

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No.1973 Disciplinary Docket No. 3  
Petitioner :  
v. : No. 36 DB 2013  
: Attorney Registration No. 43918  
GREGORY GEORGE SCHWAB, :  
Respondent : (Allegheny County)

ORDER

**PER CURIAM:**

**AND NOW**, this 24<sup>th</sup> day of October, 2013, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated August 15, 2013, the Joint Petition in Support of Discipline on Consent is hereby granted pursuant to Rule 215(g), Pa.R.D.E., and it is

ORDERED that Gregory George Schwab is suspended on consent from the Bar of this Commonwealth for a period of one year and one day and he shall comply with all the provisions of Rule 217, Pa.R.D.E.

It is further ORDERED that respondent shall pay the costs incurred by the Disciplinary Board in the investigation and prosecution of this matter.

A True Copy Patricia Nicola  
As Of 10/24/2013

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

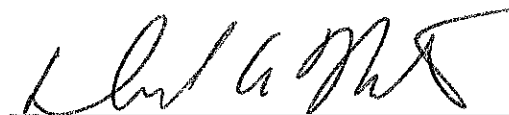
OFFICE OF DISCIPLINARY COUNSEL : No. 36 DB 2013  
Petitioner :  
v. : Attorney Registration No. 43918  
GREGORY GEORGE SCHWAB :  
Respondent : (Allegheny County)

RECOMMENDATION OF THREE-MEMBER PANEL  
OF THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

The Three-Member Panel of the Disciplinary Board of the Supreme Court of Pennsylvania, consisting of Board Members David A. Nasatir, Jane G. Penny, and Brian John Cali, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on June 21, 2013.

The Panel approves the Joint Petition consenting to a one year and one day suspension and recommends to the Supreme Court of Pennsylvania that the attached Petition be Granted.

The Panel further recommends that any necessary expenses incurred in the investigation and prosecution of this matter shall be paid by the respondent-attorney as a condition to the grant of the Petition.



David A. Nasatir, Panel Chair  
The Disciplinary Board of the  
Supreme Court of Pennsylvania

Date: 8/15/2013

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	
	:	
Petitioner	:	No. 36 DB 2013
	:	
v.	:	
	:	
GREGORY GEORGE SCHWAB,	:	Attorney Registration No. 43918
	:	
Respondent	:	(Allegheny County)

JOINT PETITION IN SUPPORT OF DISCIPLINE  
ON CONSENT UNDER RULE 215(d), Pa.R.D.E

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION  
CHIEF DISCIPLINARY COUNSEL

Susan N. Dobbins  
Disciplinary Counsel  
Suite 1300, Frick Building  
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Pittsburgh, PA 15219  
(412) 565-3173

and

Gregory George Schwab, Esquire  
P.O. Box 7  
Bridgeville, PA 15017  
(412) 979-7544

**FILED**

JUN 21 2013

Office of the Secretary  
The Disciplinary Board of the  
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	
	:	
Petitioner	:	No. 36 DB 2013
	:	
v.	:	
	:	
GREGORY GEORGE SCHWAB,	:	Attorney Registration No. 43918
	:	
Respondent	:	(Allegheny County)

JOINT PETITION IN SUPPORT OF DISCIPLINE  
ON CONSENT UNDER RULE 215(d), Pa.R.D.E

Petitioner, Office of Disciplinary Counsel, by Paul J. Killion, Chief Disciplinary Counsel, and Susan N. Dobbins, Disciplinary Counsel, and Respondent, Gregory George Schwab, Esquire, file this Joint Petition In Support Of Discipline On Consent Under Rule 215(d) of the Pennsylvania Rules of Disciplinary Enforcement and respectfully represent that:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, PA 17106-2485, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement (hereafter "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.

2. Respondent, Gregory George Schwab, was born in 1960. He was admitted to practice law in the Commonwealth of Pennsylvania on November 1, 1985. Respondent's current attorney registration mailing address is P.O. Box 7, Bridgeville, PA 15017. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

#### CHARGE I: THE HILSCHER MATTER

3. In the latter part of May 2010, Respondent was retained by James R. Hilscher to represent him in three separate legal matters: a divorce, a pending collection lawsuit, and Will preparation.

4. On or about June 5, 2010, Mr. Hilscher provided Respondent with a Pennstar Federal Credit Union/Citizens Bank check number 141766 made payable to Respondent for \$7,500. Respondent negotiated and cashed said check on June 7, 2010.

5. Respondent did not hold the \$7,500 separate and apart from his own funds.

6. Respondent indicated to Mr. Hilscher that his retainer fee to handle all of his legal matters was \$6,250 and Mr. Hilscher requested that the additional funds he

paid to Respondent be escrowed by Respondent in the event that they would be needed to pay any taxes or credit cards during the pending litigation.

7. Although Respondent had not previously represented Mr. Hilscher, Respondent failed to communicate to Mr. Hilscher, in writing, the basis or rate of his fee, before or within a reasonable time after commencing the representation.

8. In early June 2010, Respondent met with Mr. Hilscher and provided Mr. Hilscher with a draft of a two count complaint in divorce for his review and signature, which Mr. Hilscher reviewed and signed at that time.

9. Respondent subsequently failed to file the divorce or to institute the divorce action on behalf of Mr. Hilscher.

10. All of Mr. Hilscher's meetings with Respondent were held at Respondent's request at the Embassy Suites Hotel located in Moon Township, Pennsylvania.

11. Mr. Hilscher also hired Respondent to handle a collections matter he had with Palisades Collection agency in a case pending in the Court of Common Pleas of Allegheny County, Pennsylvania, at number AR-10-002983.

12. Although Respondent was aware that a ten day notice had been sent to Mr. Hilscher on May 20, 2010, and a default judgment was entered on June 4, 2010

against Mr. Hilscher, Respondent took no action of record to protect Mr. Hilscher's interests.

13. Respondent told Mr. Hilscher that he was negotiating with the creditor to resolve the case.

14. Between mid-June 2010, and until December 21, 2010, Mr. Hilscher attempted to reach Respondent between two to three times a week at Respondent's telephone number of 412-979-7544. Mr. Hilscher left repeated messages on Respondent's voice mail and requested that Respondent return his calls.

15. Respondent failed to return Mr. Hilscher's telephone calls or communicate with him in any way.

16. Mr. Hilscher's wife instituted a divorce action against him in December 2010.

17. Mr. Hilscher filed a claim against Respondent with the Pennsylvania Lawyers Fund for Client Security and was awarded \$7,500 in December 2011.

18. By his conduct as alleged in Paragraphs 3 through 17 above, Respondent violated the following Rules of Professional Conduct:

(a) Rule of Professional Conduct 1.3 – "A lawyer shall act with reasonable diligence and promptness in representing a client."

(b) Rule of Professional Conduct 1.4(a)(3) – "A lawyer shall keep the client reasonably informed about the status of the matter."

(c) Rule of Professional Conduct 1.4(a)(4)- "A lawyer shall promptly comply with reasonable requests for information."

(d) Rule of Professional Conduct 1.5(a) – "A lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee."

(e) Rule of Professional Conduct 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."

(f) Rule of Professional Conduct 1.15(b) (for conduct on or after 9/20/08) - which states that a lawyer shall hold all Rule 1.15 Funds and property separate from the lawyer's own property. Such property shall be identified and appropriately safeguarded.

(g) Rule of Professional Conduct 8.4(c) – "It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation."



## CHARGE II – THE KEARNEY MATTER

19. In August 2010, criminal charges were filed against Charlene L. Kearney's son, Darnell Scott, in the Allegheny County Magisterial District Court 05-0-03 at Docket No. CR-0008331-10 (Pittsburgh Magistrate Court).

20. Ms. Kearney contacted Respondent regarding the representation of Darnell Scott at his preliminary hearing.

21. Respondent advised Ms. Kearney that his fee to handle the preliminary hearing would be \$1,000, which would include investigator's costs, if necessary.

22. Although Respondent had not previously represented Ms. Kearney or Darnell Scott, Respondent failed to communicate to either of them, in writing, the rate or basis of his fee, before or within a reasonable time after commencing the representation.

23. On August 24, 2010, Respondent met with Darnell Scott who was incarcerated at the Allegheny County Jail.

24. A Pittsburgh Municipal Court Application for Continuance of Preliminary Hearing dated August 25, 2010, filed on behalf of Darnell Scott, reflects that the preliminary hearing was continued until September 7, 2010, because the defense was not ready and Darnell Scott wished to retain counsel.

