondent \$3,500 to represent her in Darke County seeking a change to a shared parenting plan. Respondent informed Edwards the case was filed. She made numerous efforts in August 2014 to contact Respondent, but he “would either neglect to respond, or reply with a text message stating that he was in a murder trial and would get back to me.” After Respondent’s termination from RKB, Edwards learned from RKB that nothing had been filed on her behalf by Respondent. [**Ex. V**]

Senna (Count IV)

The Senna Matter illustrates the far-reaching and harmful effect of Respondent’s deceit, this time on out-of-state clients and their attorney. Respondent lied repeatedly to both. Joseph and Dawn Senna are from Massachusetts and needed to enforce (through contempt) a visitation order for summer visitation with their nephew. The nephew’s father was allegedly in contempt of the order granted by the court in Auglaize County previously allowing visitation. Time was

important with summer approaching. In March, 2014, the Sennas paid Respondent \$500, which was the fee he quoted to enforce the prior court order. Respondent prepared a package containing pleadings and an affidavit and sent them to the Sennas, who had the affidavit notarized by their attorney in Massachusetts, Marianne T. Gonsalves, and returned them to Respondent. On several occasions, Respondent represented to the Sennas and their attorney in Massachusetts that the papers had been filed and that there was a pretrial hearing on June 30, 2014, which had in fact, never been scheduled, because nothing had been filed. On July 1, he reported the results of the “pretrial.” He told the Sennas that the judge had ordered a video tape interview with their nephew and phone conversations were to be reinstated immediately. That was false. After the Sennas informed Respondent that no communication had occurred, he informed the Sennas via email that he was going to file an “*additional* contempt charge.” On August 17th, he again reassured the Sennas he would file the “additional” charges, would have the police check on their nephew, and that there was a trial date set for October 10th. He was also going to check with the court on the status of the video tape interview. When the Sennas informed Respondent that they had purchased airline tickets to travel to Ohio for the trial or hearing scheduled for October 10th, he sent back via text, “sounds good.” [Affidavit of Dawn Senna, **Ex. W**] Attorney Gonsalves states that “there was no doubt or confusion on my part that Attorney Albright’s assertions that filings had been made, court dates assigned and arguments completed.” [Affidavit of Marianne T. Gonsalves, **Ex. X**]

In truth, nothing had been filed. Respondent had engaged in a series of lies. After the Sennas learned that nothing had been filed, RKB filed pleadings to get the case on the calendar.

Ultimately however, the Sennas were deprived of visitation with their nephew for the summer of 2014, and the opportunity to resolve it on a timely basis, due to Respondent's misconduct.

Naylor (Count V)

Randolph Naylor paid Respondent \$4,000.00 in June 2014 to represent him in a divorce in Butler County. Respondent deposited the check in his personal account the next day. Naylor thought he was hiring RKB, which was representing him in other matters. A few weeks later, when Naylor contacted Respondent about the status of the case, Respondent informed him the documents had been rejected and needed to be corrected. Naylor was under the impression that the documents had been corrected and that he was waiting on service and a court date. In the beginning of September 2014, he was served with divorce papers from his wife. At that point he learned Respondent had not filed any papers on his behalf to commence a divorce action. Roberta Fay from RKB thereafter assumed representation of Naylor. [Ex. Y]

Presley (Count VI)

In April 2014, Robert Presley called RKB and requested to speak with Roberta (Roberts) Fay about a divorce. Later the same day Respondent called him back and set up a meeting with Mr. Presley. They met and agreed to a flat fee of \$1,100, and Mr. Presley later paid the fee by check made payable to Respondent pursuant to his instructions. They met at the McDonald's in West Milton for the purpose of delivering the check dated April 23rd. Respondent gave Mr. Presley a receipt on RKB letterhead.

About a month later on May 21st, Mr. Presley contacted Respondent via text message to inquire about the status of the case and why the opposing party had not been served. That started

a series of lies by Respondent including one on June 6, 2014 that “she has two weeks from now to respond if she doesn’t it keeps going.”

On June 9, 2014, Mr. Presley informed Respondent – “said she still has not got her papers.” Respondent replies – “I don’t see how she has not got them at this point. They have been issued and reissued. My only other option is to appoint a person from my office to personally serve her. I have not gotten a failed service notification either.” Presley then inquired – “Any way to check with the court for confirmation of delivery?” Respondent replies – “I have checked and there is not failure if (sic) service but also no confirmation of delivery which normally I don’t get. The clock is still ticking regardless.”

