

**IN THE SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL, : No. 2727 Disciplinary Docket No. 3  
: :  
Petitioner : No. 54 DB 2020  
v. : :  
: Attorney Registration No. 206577  
KEVIN MICHAEL GOGOTS, : :  
: (Lackawanna County)  
Respondent

**ORDER**

**PER CURIAM**

**AND NOW**, this 15<sup>th</sup> day of June, 2020, upon consideration of the Verified Statement of Resignation, Kevin Michael Gogots is disbarred on consent from the Bar of this Commonwealth. See Pa.R.D.E. 215. Respondent shall comply with all of the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board pursuant to Pa.R.D.E. 208(g).

A True Copy Patricia Nicola  
As Of 06/15/2020

  
Attest:  
Chief Clerk  
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,  
Petitioner,

v.

KEVIN MICHAEL GOGOTS,  
Respondent

No. 54 DB 2020

Attorney Reg. No. 206577

(Lackawanna County)

RESIGNATION STATEMENT  
UNDER Pa.R.D.E. 215

I, Kevin Michael Gogots, hereby resign from the practice of law in the Commonwealth of Pennsylvania in conformity with Rule 215 of the Pennsylvania Rules of Disciplinary Enforcement, and further state as follows:

1. I am an attorney admitted in the Commonwealth of Pennsylvania, having been admitted to the bar on October 24, 2007. My registration number is 206577.

2. I desire to resign from the Bar of the Commonwealth of Pennsylvania.

3. My resignation is freely and voluntarily rendered; I am not being subjected to coercion or duress; and I am fully aware of the implications of submitting this resignation.

4. I am presently without representation, having been given a full and fair opportunity to obtain counsel in connection with this matter.

5. I am aware that there are presently pending investigations into allegations that I am guilty of misconduct, the nature of which is contained in a Petition for Discipline, filed April 3, 2020, attached hereto and incorporated herein as 'Exhibit A'.

FILED

06/02/2020

The Disciplinary Board of the  
Supreme Court of Pennsylvania

6. I did not file a timely answer to the Petition for Discipline; therefore, the averments contained therein are deemed admitted pursuant to Pa.R.D.E. 208(b)(3).

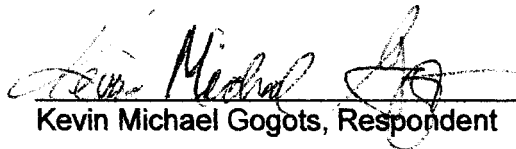
7. I acknowledge that the material facts contained in the Petition for Discipline are true.

8. I am submitting my resignation because I know that I could not successfully defend myself against the charges of misconduct under investigation.

9. I am fully aware that the submission of this Resignation Statement is irrevocable and that I can only apply for reinstatement to the practice of law pursuant to the provisions of Pa.R.D.E. 218.

It is understood that the statements made herein are subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Signed this 15<sup>th</sup> day of June, 2020.

  
Kevin Michael Gogots, Respondent

WITNESS: Michael D Gogots

VERIFICATION

The statements contained in the foregoing Resignation Statement, made pursuant to Pa.R.D.E. 215, are true and correct to the best of my knowledge, information, and belief and are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities

6/2/2020

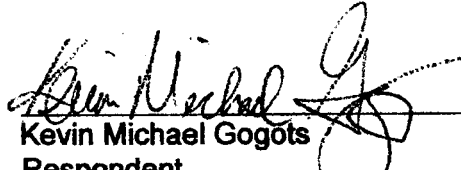
Date



Anthony A. Czuchnicki  
Disciplinary Counsel  
Attorney Reg. No. 312620

6/1/2020

Date



Kevin Michael Gogots  
Respondent  
Attorney Registration No. 206577

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	
Petitioner,	:	No. 54 DB 2020
	:	
v.	:	Attorney Reg. No. 206577
	:	
KEVIN MICHAEL GOGOTS,	:	(Lackawanna County)
Respondent	:	

PETITION FOR DISCIPLINE

Petitioner, Office of Disciplinary Counsel, by Thomas J. Farrell, Chief Disciplinary Counsel, and Anthony A. Czuchnicki, Disciplinary Counsel, files this Petition for Discipline, and charges Respondent, Kevin Michael Gogots, with professional misconduct in violation of the Rules of Professional Conduct and the Pennsylvania Rules of Disciplinary Enforcement as follows:

1. Petitioner, whose principal Office is located at the Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62485, Harrisburg, PA 17106, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement (hereinafter "Pa.R.D.E."), with the power and the duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Rules.