25. On September 1, 2010, Ms. Kearney met with Respondent at the Municipal Court Building and paid him \$1,000 by check for his legal representation of Darnell Scott. Respondent negotiated and cashed Ms. Kearney's check that day.

26. Respondent did not deposit any portion of the \$1,000 into an IOLTA account even though the \$1,000 purportedly included potential future investigator costs.

27. On September 7, 2010, Respondent failed to appear at the Preliminary Hearing on behalf of Darnell Scott and did not communicate with Ms. Kearney or Darnell Scott that he would be unable to attend the proceeding.

28. Ms. Kearney left repeated telephone messages for Respondent on September 7, 2010, but Respondent did not return her calls.

29. The Preliminary Hearing was continued until September 15, 2010, with the Application for Continuance of Preliminary Hearing indicating that Respondent was ill.

30. On September 15, 2010, the Preliminary Hearing did not take place, Respondent did not appear and the hearing was continued until September 29, 2010 because the prosecution witness was not available.

31. After receiving his fee on September 1, 2010, Respondent did not again communicate with Ms. Kearney or Darnell Scott.

32. After Respondent's representation of Darnell Scott was terminated and new counsel had been hired to represent Darnell Scott, Respondent failed to refund any portion of the \$1,000 he had been paid to represent Darnell Scott at the Preliminary Hearing.

33. Ms. Kearney filed a claim against Respondent with the Pennsylvania Lawyers Fund for Client Security and an award was made of \$1,000 in June 2011.

34. By his conduct as alleged in Paragraphs 19 through 33 above, Respondent violated the following Rules of Professional Conduct:

(a) Rule of Professional Conduct 1.3 – "A lawyer shall act with reasonable diligence and promptness in representing a client."

(b) Rule of Professional Conduct 1.4(a)(2) – "A lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished."

(c) Rule of Professional Conduct 1.4(a)(3) – "A lawyer shall keep the client reasonably informed about the status of the matter."

(d) Rule of Professional Conduct 1.4(a)(4)- "A lawyer shall promptly comply with reasonable requests for information."

(e) Rule of Professional Conduct 1.5(a) – "A lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee."

(f) Rule of Professional Conduct 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) Rule of Professional Conduct 1.15(b) (for conduct on or after 9/20/08) – "A lawyer shall hold all Rule 1.15 Funds and property separate from the lawyer's own property. Such property shall be identified and appropriately safeguarded."

(h) Rule of Professional Conduct 1.15(i) (for conduct on or after 9/20/08) – "A lawyer shall deposit into a Trust Account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred, unless the client gives informed consent, confirmed in writing, to the handling of fees and expenses in a different manner."

(i) Rule of Professional Conduct 1.16(d) – "Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable

notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law."

(j) Rule of Professional Conduct 8.4(c) – "It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation."

### CHARGE III – THE WOZNICHAK MATTER

35. On September 9, 2010, Mr. Woznichak spoke with Respondent by telephone about handling a criminal matter on his behalf. Mr. Woznichak had found what he believed to be new evidence regarding a case in which he had pled *nolo contendere* in 2006.

36. Respondent had previously represented Mr. Woznichak in his criminal matters.

37. On September 12, 2010, Respondent met with Mr. Woznichak and his wife at, by Respondent's request, the Embassy Suites Hotel located in Moon Township, Pennsylvania.

38. Respondent told Mr. Woznichak that the cost to represent him in the criminal matter would be \$5,000.

39. In the past, Mr. Woznichak's father-in-law, Frank Calore, was involved in paying Mr. Woznichak's legal fees. Consequently, Respondent subsequently spoke with Mr. Calore regarding the agreement for payment. It was determined that Mr. Calore would make an initial payment of \$2,000 and that further funds would be paid upon proof of progress with Mr. Woznichak's case.

40. On September 19, 2010, Mr. Woznichak's wife met Respondent at the Embassy Suites Hotel, and gave him a check signed by Mr. Calore, made payable to Respondent, for \$2,000. Respondent subsequently cashed the check on September 20, 2010.

41. Mr. Woznichak and/or his wife then made numerous efforts to contact Respondent by telephone. On the three occasions when Respondent did answer his telephone, he indicated that he was unable to talk about the case and hung up abruptly using miscellaneous excuses.

42. Respondent never returned any of Mr. Woznichak and/or his wife's telephone calls nor did he communicate in any manner with Mr. Woznichak regarding his case.

43. Respondent took no action and did no work regarding Mr. Woznichak's legal matter.

44. Ms. Woznichak filed a claim against Respondent with the Pennsylvania Lawyers Fund for Client Security and was awarded \$2,000 in September 2011.

45. By his conduct as alleged in Paragraphs 35 through 44 above, Respondent violated the following Rules of Professional Conduct:

(a) Rule of Professional Conduct 1.3 – "A lawyer shall act with reasonable diligence and promptness in representing a client."

(b) Rule of Professional Conduct 1.4(a)(3) – "A lawyer shall keep the client reasonably informed about the status of the matter."

(c) Rule of Professional Conduct 1.4(a)(4)- "A lawyer shall promptly comply with reasonable requests for information."

(d) Rule of Professional Conduct 1.5(a) – "A lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee."

(e) Rule of Professional Conduct 1.15(b) (for conduct on or after 9/20/08) – "A lawyer shall hold all Rule 1.15 Funds and property

separate from the lawyer's own property. Such property shall be identified and appropriately safeguarded."

(f) Rule of Professional Conduct 8.4(c) – "It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation."

#### CHARGE IV – THE CALCATERRA MATTER

46. In October 2003, Respondent was retained by Roseann Calcaterra to represent her in a divorce action and related real estate matters.

47. Respondent provided to Ms. Calcaterra a Memorandum and Understanding/Letter of Engagement dated October 8, 2003.

48. Respondent was paid \$5,000 as a flat non-refundable legal fee by Ms. Calcaterra to handle her legal matters.

49. On May 4, 2004, Respondent filed a Complaint in No-Fault Divorce under Section 3301(d) of the Divorce Code in the Court of Common Pleas of Allegheny County at case number FD 99-000101 on behalf of Ms. Calcaterra.

50. Due to the unknown whereabouts of Ms. Calcaterra's husband, Praecipes to Reissue the Divorce Complaint had to be filed in June 2004 and again



in December 2005. Respondent obtained an Order allowing Ms. Calcaterra to pursue alternative service on her husband.

51. Subsequently, Respondent took no further action of record in Ms. Calcaterra's divorce case.

52. Ms. Calcaterra made numerous efforts to reach Respondent by telephone, but Respondent failed to return her calls.

53. On June 19, 2006, Ms. Calcaterra called Respondent's office and left a message requesting a refund of her \$5,000 legal fee paid to Respondent because of his failure to conclude the divorce matter and transfer the marital properties to her name, and she threatened to report Respondent to the Allegheny County Bar Association.

54. By letter dated June 21, 2006, Respondent provided Ms. Calcaterra with an Affidavit of Non-Military Service and Plaintiff's Affidavit of Separation under Section 3301(d) of the Divorce Code to review and sign. He indicated to her in his letter that the documents were needed in order to secure a Final Entry of Divorce in her case.

55. Respondent again contacted Ms. Calcaterra by letter dated September 15, 2006, requesting her directive on how to proceed with the divorce action.

56. Under cover of certified letter dated September 18, 2006, Ms. Calcaterra provided Respondent with a signed Affidavit of Non-Military Service and Affidavit of Separation under Section 3301(d) of the Divorce Code. Ms. Calcaterra's letter was accepted and signed for at Respondent's office on September 22, 2006.

57. Thereafter, Respondent ceased any and all communication with Ms. Calcaterra.

58. Respondent failed to file the signed Affidavits provided to him by Ms. Calcaterra, he failed to finalize the divorce proceedings, he did not handle the real property transactions for which he had been hired, he did not refund to Ms. Calcaterra any unused portion of the legal fees she had paid to him, and he did not terminate his representation of record.

59. By certified letter dated August 21, 2008, Ms. Calcaterra wrote to Respondent and requested that he return to her within ten days all of her original documents. Said letter was delivered and signed for at Respondent's law office on August 25, 2008.