On June 20th Mr. Presley requested an update. Respondent replied that he was out of town and will check when he gets back. On June 27th Respondent sent a text message to Presley – “The court is setting a hearing and I should know Monday just keeping up to date.” Presley then inquired whether she has filed an answer or if she got the papers. Respondent replied – “She should have the papers with hearing but no answer.”

On July 9th, Mr. Presley sent a lengthy text message starting off – “Josh, I’m really not a happy camper at this point. It has been 2 ½ months now and I have yet to receive any information about my divorce....” Mr. Presley goes on to state – “Last I heard from you the court was supposedly setting a hearing and you were going to let me know last Monday.... I shouldn’t have to be sitting here in limbo for this amount of time. I need to know something concrete today. Thanks.” Respondent then tells more lies – “Robert there is a court that was set last Monday I’ll get you the information today when I get back to computer but I understand

your frustration completely (sic) August 12 at 9:30 am on the third floor of common pleas.” Presley asks – “Has she filed an answer? Is she requesting spousal support?” Respondent replied – “No she has not it is set for uncontested.”

The next day, July 20th, Mr. Presley asks if his wife will “get a copy of all the papers u filed with the court?” Respondent replied “yes and it is standard.”

On August 11th Respondent informed his client via text message – “So with the murder trial continuing tomorrow through Wednesday there is no court tomm but I will let you know the new date. No responsive anything from her yet.”

Thus, to cover the fact he had filed no papers and had given Presley a fabricated court date of August 12th, Respondent claimed the case had been continued.

Soon thereafter, Presley discovered that Respondent had lied and had not filed Presley’s case as he had represented. [Exs. Z and AA]

Trobridge (Count VII)

Michael Trobridge called RKB to establish paternity for his expected child shortly before his child’s birth. Shortly after his son was born in June 2014, Trobridge and his mother met with Respondent at the Greenville office of RKB, during which Respondent notarized some of the forms necessary to establish paternity. On or about June 30, 2014, the mother of Michael Trobridge, who was present at the meetings, wrote a check payable to “Joshua Albright.” Mrs. Trobridge (the client’s mother) was instructed to make the check payable to Respondent and did not think anything of it even though she and her son believed they were being represented by RKB. Respondent said the maternal parent would be served on July 4th and he would have

information by July 9th. Trobridge called during the next couple of months and was assured by Respondent that everything was filed in the court, and the opposing party was served. None of that was true. After Respondent was fired by RKB, Trobridge discovered that Respondent had taken his money and not proceeded with the filing of the case, for which Respondent had been paid and which Respondent had undertaken. Trobridge has since indicated that he wants to see his son and feels cheated. The case was filed by Roberta Fay shortly after Respondent was fired. The original pleadings were in the file. On January 29, 2015, a hearing was held, resulting in an agreed entry acknowledging paternity and setting up a visitation schedule. [Exs. BB and CC]

Kiefer (Count VIII)

Respondent undertook to represent Tara Kiefer on a custody-and-visitation issue. Kiefer paid Respondent \$3,000.00 for the services he provided in that representation. Despite the fact that Kiefer employed Respondent as a representative of RKB, Respondent concealed from RKB the total amount of fee Respondent collected from Kiefer, fraudulently disclosing to RKB that he collected only \$700 as fees for services.

During the course of representing Kiefer, Respondent accompanied Kiefer to court for a hearing concerning temporary orders. After meeting with the Magistrate and opposing counsel outside the presence of Kiefer, Respondent emerged from chambers and falsely stated to Kiefer that the judge had issued a protection order in her favor restricting visitation of the children by the father to supervised visitation. Based on Respondent's statement, Kiefer denied the father visitation: on August 7, 2014, when the father attempted to pick up his children for visitation, Kiefer refused to permit the father visitation with the children. Kiefer sent an urgent text-

message to Respondent concerning the visitation issue; Respondent replied, “he is paying (sic) games I wouldn’t worry about it.”