Exhibit A

FILED 04/03/2020 The Disciplinary Board of the Supreme Court of Pennsylvania
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2. Respondent, Kevin Michael Gogots, was born on February 6, 1981, was admitted to practice law in Pennsylvania on October 24, 2007, has a registered public address of 214 Harrison Avenue, Scranton, Lackawanna County, Pennsylvania 18510, and is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

### Charges

#### Respondent's Administrative Suspension

3. By Pennsylvania Supreme Court Order dated November 16, 2017, Respondent was placed on administrative suspension for failure to comply with his Continuing Legal Education ("CLE") requirements.

4. On November 16, 2017, the Attorney Registrar, Suzanne E. Price, provided Respondent with a copy of the Order by certified mail, return receipt requested.

5. On December 2, 2017, Respondent accepted service of the certified mailer, and signed the receipt.

6. Respondent's administrative suspension became effective on December 16, 2017.

7. Thereafter, Respondent failed to:

- a. disengage from the practice of law;
- b. notify his clients, opposing counsel, and the courts of his administrative suspension; and
- c. cease and desist from holding himself out as an attorney licensed to practice law in the Commonwealth.

8. Respondent's continues to hold himself out as actively licensed to practice

law in Pennsylvania in that his Facebook web page indicates that he is a “personal injury attorney.”

9. Despite being administratively suspended, Respondent continued to represent clients, including Hattie and David Tribe and Edmund Boyle, discussed *infra*, who were initially unaware of his suspension.

#### The Tribe Matter

10. In December 2012, Ms. Tribe slipped and fell at Bracey’s Supermarket.

11. Prior to December 2014, Respondent began representing the Tribes.

12. On December 2, 2014, Respondent filed a complaint against Bracey’s Supermarket on behalf of the Tribes. Tribe v. Bracey’s Supermarket, 2014-CV-06739 (C.P. Lackawanna Co.).

13. As stated *supra*, on December 16, 2017, Respondent’s administrative suspension became effective.

14. Respondent remained counsel of record for the Tribes and did not withdraw his appearance on their behalf.

15. On January 16, 2018, Gerard Connor, Esquire, opposing counsel, sent Respondent correspondence enclosing a certificate of readiness which he indicated he would file within 15 days, if Respondent had no objection.

16. Respondent failed to respond to Mr. Connor’s correspondence.

17. Respondent also failed to notify Mr. Connor of his administrative suspension.

18. On February 2, 2018, Mr. Connor sent Respondent correspondence which included a time-stamped copy of the filed certificate of readiness.

19. Respondent failed to respond to Mr. Connor's correspondence.
20. On February 12, 2018, a status conference was scheduled for May 18, 2018, before the Honorable Margaret Bisignani Moyle.
21. Prior to the status conference, Mr. Connor became independently aware of Respondent's suspension and alerted the court.
22. Judge Bisignani Moyle called Respondent to confirm his administrative suspension.
23. During the call, Respondent confirmed that he had been administratively suspended, but requested that he be permitted to attend the conference.
24. Judge Bisignani Moyle agreed Respondent could attend, but explicitly noted he would not be permitted to represent the Tribes at the conference.
25. On May 18, 2018, Respondent appeared with the Tribes at the status conference.
26. On the same date, the court issued an Order scheduling a final pre-trial conference for October 12, 2018.
27. Respondent continued to act as the Tribes' attorney despite the fact that he remained administratively suspended.
28. On June 2, 2018, Thomas Helbig, Esquire, the settlement master assigned to the matter, sent Respondent correspondence scheduling a mediation conference for August 7, 2018.
29. On June 11, 2018, Mr. Connor sent Respondent correspondence following up on the May 18, 2018, status conference.
30. In his correspondence, Mr. Connor noted that he had anticipated receiving



Respondent's clients' settlement demands so he could consider an amicable settlement now, or for consideration prior to the settlement conference.

31. Respondent failed to respond to Mr. Connor's request for information.

32. On July 17, 2018, Mr. Connor sent Respondent correspondence that, *inter alia*, requested Respondent's clients' settlement demands.

33. Respondent failed to respond to Mr. Connor's request for information.

34. On August 1, 2018, Mr. Connor sent an email correspondence to Respondent wherein he noted that Respondent remained on administrative suspension.