60. Respondent subsequently failed to respond to Ms. Calcaterra's letter.

61. By his conduct as alleged in Paragraphs 46 through 60 above, Respondent violated the following Rules of Professional Conduct:

(a) Rule of Professional Conduct 1.3 – "A lawyer shall act with reasonable diligence and promptness in representing a client."

(b) Rule of Professional Conduct 1.4(a)(3) – "A lawyer shall keep the client reasonably informed about the status of the matter."

(c) Rule of Professional Conduct 1.4(a)(4)- "A lawyer shall promptly comply with reasonable requests for information."

#### CHARGE V – THE MARTELLI/SUEHR MATTER

62. In late 2007, Respondent was retained by Susan Martelli to represent her son, Joseph Suehr, in a criminal matter filed in the Court of Common Pleas of Allegheny County, Pennsylvania, at case number 2007-17498.

63. Respondent's fee to represent Mr. Suehr was \$1,500.

64. Although Respondent had not previously represented Ms. Martelli or Mr. Suehr, Respondent failed to communicate to either of them, in writing, the rate or basis of his fee before or within a reasonable time after commencing the representation.

65. On March 6, 2008, Ms. Martelli provided Respondent with three \$500 cashier checks totaling \$1,500 which represented payment of his legal fees.

66. During the course of Respondent's representation of Mr. Suehr, he ordered a transcript of the proceedings held in Mr. Suehr's criminal matter. He requested that Ms. Martelli pay the court reporters the \$283.85 fee reflecting the transcription costs.

67. Ms. Martelli provided Respondent with a personal check no. 437 dated April 3, 2008 in the amount of \$283.85 made payable to Respondent for the transcription costs.

68. Respondent and Lisa Marie Schwab, his wife, endorsed the check and did not deposit the proceeds into Respondent's IOLTA Account maintained with Citizens Bank at account number 6202145874.

69. Respondent subsequently did not use the proceeds to obtain the original transcript from the court reporters and he did not refund or return the proceeds designated for the purchase of the transcript to Ms. Martelli or Mr. Suehr once Respondent's representation of Mr. Suehr was terminated.

70. By his conduct as alleged in Paragraphs 62 through 69 above, Respondent violated the following Rules of Professional Conduct:

(a) Rule of Professional Conduct 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."

(b) Rule of Professional Conduct 1.15(a) (for conduct before 9/20/08) – "A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a client-lawyer relationship separate from the lawyer's own property. Such property shall be identified and appropriately safeguarded. Complete records of the receipt, maintenance and disposition of such property shall be preserved for a period of five years after termination of the client-lawyer relationship or after distribution or disposition of the property, whichever is later."

(c) Rule of Professional Conduct 1.15(b) (for conduct on or after 9/20/08) – "A lawyer shall hold all Rule 1.15 Funds and property separate from the lawyer's own property. Such property shall be identified and appropriately safeguarded."

(d) Rule of Professional Conduct 1.16(d) – "Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and

refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law."

(e) Rule of Professional Conduct 8.4(c) – "It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation."

#### CHARGE VI – THE KOZAK MATTER

71. In November 2004, Respondent met with Beverly C. Kozak regarding her case involving Beneficial, HSBC Group and Household Finance Corporation. At the time of the meeting, Respondent told Ms. Kozak that he required a \$10,000 fee to handle her matter.

72. Although Respondent did not regularly represent Ms. Kozak, Respondent failed to communicate to Ms. Kozak, in writing, the basis or rate of his fee before or within a reasonable time after commencing the representation.

73. Ms. Kozak paid to Respondent the requested fee of \$10,000 through installment payments.

74. In September 2008, Respondent contacted Ms. Kozak and requested that she pay to him an additional \$300 for filing fees, which she did.

75. On September 17, 2008, Respondent filed a Praecipe for Writ of Summons in Trespass at case number GD-08-019646 in the Court of Common Pleas of Allegheny County, Pennsylvania, on behalf of Ms. Kozak.

76. Respondent took no further action of record in Ms. Kozak's case filed in the Court of Common Pleas of Allegheny County, Pennsylvania.

77. Sometime in 2006 to 2007, Ms. Kozak had contacted Respondent about another matter involving a contractor, John Smelko, and his alleged failure to finish a remodeling job for Ms. Kozak's daughter.

78. At that time, Respondent told Ms. Kozak his fee for representation in that matter would be \$5,000 and Ms. Kozak subsequently paid the said sum to Respondent.

79. Again, Respondent failed to communicate to Ms. Kozak, in writing, the basis or rate of his fee before or within a reasonable time after commencing the representation.

80. On September 7, 2007, Respondent filed a Complaint in Civil Action in the Court of Common Pleas of Washington County, Pennsylvania, at case number 2007-1263, on behalf of Ms. Kozak.

81. Although Respondent filed an Answer to Counterclaim on behalf of Ms. Kozak in the action on May 22, 2007, a Pre-Trial Deficiency Order and Notice was

issued by the Court on December 21, 2007, in Ms. Kozak's case in Washington County in which the Court found that Respondent had failed to file a Pre-Trial Statement, and directed that unless the deficiency was corrected and a Pre-Trial Statement filed within twenty days, sanctions might be imposed.

82. In response to a Joint Motion for Extension of Time for Discovery, discovery was extended in the case for 180 days by Order dated January 29, 2008.

83. A second Pre-Trial Deficiency Order and Notice was issued by the Court on September 23, 2008, by which it was required that a Pre-Trial Statement be filed by Respondent within twenty days or sanctions might be imposed.

84. On November 5, 2008, an Order issuing a Rule to Show Cause Why Sanctions Should Not be Imposed for Failure to Comply with the Pre-Trial Order was entered by the Court and the Rule was returnable on November 21, 2008.

85. On November 24, 2008, an Order to Extend Discovery was entered, extending discovery for ninety days and dismissing the Rule.

86. A third Pre-Trial Deficiency Order and Notice was entered by the Court on April 23, 2009, requiring that a Pre-Trial Statement be filed by Respondent within twenty days, or sanctions might be imposed.

87. On July 13, 2009, an Order and Rule to Show Cause was issued and returnable on July 24, 2009.



88. Ms. Kozak subsequently retained other counsel to represent her interests in the Washington County case.

89. From December 2008 through May 2009, Ms. Kozak made numerous attempts to reach Respondent by telephone and left numerous messages requesting that Respondent return her calls.

90. Respondent failed to return Ms. Kozak's calls or communicate with her in any way.

91. Respondent telephoned Ms. Kozak on about August 10, 2011. During that conversation Ms. Kozak told Respondent that:

- (a) He did not complete the work that he was retained to do;
- (b) He had not returned any of her phone calls; and,
- (c) She had no idea of his whereabouts.

92. Respondent told Ms. Kozak that he would get back to her on or about August 17, 2011.

93. Respondent did not contact Ms. Kozak on or about August 17, 2011 or thereafter.

94. On about October 7, 2011, Ms. Kozak received a call from a collection agency for the Household Finance Corporation, the defendant in the civil action in

which Respondent filed a Praecipe for Writ of Summons in Trespass on behalf of Ms. Kozak in the Court of Common Pleas of Allegheny County at docket No. GD-08-019646.

95. Ms. Kozak directed the collection agency to contact Respondent because he was the attorney representing her with regard to the civil matter.

96. The collection agency informed Ms. Kozak that Respondent had been contacted, at which time he informed the collection agency that he no longer represented Ms. Kozak.

97. It was always Ms. Kozak's understanding that Respondent was still her legal counsel as he was not terminated by her, nor did he ever inform her in writing or verbally that he no longer represented her in the civil matter.

98. It was a misrepresentation for Respondent to tell the collection agency that he no longer represented Ms. Kozak.

99. On or about October 7, 2011, Ms. Kozak telephoned Respondent. During the telephone conversation:

(a) Respondent informed Ms. Kozak that the only reason he told the collection agency that he no longer represented her was so that he would no longer get calls from the agency;

(b) Respondent told Ms. Kozak that he still represented her and that he wanted to meet with her on Tuesday, October 11, 2011; and,

(c) He directed Ms. Kozak to contact him on Monday, October 10, 2011, to set up a time for the meeting.

100. On October 10, 2011, Ms. Kozak tried to telephone Respondent at least sixteen times; however, Ms. Kozak's calls went directly to his voicemail where she left messages requesting that he call her.