On August 27, 2014, the day following termination of Respondent’s employment with RKB, Kiefer sent Respondent another text-message setting out a statement she proposed to send to the children’s father. In that statement, relying on the false statement by Respondent to Kiefer that the judge had issued Kiefer a protection order restricting visitation of the children by the father to supervised visitation, Kiefer proposed to inform the father that he could have visitation as long as it was supervised. Respondent wrote in reply, “that sounds fine.” When replying to Kiefer on this occasion, Respondent failed to inform Kiefer that he was not employed at RKB. On September 5, 2014, Kiefer sent Respondent a text-message informing Respondent that she had received information that the court never entered the protection order Respondent had told her the court had issued. Respondent made no reply to Kiefer. [Ex. DD]

Hall (Count IX)

Taren Hall from Indiana paid Respondent \$750.00 to represent her in a change of visitation/custody in Shelby County. Respondent misappropriated the payment and concealed it from RKB. He obtained the signature of Ms. Hall and the opposing party and did not file anything. Hall sent Respondent a series of emails requesting the status of the case. She received no response. She then called Roberta Fay from RKB, at which time she learned Respondent was no longer employed and the documents Respondent had prepared were still in the file. The husband was no longer willing to cooperate with Ms. Hall. Thus, Respondent’s misconduct prejudiced his client. [Ex. EE]

Harriger (Count X)

Respondent was hired by Kevin Harriger to represent him for a matter involving dissolution of marriage. Harriger paid Respondent \$900.00. The opposing party backed out. Harriger then paid Respondent an additional \$400.00 for a divorce. Respondent reported and turned over \$300.00 of the fee to RKB. He misappropriated the rest. The divorce was never filed by Respondent on behalf of Mr. Harriger. After his dismissal, another lawyer from RKB commenced the case on Harriger's behalf. [Exs. FF and GG]

Hedrick (Count XI)

Kevin Hedrick came to Respondent to act as a witness in another matter. During the course of that encounter, he hired Respondent for his own case and paid him \$1,000.00 in cash on June 17, 2014 and got a receipt on an RKB payment slip (receipt). This payment was never reported to RKB. Mr. Hedrick states that Respondent "informed me the case would be completed in approximately 45 days," and that he "communicated with Mr. Albright several times and he led me to believe my case was filed and we were waiting on a court date." In fact, nothing had been filed. He is now working with RKB to process his case. See Affidavits of Kevin Hedrick and Rena Jones, **Ex. HH** and **Ex. II**.

Salmons (Count XII)

In the Seth Salmons matter, Respondent agreed in mid-July to represent Mr. Salmons in a custody matter in Shelby County for a flat fee of \$2,400.00. Salmons paid Respondent the fee in cash over a period of time. The fees were paid in full around the end of July 2014. After the fees were paid, Salmons did not hear from Respondent. When Salmons came to the office of RKB to

meet with Respondent in September 2014, he learned Respondent had been terminated. Some signed papers were in the file, one of which had a court file-stamp that had been crossed out. Mr. Salmons was not notified by Respondent of any problem with the filing. The file for Mr. Salmons was one of the files Respondent dropped through the mail slot of the Sidney office of RKB after his termination. Respondent has not refunded any of the fees paid by Salmons, which were concealed from RKB and never received by RKB. [Ex. JJ and KK]

Marquez (Count XIII)

After a favorable decision in the Marquez matter, Respondent was ordered to prepare an Entry adopting the Magistrate's decision. Respondent failed to do so. He simply closed the file without completing his professional responsibility. [Ex. LL]

Blake (Count XIV)

In July 2014, Sasha Blake, a Florida resident, traveled to Ohio to meet with Respondent in order to represent her in a Motion to Reallocate Parental Rights. She had previously agreed to a flat fee of \$2,200.00 after learning of RKB online. On July 8, Ms. Blake brought a cashier's check payable to RKB to the Sidney office of RKB and presented it to Respondent. He refused the check and instructed Blake to have it reissued in his name. The next day, Blake brought a new cashier's check to Respondent payable to him and he gave her a payment receipt on RKB letterhead. Respondent filed pleadings on behalf of Blake but concealed the funds from RKB and misappropriated them, depositing them in his personal account. Respondent did not have Blake sign a fee agreement or give her any notice that the fee might be refundable if he did not complete the representation of her. [Ex. MM and NN]

Taylor (Count XV)

Beginning in March 2014, Joshua Taylor and his wife, Mikayla Howe Taylor paid Respondent a total of \$3,650.00 for four matters. All of the fees were flat fees. Respondent misappropriated all the fees for his own uses and benefit.