35. In this communication, Mr. Connor indicated an apprehension toward moving forward with settlement, given Respondent's status, unless Respondent was able to regain active status prior to the settlement conference. Mr. Connor also urged Respondent to address his licensure status immediately and to contact Judge Bisignani Moyle or Mr. Helbig to reschedule the conference.

36. On August 2, 2018, Mr. Connor forwarded a copy of Defendants' Mediation Memorandum to Mr. Helbig, and copied Respondent on the correspondence.

37. On August 3, 2018, several communications took place between Mr. Connor, Mr. Helbig, and Respondent, as set forth in paragraphs 38 through 48 *infra*.

38. Mr. Connor forwarded a copy of his August 1, 2018, email to Mr. Helbig. Mr. Connor advised Mr. Helbig that he had not heard from Respondent in response to this email.

39. Respondent responded by email, attaching Plaintiffs' Mediation Statement.

40. This document was on law firm letterhead, signed by Respondent as attorney for the plaintiffs.

41. Mr. Connor responded, specifically inquiring whether Respondent had resolved his administrative suspension.

42. Mr. Helbig also sent an email to Respondent requesting confirmation that Respondent had resolved his administrative suspension.

43. In response to these inquiries, Respondent stated:

I will let you know on the settlement figures. I am additionally trying to rectify the license situation. I spoke to disciplinary counsel and they advised since a CLE issue, and nothing more, that I should be able to participate in settlement proceedings. With that said, I am working on full reinstatement. Thank you.

44. This statement was false and misleading, in that Respondent had not discussed the matter with "disciplinary counsel."

45. Mr. Connor responded, reiterating his concerns regarding the unauthorized practice of law.

46. Respondent replied:

I was worried as well, which is why I spoke to them and have instituted the process for an administrative lift. I am hopeful that it will go quickly. I just took 28 hours over the last month to make up the perceived gap. I will never mess that up again.

47. This statement was also false and misleading, in that Respondent had not taken *any* CLE courses for the relevant compliance period.

48. In response to Respondent's statement, Mr. Helbig stated that he was going to continue the conference.

49. On August 6, 2018, Mr. Helbig cancelled the scheduled mediation.

50. Thereafter, Respondent failed to bring himself into compliance with his licensure requirements.

51. On October 12, 2018, Respondent appeared on behalf of the Tribes at the

pre-trial conference.

52. At the pre-trial conference, Judge Bisignani Moyle made it clear to the Tribes that Respondent was administratively suspended and could not represent them until he was reinstated.

53. The Tribes requested that the case be postponed to allow Respondent the opportunity to be reinstated.

54. As a result, Judge Bisignani Moyle postponed the matter indefinitely.

55. To date, Respondent remains administratively suspended.

56. In January 2019, Respondent completed 35 CLE credits for the applicable compliance period, but currently does not have sufficient credits to be reinstated.<sup>1</sup>

#### Respondent's Actions in Conjunction with ODC's Investigation

57. On April 1, 2019, ODC sent Respondent a Request for Statement of Position ("DB-7") regarding his actions in the Tribe matter, which included a request for a list of Respondent's Pennsylvania clients.

58. Respondent answered the DB-7 but did not list any Pennsylvania clients, stating he was "currently detached from practice in Pennsylvania."

59. This statement was false and misleading, in that Respondent was actively representing Mr. Boyle at that time.

60. Shortly thereafter, ODC received a complaint from Mr. Boyle.

61. Prior to ODC contacting Respondent regarding the Boyle complaint, Respondent submitted to ODC a 27-page narrative relating to the Boyle matter, in which he admitted his misstatements and other misconduct, discussed *infra*.

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<sup>1</sup> Had Respondent requested reinstatement in the prior compliance period which concluded April 30, 2019, Respondent might have had sufficient credits to be reinstated; however, he failed to take action to do so.

62. Respondent's statement did not include a signed verification page.

63. On September 25, 2019, ODC contacted Respondent via email regarding the complaint filed by Mr. Boyle.

64. In the email, ODC inquired whether Respondent was willing to waive the requirement that he be provided a DB-7 relating to Mr. Boyle's complaint.

65. In the email, ODC also requested that Respondent provide a signed verification for his prior statement.

66. On the same date, Respondent replied stating that he would waive the DB-7 requirement.

67. Thereafter, Respondent failed to provide the verification statement requested by ODC and became non-responsive to ODC's subsequent inquiries.