101. On one occasion, Respondent answered Ms. Kozak's telephone calls, and immediately hung up the phone when she identified herself.

102. Respondent did not return any of Ms. Kozak's telephone calls nor did he meet with her on October 11, 2011, or communicate with her at any time thereafter.

103. By his conduct as alleged in Paragraphs 71 through 102 above, Respondent violated the following Rules of Professional Conduct:

(a) Rule of Professional Conduct 1.4(a)(2) – "A lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished."

(b) Rule of Professional Conduct 1.4(a)(3) – "A lawyer shall keep the client reasonably informed about the status of the matter."

(c) Rule of Professional Conduct 1.4(a)(4) – "A lawyer shall promptly comply with reasonable requests for information."

(d) Rule of Professional Conduct 8.4(c) – "It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation."

#### CHARGE VII – THE AYERSMAN MATTER

104. In June 2008, Respondent was retained by Justin Ayersman to handle a divorce matter.

105. Respondent's initial and subsequent meetings with Mr. Ayersman took place at the Foggy Bottom Bar & Grill located at 8507 University Boulevard, Moon Township, Pennsylvania.

106. Respondent told Mr. Ayersman that he required a \$1,800 flat fee to handle Mr. Ayersman's divorce matter.

107. Although Respondent had not previously represented Mr. Ayersman, he failed to communicate to him, in writing, the basis or rate of his fee before or within a reasonable time after commencing the representation.

108. Mr. Ayersman's father, Dominic Ayersman, drew a personal check payable to Respondent in the amount of \$1,500 representing a significant portion of Respondent's fee.

109. Respondent subsequently endorsed and negotiated said check.

110. On September 19, 2008, Respondent filed a Complaint in No-Fault Divorce under Sections 3301(c) or 3301(d) of the Divorce Code on behalf of Mr. Ayersman in the Court of Common Pleas of Allegheny County, Pennsylvania, at case number FD-08-008776.

111. The cover sheet for the Complaint in No-Fault Divorce reflects that:

(a) Respondent was counsel of record for Mr. Ayersman; and,

(b) Respondent's law office was located at 445 Ft. Pitt Boulevard, Suite 250, Pittsburgh, PA 15219.

112. On December 1, 2008, Respondent caused a Praecipe to Reissue the Complaint in No-Fault Divorce under Section 3301(d) of the Divorce Code to be filed on behalf of Mr. Ayersman.

113. Thereafter, Respondent took no further action of record and failed to complete the divorce matter on behalf of Mr. Ayersman.

114. On numerous occasions in 2009, Mr. Ayersman left telephone messages requesting that Respondent contact him about his case, but Respondent failed to return Mr. Ayersman's calls.

115. Respondent failed to inform Mr. Ayersman that his law office had been closed and relocated in 2009 to 304 Ross Street, Suite 706, Pittsburgh, PA 15219.

116. On September 11, 2009, Mr. Ayersman texted a message to Respondent indicating that he had contacted the Disciplinary Board and that he was going to file a complaint if his divorce matter was not quickly resolved by Respondent.

117. On September 14, 2009, Respondent texted Mr. Ayersman that the "Paperwork will be filed on Tuesday. There is a review process before the decree is sent."

118. Respondent subsequently did not file any pleadings or take any action of record in Mr. Ayersman's case or communicate with him in any way.

119. By his conduct as alleged in Paragraphs 104 through 118 above, Respondent violated the following Rules of Professional Conduct:

(a) Rule of Professional Conduct 1.3 – "A lawyer shall act with reasonable diligence and promptness in representing a client."

(b) Rule of Professional Conduct 1.4(a)(3) – "A lawyer shall keep the client reasonably informed about the status of the matter."

(c) Rule of Professional Conduct 1.4(a)(4) – "A lawyer shall promptly comply with reasonable requests for information."

(d) Rule of Professional Conduct 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."

#### CHARGE VIII – THE IRWIN MATTER

120. In January 2009, Respondent met with John and Agnes Irwin at their home in McKees Rocks, Pennsylvania. The Irwins had been referred to Respondent through a mutual friend, Chief of Police Frank Marco of Stowe Township.

121. The Irwins retained Respondent to prepare a Will on their behalf.

122. At the time of their meeting with Respondent, the Irwins paid respondent \$150 by a check drawn on a Citizen's Bank account.

123. Although Respondent had never represented the Irwins, he failed to communicate to them, in writing, the basis or rate of his fee before or within a reasonable time after commencing the representation.

124. Respondent again met with the Irwins at their home in March 2009 and it was decided that there were mistakes in the typed Will which Respondent had prepared. Respondent indicated to the Irwins that he would make the corrections and get back to them.

125. At that meeting in March 2009, the Irwins paid to Respondent another \$150 by check drawn on a Parkvale Bank account.

126. In March 2009, Respondent negotiated both the checks given to him by the Irwins.

127. Thereafter, Respondent did not communicate with the Irwins regarding their matter.

128. Mr. Irwin attempted to reach Respondent without success on at least six occasions at the telephone number provided by Respondent.

129. Chief Frank Marco also attempted on at least four occasions to reach Respondent by telephone concerning the Irwins' matter.

130. Chief Marco was able to talk to Respondent on two occasions. On the first occasion on November 3, 2009, Respondent indicated to Chief Marco that he



would finish the Will and intended to refund one-half of the money paid by the Irwins.

131. Chief Marco subsequently spoke with Respondent and he told Respondent that the Irwins had retained another attorney to prepare the Will.

132. At that time Respondent indicated to Chief Marco that he was going to refund all of the money to the Irwins.

133. Respondent subsequently did not refund any money to the Irwins or contact them regarding their matter.

134. By his conduct as alleged in Paragraphs 120 through 133 above, Respondent violated the following Rules of Professional Conduct:

(a) Rule of Professional Conduct 1.3 – "A lawyer shall act with reasonable diligence and promptness in representing a client."

(b) Rule of Professional Conduct 1.4(a)(3) – "A lawyer shall keep the client reasonably informed about the status of the matter."

(c) Rule of Professional Conduct 1.4(a)(4) – "A lawyer shall promptly comply with reasonable requests for information."

(d) Rule of Professional Conduct 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."

(e) Rule of Professional Conduct 1.16(d) -- "Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law."

#### CHARGE IX – THE DeLUCA MATTER

135. In November 2004, Respondent was retained by Robert S. DeLuca to handle a dispute he had with his estranged son, Robert M. DeLuca, over real property located in North Versailles, Pennsylvania.

136. Prior to accepting Mr. DeLuca's case, Respondent required a nonrefundable flat fee of \$1,500.

137. On November 23, 2004, Mr. DeLuca's wife drew a check numbered 668, payable to Respondent, for \$1,500 representing payment of Respondent's fee.

138. Thereafter, Respondent negotiated the check.

139. By Letter of Engagement/Memorandum of Understanding dated November 28, 2004, addressed to Mr. and Mrs. DeLuca, Respondent indicated that:

(a) He would initiate a line of communication with Mr. DeLuca's son in order to effectuate an amicable settlement prior to the initiation of litigation; and,

(b) If reaching a settlement failed, he would be "pleased to initiate litigation" against Mr. DeLuca's son. In that event, Respondent would "negotiate an appropriate legal fee" with Mr. DeLuca.

140. Respondent sent two letters, one dated November 28, 2004 and one dated January 27, 2005, to Mr. DeLuca's son regarding the matter. Mr. DeLuca's son did not respond to the correspondence.

141. On June 16, 2005, Respondent met with Mr. DeLuca to discuss his case, but it was agreed that Respondent would not initiate litigation on behalf of Mr. DeLuca for a period of time in order to give Mr. DeLuca's son time to consider signing off on the property.

142. At that time, Respondent told Mr. DeLuca that he required an additional retainer fee of \$5,000 in the event that the matter would be litigated through the Court.

143. Respondent did not provide to Mr. DeLuca a writing setting forth his new fee arrangement with Mr. DeLuca.

144. On June 16, 2005, Mr. DeLuca's wife drew a check numbered 763 payable to the Schwab Law Group for \$5,000. Thereafter, Respondent negotiated said check.