On March 22, 2014, Mr. Taylor was given a receipt for a \$600.00 flat fee in the case that involved a motion for contempt for an arrearage and property settlement and increase in child support filed by Mr. Taylor's former wife in Allen County against Mr. Taylor. Respondent represented that everything was being handled, yet he filed no responsive pleading in the case requesting a modification of child support, which Taylor had requested that Respondent undertake. He also failed to request all the necessary information needed to prepare and file the adoption case to allow Mr. Taylor to adopt Mrs. Taylor's son, after the biological father had given up on visitation and had granted consent to the adoption. [Ex. OO]

Welker (Count XVI)

On August 21, 2014, a few days before the discovery by RKB of Respondent's misappropriation of fees, Brandi Welker met with Respondent at 7:00 a.m., before regular hours, at the Sidney office of RKB. She asked him to represent her on a matter in which the scope of work was writing a letter to the Shelby County Department of Job & Family Services. She paid him \$200 by check payable to him, for which she received a payment slip on RKB letterhead. Respondent endorsed the check and deposited it in his personal account on the same day, misappropriating it to his own uses and benefit and concealing it from RKB. Respondent never

wrote the letter or completed the work, and has not refunded any amount to Ms. Welker or offered to do so. RKB has since handled this matter. [Ex. PP]

Greer (Count XVII)

Vickey Greer contacted RKB around July 7, 2014 about representation for her daughter in a potential case in Shelby County. On July 30, 2014, she paid Respondent with a check made to him in the amount of \$1,500.00. Respondent endorsed the check and deposited it in his account instead of accounting for it to RKB, misappropriating the fees for his own uses and benefit. On August 27, 2014 (the day after Respondent's termination from RKB), Ms. Greer sent a text to Respondent asking him to call her. His response the same day was "please call the office to discuss with Roberta Roberts tomorrow." At that point, Ms. Greer contacted Roberta Roberts and RKB to assist her. Respondent has never refunded the fee or paid it to RKB. [Exs. H and QQ]

Leach (Count XVIII)

At the end of July, 2014, Sabrina Leach paid Respondent \$2,500.00 for a divorce. Respondent did not prepare and file any pleadings. Instead, he deposited the check in his personal account and never returned the unearned fees. RKB handled the matter for Ms. Leach at their expense. [Ex. RR]

Theft of Fees from Firm and Admission to Troy Police (Count XIX)

During the course of his employment with RKB, by his own admission, Respondent collected at least \$62,800 in fees for clients, which he did not pay to RKB, pursuant to his agreement with RKB and his duty of loyalty to his employer. However, this is not only theft

from RKB, but also from his clients because the work was never performed. He simply deposited the fees in his personal account rather than obtaining a fee agreement and turning the fees over to RKB. Compare *Damon, supra*. The first of these is evident by a mobile check deposit found in his desk, which was deposited in his personal bank account in January 2013 instead of the RKB trust account. See Email of Roberta Fay [Ex. SS].

In another instance involving a client's check delivered in March 2014, the check was again mobile deposited to Respondent's personal account. In that case, Respondent turned a small portion of cash (\$200) into RKB, apparently to avoid detection, while pocketing the rest. See Email of Roberta S. Fay [Ex. SS] and Affidavit of Samuel R. Peck [Ex. TT].

Respondent clearly misappropriated fees from RKB. Yet, while diverting fees from RKB, Respondent also failed to do any work for many of the clients.

These incidents highlight Respondent's pattern and practice of charging a fee, immediately depositing the fee in his personal account and keeping the entire fee whether or not he did the work contemplated, while at the same time defrauding his employer and carrying on charades with clients he was supposed to be helping.⁵

On September 5, 2014, Respondent was confronted by Detective Todd G. Sloan of the Troy Police Department about his theft from his employer, RKB. Respondent admitted the theft and stated he had provided a list to RKB of clients with a total amount he had stolen, which he

⁵ Respondent had no separate trust account (and still has none). Nor did he comply with the requirements of Prof. Cond. R. 1.5 (d) (3) regarding the disclaimer when charging a flat fee. Had he complied with policy of RKB to obtain a written fee agreement, he would not have had any violations in that regard. However, since he concealed his theft, his violations of Rule 1.5 (d) (3) are numerous.

calculated around \$63,000. Detective Sloan asked Respondent if he had stolen money from his employer, RKB, and he responded “yes.” Respondent told the Detective that his theft from his employer started in December 2013, although it clearly started much earlier. In the interview with Detective Sloan, Respondent admitted the list was incomplete. He admitted he was a salaried employee and that the fees he took from clients should have been paid to RKB.