#### The Boyle Matter

68. On August 6, 2014, Mr. Boyle was injured in a workplace incident.

69. In November 2014, Mr. Boyle engaged Respondent to assist with his unemployment compensation and workers' compensation claims.

70. Respondent failed to provide Mr. Boyle with a fee agreement or to notify him of the fact that he did not carry malpractice insurance.

71. Over the course of the next four years, Respondent *significantly and repeatedly* misrepresented to Mr. Boyle that he was taking action on Mr. Boyle's behalf, even though he took *no action whatsoever*. By way of example, Respondent's misconduct included, but was not limited to, the allegations set forth in paragraphs 72 through 84 *infra*.

72. In January 2015, Mr. Boyle informed Respondent that an adjuster from

Cincinnati Insurance had contacted him regarding a potential issue with receipt of unemployment compensation benefits.

73. Respondent informed Mr. Boyle that he would contact the adjuster on Mr. Boyle's behalf, but failed to do so.

74. Respondent further misrepresented to Mr. Boyle that he had sent the adjuster a letter of representation when he had not.

75. Even prior to Respondent's administrative suspension, Respondent in no uncertain terms, fabricated a narrative to mislead Mr. Boyle while taking no action on his behalf beyond performing research and drafting incomplete documents, which he never filed.

76. As Mr. Boyle's medical condition worsened, Respondent advised Mr. Boyle that he might be eligible for Social Security Disability.

77. After his administrative suspension became effective on December 16, 2017, Respondent continued to communicate with Mr. Boyle, misleading Mr. Boyle with detailed actions he purported to have taken on Mr. Boyle's behalf.

78. Respondent did so despite knowing that he was unable to take any action on Mr. Boyle's claim due to his administrative suspension.

79. At no point did Respondent advise Mr. Boyle to secure successor counsel or contact another attorney to take over the representation.

80. Respondent further attempted to conceal his failure to act by dissuading Mr. Boyle from contacting anyone else involved in his claims.

81. Eventually, Mr. Boyle independently contacted the Department of Labor and Industry directly and was informed Respondent had failed to take any action.

82. When Mr. Boyle confronted Respondent with this information, Respondent finally disclosed his suspended status.

83. At that point, the statute of limitations on Mr. Boyle's workers' compensation claim had already expired.

84. Respondent incorrectly assumed that the statute of limitations on Mr. Boyle's claim was four years, even though, generally, the statute of limitations on workers' compensation claims is three years. See 77 P.S. § 602.

#### Respondent's Misrepresentations on his Attorney Registration Forms

85. Since at least 2009, Respondent has stated on his Annual Fee Forms that he holds an "inactive" license to practice law in New Jersey.

86. The New Jersey Attorney Registration Office has no record of Respondent ever being licensed to practice law in the state.

87. Respondent also misrepresented that he maintained professional liability insurance, when he did not.

88. Respondent admits that he was aware that his registration forms were not accurate at the time of filing.

89. By his conduct as alleged above, Respondent violated the following Rules of Professional Conduct and Rules of Disciplinary Enforcement:

- a. RPC 1.1: A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation;
- b. RPC 1.3: A lawyer shall act with reasonable diligence and promptness in representing a client;
- c. RPC 1.4(a)(3): A lawyer shall ... keep the client reasonably informed about the status of the matter;

- d. RPC 1.4(b): A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;
- e. RPC 1.4(c): A lawyer in private practice shall inform a new client in writing if the lawyer does not have professional liability insurance of at least \$100,000 per occurrence and \$300,000 in the aggregate per year, subject to commercially reasonable deductibles, retention or co-insurance, and shall inform existing clients in writing at any time the lawyer's professional liability insurance drops below either of those amounts or the lawyer's professional liability insurance is terminated. A lawyer shall maintain a record of these disclosures for six years after the termination of the representation of a client;
- f. RPC 1.5(b): When the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, in writing, before or within a reasonable time after commencing the representation;
- g. RPC 3.2: A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client;
- h. RPC 4.1(a): In the course of representing a client a lawyer shall not knowingly ... make a false statement of material fact or law to a third person;
- i. RPC 5.5(a): A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction;
- j. RPC 5.5(b): A lawyer who is not admitted to practice in this jurisdiction shall not ... hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction;
- k. RPC 8.1(a): A lawyer in connection with ... a disciplinary matter, shall not ... knowingly make a false statement of material fact;
- l. RPC 8.1(b): A lawyer in connection with ... a disciplinary matter, shall not ... fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority;
- m. RPC 8.4(c): It is professional misconduct for a lawyer to ... engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- n. RPC 8.4(d): It is professional misconduct for a lawyer to ... engage in conduct that is prejudicial to the administration of justice;