145. In August 2009, Mr. DeLuca telephoned Respondent's office to inform him that Mr. DeLuca's son had signed off on the property deed and that Mr. DeLuca no longer needed Respondent's legal services. Mr. DeLuca was unable to speak with Respondent at that time, but left a message with Respondent's secretary requesting that Respondent call him, and requesting a refund of the retainer paid to Respondent for any unused portion of the fee.

146. By letter dated August 21, 2009, Mr. DeLuca reiterated his requests. That letter was sent to Respondent at his 445 Fort Pitt Boulevard, Suite 250, Pittsburgh, PA 15219 address, but was returned to Mr. DeLuca marked "Return to Sender, Not Deliverable as Addressed, Unable to Forward."

147. Mr. DeLuca subsequently mailed a copy of his letter dated August 21, 2009 to Respondent's then-home address of 117 Shippen Drive, Coraopolis, Pennsylvania 15108-2622.

148. Mr. DeLuca attempted unsuccessfully on numerous occasions to reach Respondent by telephone and on November 9, 2009, Mr. DeLuca left Respondent a message that he was contacting the Disciplinary Board regarding Respondent's conduct.

149. On or about November 10, 2009, Mr. DeLuca received a phone call from Respondent's secretary indicating that Respondent's telephones had not been working for quite a while, that Respondent had finally received Mr. DeLuca's message and that Respondent would contact Mr. DeLuca within a few days.

150. Respondent failed to contact Mr. DeLuca and failed to refund any unearned portion of the retainer paid to him by the DeLucas.

151. Mr. DeLuca subsequently filed a claim with the Pennsylvania Lawyers Fund for Client Security.

152. Mr. DeLuca was awarded \$5,000 in March 2011 by the Pennsylvania Lawyers Fund for Client Security in his claim against Respondent.

153. By his conduct as alleged in Paragraphs 135 through 152 above, Respondent violated the following Rules of Professional Conduct:

(a) Rule of Professional Conduct 1.15(a) (for conduct before 9/20/08) – "A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a client-lawyer

relationship separate from the lawyer's own property. Such property shall be identified and appropriately safeguarded. Complete records of the receipt, maintenance and disposition of such property shall be preserved for a period of five years after termination of the client-lawyer relationship or after distribution or disposition of the property, whichever is later."

(b) Rule of Professional Conduct 1.15(b) (for conduct on or after 9/20/08) – "A lawyer shall hold all Rule 1.15 Funds and property separate from the lawyer's own property. Such property shall be identified and appropriately safeguarded."

(c) Rule of Professional Conduct 1.16(d) – "Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law."

(d) Rule of Professional Conduct 8.4(c) – "It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation."

CHARGE X – THE RADOCAJ MATTER

154. In September 2009, Respondent met with William Radocaj and his daughter, Becky Radocaj, at the Embassy Suites Hotel located in Moon Township, Pennsylvania.

155. At that time, Respondent was retained to represent Becky Radocaj in a custody matter pending in the Court of Common Pleas of Allegheny County, Pennsylvania at case number FD-08-007775. Respondent was specifically retained to file a Petition for Modification of a Custody Order in the action and to represent Ms. Radocaj in any future hearings in the matter.

156. A verbal agreement was reached whereby Respondent required a fee of \$750 which could be paid by three installment payments of \$250 each at the end of September, October and November 2009. Respondent agreed to start working on the custody matter prior to being paid the entire balance of his fee.

157. Although Respondent had not previously/regularly represented them, he failed to communicate to the Radocajs, in writing, the basis or rate of his fee before or within a reasonable time after commencing the representation.

158. A primary issue in Ms. Radocaj's custody matter was to have extended custody of her daughter, Emily, while Ms. Radocaj was on maternity leave for three months (October through December 2009).

159. On September 29, 2009, Mr. Radocaj drew a personal check payable to Respondent for \$250 and Respondent negotiated said check on October 3, 2009.

160. In early October 2009, Respondent called Mr. Radocaj and informed him that the opposing party in Ms. Radocaj's custody matter was not responding to his lawyer.

161. Respondent then sent a text message to Mr. Radocaj and requested that the balance of his fee be paid in full.

162. On October 19, 2009, Mr. Radocaj gave Respondent a personal check in the amount of \$500 and Respondent negotiated said check.

163. Mr. Radocaj subsequently tried on numerous occasions to reach Respondent by telephone but was unsuccessful and Respondent did not return his calls.

164. In November 2009, Respondent contacted Mr. Radocaj and during that conversation an argument ensued. Respondent told Mr. Radocaj that he would file the Petition for Modification of Custody Order the following Wednesday or refund 100 percent of the fee paid to him.



165. Respondent did not file the Petition for Modification of Custody Order.

166. Respondent also subsequently did not return telephone calls to him from Mr. Radocaj but finally spoke to Mr. Radocaj on an unknown date and once again promised to file the Petition for Modification of Custody Order.

167. Respondent again failed to file the Petition.

168. In December 2009, Respondent contacted Mr. Radocaj and requested a meeting at the Embassy Suites Hotel located in Moon Township, Pennsylvania. At that meeting, Respondent provided Mr. Radocaj with a docket number for Ms. Radocaj's case and Respondent informed Mr. Radocaj that he had met with the judge and he would later be meeting with the opposing party to determine how to proceed.

169. Mr. Radocaj subsequently contacted the Court and learned that nothing had been done of record or with the Court in the custody matter since July 2009.

170. In December 2009, Respondent did not return any of Mr. Radocaj's numerous telephone messages left on Respondent's cell phone.

171. As a result, Mr. Radocaj visited Respondent's law office located at 304 Ross Street, Suite 706, Pittsburgh, PA 15219, and learned that Respondent had vacated the premises a couple of months previously.

172. Respondent failed to notify Mr. or Ms. Radocaj and the Disciplinary Board of the Supreme Court of Pennsylvania of the relocation of his law office.

173. In January 2010, a Partial Custody Pretrial Order of Court was signed and a hearing in the matter was scheduled for March 2, 2010. Additionally, on February 1, 2010, a Motion for Special Relief prepared by Respondent on behalf of Ms. Radocaj was docketed. That Motion reflected Respondent's law office as being located at 304 Ross Street, Suite 704, Pittsburgh, PA 15108 [sic].

174. Prior to March 2010, the Radocajs terminated Respondent's representation.

175. By his conduct as alleged in Paragraphs 154 through 174 above, Respondent violated the following Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement:

(a) Rule of Professional Conduct 1.3 – "A lawyer shall act with reasonable diligence and promptness in representing a client."

(b) Rule of Professional Conduct 1.4(a)(2) – "A lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished."

(c) Rule of Professional Conduct 1.4(a)(3) – "A lawyer shall keep the client reasonably informed about the status of the matter."

(d) Rule of Professional Conduct 1.4(a)(4) – "A lawyer shall promptly comply with reasonable requests for information."

(e) Rule of Professional Conduct 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."

(f) Rule of Professional Conduct 1.16(d) – "Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law."

(g) Rule of Professional Conduct 8.4(c) – "It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation."

(h) Pennsylvania Rule of Disciplinary Enforcement 219(d)(3) – "On or before July 1 of each year all persons required by this rule to pay an annual fee shall file with the Attorney Registration Office a signed

form prescribed by the Attorney Registration Office in accordance with the following procedures: Every person who has filed such a form shall notify the Attorney Registration Office in writing of any change in the information previously submitted within 30 days after such change."

#### CHARGE XI – THE DETWILER MATTER

176. On July 3, 2008, Respondent met with and agreed to represent Leslie A. Detwiler in a divorce matter.

177. At that time, Respondent told Ms. Detwiler that he required a flat fee of \$5,000 plus \$300 for filing fees to handle her case.

178. Although he had not previously represented Ms. Detwiler, Respondent did not communicate to her, in writing, the basis or rate of his fee before or within a reasonable time after commencing the representation.

179. Ms. Detwiler paid to Respondent \$1,500, in cash, as partial payment toward Respondent's fee.

180. On July 9, 2008, Ms. Detwiler paid Respondent a check in the amount of \$3,800 representing payment in full of his legal fees and filing costs.

181. Respondent negotiated Ms. Detwiler's check.

182. On September 19, 2008, Respondent filed a Complaint in Divorce on behalf of Ms. Detwiler in the Court of Common Pleas of Allegheny County, Pennsylvania at case number FD-08-008775.

183. On October 29, 2008, Respondent met with Ms. Detwiler and advised her that it was necessary to file a Petition to Reinstate Complaint.