Relator reiterates that ultimately Respondent’s actions have created great harm to clients, and that is the over-riding consideration of Relator in filing this Motion and seeking to prevent Respondent from engaging in the practice of law.

Theft of RKB Garnishment Checks (Count XX)

RKB instructed Respondent to file suit on its behalf against a former client for unpaid legal fees. Respondent did so and obtained a judgment against the client. A garnishment order was issued. After his departure, RKB discovered that upon receipt by RKB, Respondent had converted two checks which he misappropriated and deposited into his personal account. [Ex. UU]

TRUST ACCOUNT VIOLATIONS

Respondent received, by his own admission, thousands of dollars of fees from numerous clients which were misappropriated and deposited in his personal account. Respondent still has no trust account.

According to the Ohio Legal Assistance Foundation (OLAF), Respondent does not have a trust account of his own; nor is there any trust account for Jackson & Walter, LLP. See Affidavit of Karen McCall from the Ohio Legal Assistance Foundation. [Ex. M].

It becomes all the more important that he immediately be stopped from continuing his misconduct until a full reckoning of the ethics of his practice and the extent of his misconduct can be assessed by the Board of Professional Conduct and this Court.

RESPONDENT REFUSES TO ABIDE BY THE RULES GOVERNING LAWYERS

Despite the havoc Respondent's illegal conduct, professional misconduct, theft, fraud and deceit has created, Respondent refuses to acknowledge the severity of his conduct. He was urged by RKB to self-report his misconduct. He represented to them that he would not practice law. He deposited a number of files in the mail slot at the office. He cavalierly referred to his theft as "perceived disputes."

Respondent's pattern of illegal and fraudulent conduct, and his misrepresentation and deceit is so extensive that Respondent needs to be stopped from engaging in the privilege to practice law. Respondent orchestrated elaborate charades and ruses to cover up his failure to represent his clients' interests while misappropriating the fees he was paid.

As the Strunk matter illustrates, his misconduct has escalated to such magnitude that he spent a tremendous amount of energy to defraud and dupe his client by producing forged court pleadings and a forged court order. Respondent has engaged in numerous violations of the Rules of Professional Conduct, among others: Prof.Cond.R. 8.4(b) (committing an illegal act that reflects adversely on lawyer's trustworthiness); Prof.Cond.R. 8.4(c) (conduct involving fraud or deceit); and, Prof.Cond.R. 8.4(h) (conduct adversely reflecting on fitness to practice law).

Respondent's violations involving misrepresentation and flaunting of his duties as an attorney continue to mount. Respondent is not registered and is currently suspended. Yet, he continues to practice law.

The practice of law "is and ought to be a high calling dedicated to the service of clients and the public good." *Disciplinary Counsel v. Stern*, 106 Ohio St. 3d 266 (2005). The vision of this Court and most attorneys is frankly not the same vision shared by Respondent.

This Court should not allow the Respondent's misconduct to further metastasize and harm more clients.

The Court should grant this Motion and effectively refuse to permit reinstatement under Gov. Bar R. VI, §6 (D).

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Pursuant to Gov.Bar R. V, §19, Relator proposes the following findings of fact and conclusions of law:

1. Relator is a certified grievance committee authorized to bring this Motion pursuant to Gov. Bar. R. V, §19 and S.Ct.Prac.R.4.01.
2. Respondent was licensed to practice law in the State of Ohio and is subject to the Rules for the Government of the Bar and the Ohio Rules of Professional Conduct. However, his license was suspended on November 3, 2015 for failure to register as an attorney under Gov. Bar R. VI, §6. While under suspension, Respondent violated Gov. Bar R. VI, §6 (C) by engaging in the practice of law.

3. Respondent is presently the subject of a pending Motion for Interim Remedial Suspension filed by Relator in the Supreme Court of Ohio pursuant to Gov. Bar. R. V, §19 and S.Ct.Prac.R. 4.01(A) and (C).