- o. Pa.R.D.E. 217(a): A formerly admitted attorney shall promptly notify, or cause to be promptly notified, all clients being represented in pending matters, other than litigation or administrative proceedings, of the disbarment, suspension, administrative suspension or transfer to inactive status and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status and shall advise said clients to seek legal advice elsewhere
- p. Pa.R.D.E. 217(b): A formerly admitted attorney shall promptly notify, or cause to be promptly notified, all clients who are involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of the disbarment, suspension, administrative suspension or transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status. The notice to be given to the client shall advise the prompt substitution of another attorney or attorneys in place of the formerly admitted attorney. In the event the client does not obtain substitute counsel before the effective date of the disbarment, suspension, administrative suspension or transfer to status, it shall be the responsibility of the formerly admitted attorney to move in the court or agency in which the proceeding is pending for leave to withdraw. The notice to be given to the attorney or attorneys for an adverse party shall state the place of residence of the client of the formerly admitted attorney;
- q. Pa.R.D.E. 217(c): A formerly admitted attorney shall promptly notify, or cause to be promptly notified, of the disbarment, suspension, administrative suspension or transfer to inactive status:

  - (2) all other persons with whom the formerly admitted attorney may at any time expect to have professional contacts under circumstances where there is a reasonable probability that they may infer that he or she continues as an attorney in good standing; and
  - (3) any other tribunal, court, agency or jurisdiction in which the attorney is admitted to practice;
- r. Pa.R.D.E. 217(d)(2): In addition to the steps that a formerly admitted attorney must promptly take under other provisions of this Rule to disengage from the practice of law, a formerly admitted attorney shall promptly cease and desist from using all forms of communication that expressly or implicitly convey eligibility to practice law in the state courts of Pennsylvania, including but not limited to professional titles, letterhead, business cards, signage, websites, and references to admission to the Pennsylvania Bar; and



- s. Pa. R.D.E. 217(j)(4): a formerly admitted attorney is specifically prohibited from engaging in any of the following activities:
- (i) performing any law-related activity for a law firm, organization or lawyer if the formerly admitted attorney was associated with that law firm, organization or lawyer on or after the date on which the acts which resulted in the disbarment or suspension occurred, through and including the effective date of disbarment or suspension;
  - (iii) performing any law-related services for any client who in the past was represented by the formerly admitted attorney;
  - (iv) representing himself or herself as a lawyer or person of similar status;
  - (v) having any contact with clients either in person, by telephone, or in writing ...;
  - (vi) rendering legal consultation or advice to a client;
  - (vii) appearing on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, hearing officer or any other adjudicative person or body; and
  - (ix) negotiating or transacting any matter for or on behalf of a client with third parties or having any contact with third parties regarding such a negotiation or transaction.

WHEREFORE, Petitioner prays that your Honorable Board appoint, pursuant to Pa. R.D.E. 205, a Hearing Committee to hear testimony and receive evidence in support of the forgoing charges and upon completion of said Hearing to make such findings of fact, conclusions of law, and recommendations for disciplinary action as it may deem appropriate.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

Thomas J. Farrell  
Chief Disciplinary Counsel



By: \_\_\_\_\_

Anthony A. Czuchnicki  
Disciplinary Counsel  
Attorney Registration No. 312620  
601 Commonwealth Avenue, Suite 5800  
P.O. Box 62675  
Harrisburg, PA 17106-2675  
Telephone (717) 772-8572

VERIFICATION

I, Anthony A. Czuchnicki, Disciplinary Counsel, verify that the statements made in the foregoing Petition for Discipline are true and correct to the best of my knowledge, information, and belief. This statement is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.



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Anthony A. Czuchnicki

**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Office Of Disciplinary Counsel



Signature: \_\_\_\_\_

Name: Anthony A. Czuchnicki

Attorney No. (if applicable): 312620

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Submitted by: Office of Disciplinary Counsel

Signature: Anthony Czuchnicki

Name: Anthony A. Czuchnicki

Attorney No. (if applicable): 312620