184. Respondent filed the Praecipe to Reinstate Complaint on December 1, 2008.

185. Additionally, on December 10, 2008, Respondent filed a Praecipe for Appearance in the divorce action on behalf of Ms. Detwiler.

186. Thereafter, Respondent failed to respond to numerous phone calls and emails from Ms. Detwiler between December 10, 2008 and May 2009.

187. On May 31, 2009, Ms. Detwiler met with Respondent and informed Respondent that she had to relocate to Greensboro, North Carolina, and requested that Respondent effectuate a fifty-fifty settlement in her divorce case.

188. From July 3, 2009 through December 31, 2009, Ms. Detwiler sent Respondent numerous email messages trying to determine the status of her divorce case, but Respondent did not respond to same or communicate with her in any way.

189. Respondent never advised Ms. Detwiler that he had moved his law office.

190. Respondent failed to notify the Attorney Registration Office of his office relocation and change in mailing address.

191. On February 19, 2010, Respondent sent an email indicating that the opposing party had been unresponsive and that a hearing needed to be scheduled in Ms. Detwiler's case.

192. On February 22, 2010, Ms. Detwiler sent Respondent an email indicating that she had been trying unsuccessfully to reach him and she requested Respondent's current address so she could mail him paperwork.

193. Respondent advised Ms. Detwiler by email that his new address was 404 E. Redrome Circle, South Fayette, PA 15017.

194. Respondent remained counsel of record in Ms. Detwiler's divorce case but there was no action of record in the case from December 10, 2008 until Ms. Detwiler retained new counsel who entered his appearance on her behalf on March 29, 2011.

195. Ms. Detwiler filed a claim with the Pennsylvania Lawyers Fund for Client Security.

196. Ms. Detwiler was awarded \$5,000 by the Pennsylvania Lawyers Fund for Client Security in her claim against Respondent.

197. By his conduct as alleged in Paragraphs 176 through 196 above, Respondent violated the following Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement:

(a) Rule of Professional Conduct 1.3 – "A lawyer shall act with reasonable diligence and promptness in representing a client."

(b) Rule of Professional Conduct 1.4(a)(2) – "A lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished."

(c) Rule of Professional Conduct 1.4(a)(3) – "A lawyer shall keep the client reasonably informed about the status of the matter."

(d) Rule of Professional Conduct 1.4(a)(4) – "A lawyer shall promptly comply with reasonable requests for information."

(e) Rule of Professional Conduct 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."

(f) Rule of Professional Conduct 1.16(d) – "Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law."

(g) Pennsylvania Rule of Disciplinary Enforcement 219(d)(3) – "On or before July 1 of each year all persons required by this rule to pay an annual fee shall file with the Attorney Registration Office a signed form prescribed by the Attorney Registration Office in accordance with the following procedures: Every person who has filed such a form shall notify the Attorney Registration Office in writing of any change in the information previously submitted within 30 days after such change."

CHARGE XII – THE RAMSEY MATTER - #C4-10-167

198. In October 2007, Respondent was retained by Vincent Ramsey and his brother, Donald M. Ramsey, to protect their interests pertaining to the administration of their father's estate.



199. At the time, Respondent's office was located in the Fort Pitt Commons Building.

200. By a Memorandum of Understanding/Letter of Engagement Subject: Validity of the Last Will and Testament of Edward Ramsey dated November 5, 2007, Respondent agreed to represent Vincent and Donald Ramsey's interests concerning a possible challenge to the Will, for a flat non-refundable legal fee of \$2,500 against which Donald had already paid \$1,250. The Memorandum of Understanding further indicated that in the event a Complaint needed to be filed to trigger litigation, there would be an additional legal fee of \$2,500 to proceed through trial in the matter.

201. On November 7, 2007, Vincent Ramsey paid Respondent \$1,250 by personal check.

202. Vincent and Donald Ramsey subsequently paid Respondent an additional \$2,500 for his representation.

203. Thereafter, Vincent Ramsey discovered that Respondent had moved his law office to 304 Ross Street, Suite 706, Pittsburgh, PA 15219.

204. Respondent had not notified Vincent or Donald Ramsey of this relocation.

205. Sometime in June 2009, Donald obtained financing to purchase the decedent's real property, but was only able to hold the loan for thirty days.

206. Neither Vincent nor Donald Ramsey was able to reach Respondent for any assistance regarding the financing issue despite numerous attempts to do so.

207. On July 15, 2009, Attorney Eric J. Randolph entered his appearance on behalf of the estate and initiated eviction proceedings to remove Donald Ramsey from the decedent's residence where he lived.

208. On July 24, 2009, a Petition for Citation was filed and on October 2, 2009, a Petition to Make Citation Absolute was filed on behalf of the estate indicating, *inter alia*, that Donald Ramsey failed to file a responsive pleading to the Citation.

209. On a number of occasions between July 2009 and October 2009, Vincent and Donald Ramsey had left telephone messages on Respondent's cell phone voicemail system, but Respondent failed to return any of their calls.

210. On January 23, 2010, Donald Ramsey received a letter from Attorney Randolph indicating, *inter alia*, that he could remain in the home until the end of June 2010.

211. Subsequent to Donald Ramsey receiving the letter dated January 23, 2010, Respondent met with Vincent and Donald Ramsey at the Embassy Suites

Hotel located in Moon Township, Pennsylvania, and discussed with them the content of the January 23, 2010 letter.

212. At that time, Respondent indicated that he would get back to them as soon as possible, or words to similar effect.

213. Respondent did not get back in contact with Vincent or Donald Ramsey and, after a subsequent single telephone call in February 2010, Respondent did not communicate with Vincent or Donald Ramsey regarding the matter.

214. By his conduct as alleged in Paragraphs 198 through 213 above, Respondent violated the following Rules of Professional Conduct:

(a) Rule of Professional Conduct 1.3 – "A lawyer shall act with reasonable diligence and promptness in representing a client."

(b) Rule of Professional Conduct 1.4(a)(3) – "A lawyer shall keep the client reasonably informed about the status of the matter."

(c) Rule of Professional Conduct 1.4(a)(4) – "A lawyer shall promptly comply with reasonable requests for information."

(d) Rule of Professional Conduct 1.16(d) – "Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable

notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law."

### CHARGE XIII – THE LUFFEY MATTER

215. In February 2008, Respondent was retained by William P. Luffey to initiate a civil action on Mr. Luffey's behalf in the Court of Common Pleas of Allegheny County, Pennsylvania regarding a financial dispute related to his wedding.

216. Respondent informed Mr. Luffey that his fee to handle the civil action was \$2,500 and on February 27, 2008, Mr. Luffey drew a personal check payable to Respondent for that amount.

217. Although Respondent had not previously represented Mr. Luffey, he failed to communicate to Mr. Luffey, in writing, the basis or rate of his fee before or within a reasonable time after commencing the representation.

218. On February 28, 2008, Respondent negotiated the check paid to him by Mr. Luffey and deposited the proceeds directly into a Citizens Bank Account number 6106707212, which was not an account which Respondent designated on

his 2008-2009 Pennsylvania Attorney's Annual Fee Form as an account in which Respondent held entrusted funds.

219. Subsequent to negotiating Mr. Luffey's check, Respondent failed to initiate a civil action on Mr. Luffey's behalf.

220. Respondent cancelled two appointments with Mr. Luffey claiming either he was sick or had to attend a criminal trial.

221. In December 2008, Mr. Luffey appeared at Respondent's law office at 445 Fort Pitt Boulevard, Pittsburgh, PA, for an unscheduled visit but discovered that Respondent's office had been vacated and that Respondent had failed to notify him of same.

222. Respondent did not return to Mr. Luffey the unearned portion of the \$2,500 paid to him for legal fees and took no action on Mr. Luffey's behalf in the civil matter.

223. By his conduct as alleged in Paragraphs 215 through 222 above, Respondent violated the following Rules of Professional Conduct:

(a) Rule of Professional Conduct 1.3 – "A lawyer shall act with reasonable diligence and promptness in representing a client."

(b) Rule of Professional Conduct 1.4(a)(3) – "A lawyer shall keep the client reasonably informed about the status of the matter."

(c) Rule of Professional Conduct 1.4(a)(4) – "A lawyer shall promptly comply with reasonable requests for information."

(d) Rule of Professional Conduct 1.5(a) – "A lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee."