4. The Respondent engaged in dishonesty, fraud, deceit and misrepresentation by representing that he had filed pleadings and obtained court dates, when he had done nothing. In the Strunk matter, Respondent also forged a court order and presented it to the client as a copy of an actual order issued by the Court, knowing it to be false. No pleadings had been filed on behalf of the client at the time the pleadings and the Order were presented to the client as representing the court's resolution of his case. The Edwards matter involved a substantial sum and an emergency order. The Senna matter involved out-of-state clients whose need was pressing, and their attorney, to whom Respondent lied, was led to believe the matter was being resolved. Respondent's misrepresentations led the clients to purchase airline tickets to come to Ohio for a hearing Respondent said was on the calendar. Yet, nothing had been filed in the case. These matters illustrate a conscious disregard for his clients and their legal needs, and a knowing disregard for his professional responsibilities.

5. Relator has provided substantial, credible evidence that Respondent engaged in theft from his employer, RKB and Respondent has confessed to that felony misconduct.

6. Relator has provided substantial, credible evidence that Respondent engaged in theft of fees from clients who sought his services.

7. Relator has provided substantial, credible evidence that Respondent has violated Prof. Cond. R. 1.5 (d) (3) by not providing clients with notice of the right to a refund if the lawyer does not complete the representation.

8. Relator has provided substantial, credible evidence that Respondent has violated Prof. Cond. R. 1.15 and Revised Code Section 4705.09 (A) (2) by failing to establish, maintain and use a trust account (IOLTA) and by not depositing unearned fees paid in advance in such trust account.

9. Relator has provided substantial, credible evidence that Respondent has: committed numerous illegal acts that reflect adversely on his honesty and on his trustworthiness; engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation; engaged in conduct that is prejudicial to the administration of justice, and, engaged in conduct that adversely reflects on his fitness to practice, all in violation of Prof. Cond. R. 8.4 (b), (c), (d) and (h).

10. Relator has provided substantial, credible evidence that Respondent has failed to act with reasonable diligence and promptness in representing clients, in violation of Prof. Cond. R. 1.3. These violations are elaborated in alleged in the Complaint.

11. Relator has provided substantial, credible evidence that Respondent has failed to: communicate with clients; keep the clients reasonably informed about the status of their cases; and comply with reasonable requests from the client for information, all in violation of Prof. Cond. R. 1.4(a) and 1.4 (b). When Relator did communicate with his clients they were told lies and given false information.

12. Relator has provided substantial, credible evidence that Respondent has engaged in a lengthy and continued pattern of misconduct and that the acts in which Respondent engaged are illegal acts which adversely reflect on his honesty and trustworthiness and his fitness to practice law, in violation of Prof. Cond. R. 8.4 (b).

13. Relator has provided substantial, credible evidence that Respondent has repeatedly engaged in conduct that establishes that he poses a substantial risk of serious harm to his clients and to the public and that adversely reflects on his fitness to practice, in violation of Prof. Cond. R. 8.4 (h). In this case, the Respondent's conduct involves a pattern of numerous and serious rule violations and therefore his misconduct meets this Court's requirement for a violation of Prof. Cond. R. 8.4 (h) that the conduct is "so egregious as to warrant an additional finding that it adversely reflects on the lawyer's fitness to practice law." *Disciplinary Counsel v. Bricker*, 137 Ohio St. 3d 35, 41 (2013). *Damon, supra*. *Dayton Bar Association v. Swift*, 2014-Ohio-4835 (November 6, 2014) (misconduct involving over-billing by a public defender, a case much less egregious than this one, in which the "sheer volume" of false statements and violations of specific rule provisions warranted a finding of a violation of Prof. Cond. R. 8.4(h)).

14. Respondent continues to violate the Rules of Professional Conduct.

15. The violations elaborated in this Motion and in the Complaint are numerous and serious and Respondent poses a substantial threat of serious harm to the public.

16. Respondent is therefore subject to an order granting Relator's Motion for an immediate interim remedial suspension, and such order shall issue forthwith, pursuant to Gov. Bar R. V, §19.