(e) Rule of Professional Conduct 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."

(f) Rule of Professional Conduct 1.15(b) (for conduct on or after 9/20/08) – "A lawyer shall hold all Rule 1.15 Funds and property separate from the lawyer's own property. Such property shall be identified and appropriately safeguarded."

(g) Rule of Professional Conduct 1.16(d) – "Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel,

surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law."

(h) Rule of Professional Conduct 8.4(c) – "It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation."

#### CHARGE XIV – THE BLAIR MATTER

224. In August 2009, Maria Cloie Blair (hereinafter, Mrs. Blair) purchased a home located at 227 Essex Knoll Drive, Moon Township, Allegheny County, Pennsylvania.

225. During January 2010, Mrs. Blair and her family were forced to move out of their home because of a backed up sewer line, which caused toxic gases to be released into the home.

226. It was necessary for Mrs. Blair to replace 100 feet of sewer line at the cost of \$10,000 because of severe root damage which the prior owner purportedly failed to disclose to Mrs. Blair in the contract of sale for the purchase of the home.

227. On May 13, 2010, Mrs. Blair telephoned Respondent about her concerns that the prior owner fraudulently withheld information about the sewer line during the sale of the property.

228. Respondent told Mrs. Blair that she had a strong case and set up a meeting with her later in the day at the Embassy Suites Hotel, Moon Township, Pennsylvania.

229. Later in the day, Respondent met with Mrs. Blair at the Embassy Suites Hotel, at which time she provided to Respondent the home contract, home inspection report and other documentation relating to the sewage line repair.

230. At the meeting, Respondent agreed to represent Mrs. Blair and to initiate a civil action against Thomas and Melanie Langer, the prior homeowners.

231. Respondent told Mrs. Blair that he required a retainer fee for the representation of \$850 plus an additional \$125, which represented court processing fees, for a total of \$975.00.

232. Mrs. Blair paid Respondent \$850 by a Dollar Bank personal check numbered 1991 in the amount of \$850, representing payment of his retainer fee.

233. Mrs. Blair also provided Respondent with a second check for \$125, which represented court processing fees.



234. Respondent negotiated the checks Mrs. Blair paid to him.

235. Respondent assured Mrs. Blair at his meeting with her that he would immediately put together documents for her review and signature.

236. Although Respondent had not previously represented Mrs. Blair, he did not communicate to her, in writing, the basis or rate of his fee to her before or within a reasonable time after commencing the representation.

237. Several weeks went by and Respondent failed to communicate in any way with Mrs. Blair.

238. On July 7, 2010, Mrs. Blair left a call back message at Respondent's cell phone number (412) 979-7544, inquiring about the status of the case.

239. Respondent failed to return her call.

240. On July 8, 2010, Mrs. Blair left a call back message at Respondent's cell phone number.

241. Respondent failed to return her call.

242. On July 12, 2010, Mrs. Blair left a call back message at Respondent's cell phone number.

243. Respondent failed to return her call.

244. On July 18, 2010, Mrs. Blair left two text messages at Respondent's cell phone number.

245. Respondent again failed to respond to Mrs. Blair's efforts to reach him.

246. On July 20, 2010, Mrs. Blair left one text message at Respondent's cell phone number.

247. Respondent failed to respond to Mrs. Blair's effort to reach him.

248. On July 21, 2010, Mrs. Blair left ten text messages at Respondent's cell phone number.

249. Respondent failed to respond to Mrs. Blair's efforts to reach him.

250. On July 28, 2010, Mrs. Blair left a text message at Respondent's cell phone number dismissing Respondent as her attorney because of his failure to respond to her numerous calls and text messages. Respondent was asked to return the retainer fee and all of Mrs. Blair's original documents.

251. On about July 29 or July 30, 2010, Respondent finally contacted Mrs. Blair and stated that he had prepared documents for her to review and sign.

252. Respondent scheduled an appointment to meet with Mrs. Blair at the Embassy Suites on August 1, 2010.

253. On August 1, 2010:

(a) Respondent met with Mrs. Blair and provided her with a draft of the Complaint in Civil Action to be filed with the Court of Common Pleas of Allegheny County, Civil Division/Arbitration in the matter captioned *Warren Blair and Cloie Blair, his wife v. Thomas Langan and Melanie Langan, his wife*;

(b) The draft of the Complaint in Civil Action that Respondent provided to Mrs. Blair reflected that his law office was located at 404 Redrome Circle East, Bridgeville, PA 15017; and,

(c) Respondent requested that Mr. and Mrs. Blair review the draft of the Complaint in Civil Action and sign the required verification.

254. By an email dated August 2, 2010, Respondent:

(a) Indicated that he would be in court for the entire day and unable to meet with Mrs. Blair; and,

(b) Directed Mrs. Blair to drop off the Verification at the front desk at the Embassy Suites Hotel.

255. Per Respondent's direction, Mrs. Blair dropped off the Verification for the Complaint in Civil Action at the Embassy Suites Hotel's front desk.

256. Thereafter, Mrs. Blair did not hear from Respondent.

257. On August 15, 2010, Mrs. Blair left a text message at Respondent's cell phone number requesting that he contact her about the status of the Civil Complaint.

258. Respondent failed to respond to Mrs. Blair's effort to reach him.

259. On September 18 and September 21, 2010, Mrs. Blair left telephone messages at Respondent's cell phone number asking that he contact her.

260. Respondent failed to return Mr. Blair's calls.

261. On September 29, 2010, Mrs. Blair left two text messages requesting that Respondent contact her.

262. Respondent failed to respond to Mrs. Blair's efforts to reach him.

263. On October 11, 2010, Mrs. Blair left two text messages at Respondent's cell phone number requesting that he contact her.

264. Respondent failed to respond to Mrs. Blair's efforts to reach him.

265. On October 15, 2010, Mrs. Blair left a text message at Respondent's cell phone number.

266. Respondent failed to respond to Mrs. Blair's effort to reach him.

267. On November 14, 2010, Mrs. Blair left a telephone message at Respondent's cell phone number.

268. Respondent failed to return Mrs. Blair's call.

269. By a certified letter dated January 27, 2011, sent to Respondent at 404 Redrome Circle East, Bridgeville, PA 15017, Mrs. Blair:

(a) Indicated that Respondent was retained during May 2010 and paid \$975 to represent her in a civil action;

(b) Stated that during August 2010, Respondent informed her that he was set to submit her claim with the Court of Common Pleas of Allegheny County;

(c) Stated that Respondent failed to respond to many call back messages, and text messages; and,

(d) Demanded that Respondent return the \$975 retainer fee and all documents provided to him.

270. The certified letter forwarded to Respondent at 404 Redrome Circle East was returned unclaimed.

271. Respondent failed to provide Mrs. Blair with his current mailing address.

272. Respondent failed to:

(a) File a civil action on behalf of Mrs. Blair with the Court of Common Pleas of Allegheny County;

(b) Return the fee paid to him by Mrs. Blair in the amount of \$975;

or,

(c) Return the original documentation to Mrs. Blair.

273. On February 2, 2011, Mrs. Blair left a call back message at Respondent's cell phone number.

274. Respondent failed to return Mrs. Blair's call.

275. Mrs. Blair filed a claim against Respondent with the Pennsylvania Lawyers Fund for Client Security and received an award of \$850 in December 2011.

276. By his conduct as alleged in Paragraphs 224 through 275 above, Respondent violated the following Rules of Professional Conduct:

(a) Rule of Professional Conduct 1.3 – "A lawyer shall act with reasonable diligence and promptness in representing a client."

(b) Rule of Professional Conduct 1.4(a)(3) – "A lawyer shall keep the client reasonably informed about the status of the matter."

(c) Rule of Professional Conduct 1.4(a)(4) – "A lawyer shall promptly comply with reasonable requests for information."

(d) Rule of Professional Conduct 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."

(e) Rule of Professional Conduct 1.15(b) (for conduct on or after 9/20/08) – "A lawyer shall hold all Rule 1.15 Funds and property separate from the lawyer's own property. Such property shall be identified and appropriately safeguarded."

(f) Rule of Professional Conduct 1.16(d) – "Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law."

(g) Rule of Professional Conduct 8.4(c) – "It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation."

CHARGE XV – THE PLAKOSH MATTER

277. On February 12, 2011, Daniel and Judith Plakosh (hereinafter, Mr. and Ms. Plakosh) met with Respondent at the Embassy Suites, Coraopolis, PA.