CONCLUSION

Respondent is a lawyer out of control, and he is oblivious to his misconduct as well as the obligations necessary in order to engage in the practice of law. He should not be allowed to continue on his reckless course, unabated and free to harm more members of the public. He is unable and unwilling to make amends. His actions demonstrate his contempt for the disciplinary system. His theft and misconduct, his forgery, his ruses and charades have severely harmed his clients. His illegal acts and misconduct have brought disrepute and embarrassment to the profession of law. As the evidence in these matters illustrates, the clients trusted their lawyer. They believed him. At least one of them disbelieved others when told that his representations were false. And ultimately his actions harmed the administration of justice. When confronted with the tangled web of deceit, he blames the court for delay, having filed nothing, illustrating his disrespect for the courts and the administration of justice. The trust placed in Respondent by his clients was totally misplaced.

The filing of the Complaint in this case did not faze Respondent. That was not enough to give him any thought of operating within the Rules of Professional Conduct. Respondent continues to operate as a lawyer without a trust account. He has continued to practice law, even though suspended. He poses a substantial threat of serious harm to the public.

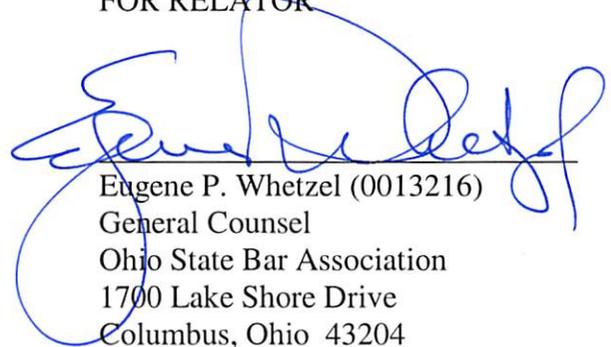
He has betrayed the trust bestowed upon him by the Ohio Supreme Court in granting him the privilege to practice law. Respondent is not constrained by the same Rules as other lawyers. He completely disregards them. Respondent simply cannot be trusted to be a lawyer and should

be stopped from any possibility of harming the public pending the resolution of the Complaint by the Board of Professional Conduct and the Ohio Supreme Court.

Respectfully submitted,



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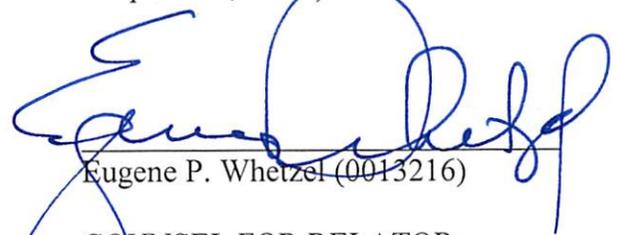


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CO-COUNSEL FOR RELATOR

CERTIFICATE OF SERVICE

On December 15, 2015, Relator served by Federal Express next-day delivery to the Respondent's registration address on file at the office of attorney services, 10 N. Market Street, Troy, Ohio 45373; and 217 Maplecrest Street NW, North Canton, Ohio 44720, the last address of the Respondent known to Relator and stated in the caption of this case, copies of the following: 1) Notice of Relator's Intent to file its Motion for Immediate Interim Remedial Suspension; 2) the Motion for Immediate Interim Remedial Suspension; and 3) all Exhibits to the Motion.

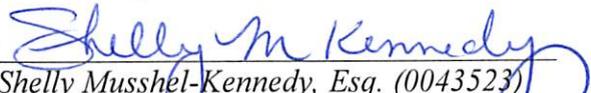


Eugene P. Whetzel (0013216)
COUNSEL FOR RELATOR

CERTIFICATE

The undersigned Chair of the Certified Grievance Committee of the Ohio State Bar Association hereby certifies that Edward M. Smith, Esq. (0010272), Eugene P. Whetzel, Esq. (0013216), and John J. Mueller, Esq. (0012101) are duly authorized to represent Relator in the premises and have accepted the responsibility of prosecuting the matter to its conclusion. After investigation, Relator believes reasonable cause exists to file a Motion for Interim Remedial Suspension and has voted to file this Motion and to file a Complaint before the Board of Commissioners on Grievances and Discipline, which Complaint has been filed.

Dated: December 7, 2015

Signed: 
Shelly Mussel-Kennedy, Esq. (0043523)
Chair of the Certified Grievance Committee