278. At the meeting Mr. and Ms. Plakosh presented Respondent with their Last Will and Testaments and requested that Respondent draft new Wills for both of them.

279. Respondent also agreed to draft Living Wills for Mr. and Ms. Plakosh and Respondent said his fee for drafting the Wills and Living Wills would be \$500.

280. During the meeting, Mr. Plakosh informed Respondent that his daughter from a prior marriage, Natalie Plakosh, would be turning 18 years old. Mr. Plakosh had overpaid child support in the amount of approximately \$1,200.

281. Respondent agreed to take necessary measures to ensure that Mr. Plakosh was reimbursed for the overpayment of child support by filing the proper papers in the Court of Common Pleas of Allegheny County.



282. Respondent indicated that his fee to handle the child support matter for Mr. Plakosh would be \$750.

283. Respondent's fee to draft the Wills, the Living Wills, and handle child support matter totaled \$1,250, and Ms. Plakosh, by a personal check numbered 595, dated February 12, 2011, payable to Respondent in the amount of \$1,250, and annotated "2 Wills & Child Support Case," paid to Respondent his fee for these matters.

284. Respondent negotiated the checks paid to him by the Plakoshes.

285. Although Respondent had not regularly represented Mr. and Ms. Plakosh, he did not communicate to them, in writing, the basis or rate of his fee before or within a reasonable time after commencing the representation.

286. On March 2, 2011, Mr. and Ms. Plakosh met with Respondent at Ditka's Restaurant located in Robinson Township, PA. During this meeting, Respondent agreed to represent Mr. and Ms. Plakosh with concerns they had regarding a township zoning enforcement matter.

287. Respondent's fee to represent Mr. and Ms. Plakosh with regard to the zoning ordinance issue was \$500.

288. Ms. Plakosh drew a personal check numbered 606, dated March 2, 2011, payable to Respondent in the amount of \$500, and annotated "Work on Ordin & Cov."

289. Respondent thereafter cashed the check.

290. Respondent again did not communicate to Mr. and Ms. Plakosh, in writing, the basis or rate of his fee at that time or anytime thereafter.

291. In March and April 2011, Ms. Plakosh made numerous efforts to reach Respondent to discuss the Plakoshes' legal matters by leaving telephone messages, e-mails, and text messages; however, Respondent failed to return Ms. Plakosh's calls or respond to her e-mails or text messages.

292. On April 21, 2011, Ms. Plakosh was able to reach Respondent by telephone. At that time, Respondent agreed to meet with Mr. and Ms. Plakosh at the Embassy Suites on April 25, 2011 to review the drafts of the Wills and Living Wills.

293. On April 23, 2011, Ms. Plakosh called Respondent to confirm the appointment scheduled for April 25, 2011. Ms. Plakosh left Respondent a voice mail message, but he failed to return her call.

294. On April 25, 2011, Ms. Plakosh again telephoned Respondent to confirm the meeting scheduled later in the day. Ms. Plakosh left Respondent a voicemail message, but he failed to return her call.

295. Later in the day, Mr. and Ms. Plakosh went to the Embassy Suites for the scheduled meeting.

296. Respondent failed to appear for the meeting on April 25, 2011.

297. Ms. Plakosh sent Respondent a text message in an effort to notify him that they were waiting for him at the Embassy Suites for the scheduled meeting.

298. Respondent returned Ms. Plakosh's text message and indicated that he could not make the meeting and that it would be necessary to reschedule.

299. This was the last communication Mr. and Ms. Plakosh had from Respondent.

300. Ms. Plakosh immediately returned Respondent's text message explaining that they recently received a letter from the Commonwealth of Pennsylvania concerning Ms. Plakosh's child support and it was necessary to talk to Respondent as soon as possible.

301. By an email dated April 29, 2011, Ms. Plakosh advised Respondent that:

(a) Mr. Plakosh contacted the Allegheny County Child Support Division on April 28, 2011 and learned that it was too late for Respondent to assist with the child support matter;

(b) Respondent was requested to refund the \$750 paid to him to handle the child support matter;

(c) Respondent was advised that if he did not have the Wills and Living Wills prepared by the end of the week that he was to refund the \$500 paid to him; and,

(d) Respondent was directed to return all the paperwork provided to him.

302. Respondent did not respond to Ms. Plakosh's email, provide the Wills and Living Wills, refund any of the legal fees paid to him or return the Plakoshes' paperwork.

303. On May 14, 2011, Mr. and Ms. Plakosh met with Moon Township Police Officer M. Barravecchio and advised him that they had met Respondent at the Embassy Suites on February 12, 2011 and paid him \$1,250 to draft Wills and Living Wills and to finalize Mr. Plakosh's child support matter.

304. During the meeting with Officer Barravecchio:

(a) Mr. and Ms. Plakosh wanted to file criminal charges against Respondent for taking \$1,750 to do legal work, failing to do the work, and not being able to be located;

(b) Moon Township Sergeant J. Smith called Respondent at three different telephone numbers, leaving messages asking that Respondent return the calls;

(c) Respondent returned Sergeant Smith's call which was placed to Respondent's cell phone number (412) 979-7544;

(d) Sergeant Smith spoke directly to Respondent about taking a check for \$1,250 from Mr. and Ms. Plakosh and not conducting the agreed upon legal work on their behalf;

(e) Respondent told Sergeant Smith that Mr. and Ms. Plakosh were his clients and that he had met with them several times to gather facts and information as to their particular requests in the Will. Respondent stated that the Wills were completed and that he had sent a request to meet with Mr. and Ms. Plakosh at a mutual time;

(f) Respondent was told by Sergeant Smith that the Plakoshes felt deceived because Respondent had taken their money and had done

nothing over the past several months regarding the Wills and the child support matter; and,

(g) Respondent assured Officer Smith that he would mail the Wills and the Living Wills to Mr. and Ms. Plakosh on Monday, May 16, 2011.

305. By a Memorandum of Understanding letter dated May 17, 2011, Respondent enclosed the proposed Wills for Daniel and Judith Plakosh, the proposed Living Wills/Declarations for David and Judith Plakosh, the prior/original Will for Daniel Plakosh dated May 15, 2003, the prior/original Will for Judith M. Plakosh dated May 15, 2003, the Property Settlement Agreement between Daniel Plakosh and Sherry Plakosh, the Final Order of Court for support of Natalie Plakosh, and the uncertified copy of Decree in Divorce between Daniel Plakosh and Sherry Plakosh.

306. The letter stated, in part that:

(a) Mr. and Ms. Plakosh were to review the proposed Wills and Living Wills and communicate any changes or corrections to Respondent;

(b) With regard to the Petition to Terminate Child Support for Natalie Plakosh, the agreed upon plan was that the Petition was to be

filed about one month before Natalie's projected graduation from high school which was scheduled for June 17, 2010. However, Ms. Plakosh had emailed Respondent not to pursue the matter; and,

(c) As a result of the accusations and insinuations communicated to Respondent and other authorities, Respondent was no longer in a position to represent the Plakoshes' interests.

307. Respondent's letter to the Plakoshes was sent to them by certified mail and was postmarked May 18, 2011.

308. By a certified letter dated May 18, 2011 forwarded to Respondent at The Schwab Law Group, P.C. 426 Camfield Street Pittsburgh Pa. 15210 by regular U.S. mail and by certified mail, return receipt requested, Mr. and Ms. Plakosh advised Respondent therein that:

(a) Respondent's services were terminated;

(b) Respondent was directed to return the complete set of original documentation and photographs provided to him; and,

(c) Respondent was also directed to return \$1,750 in fees paid to him "since you failed to provide services you were paid to perform."

309. The certified mail forwarded to Respondent at 426 Camfield Street, Pittsburgh, PA 15210 was returned "unclaimed." The letter sent by regular mail was not returned to the Plakoshes.

310. Respondent did not respond to the Plakoshes' letter dated May 18, 2011 and he failed to return to the Plakoshes the original documents and photos, and the unearned fees paid to him by the Plakoshes.

311. Ms. Plakosh filed a claim against Respondent with the Pennsylvania Lawyers Fund for Client Security and was awarded \$750 in March 2012.

312. By his conduct as alleged in Paragraphs 277 through 311 above, Respondent violated the following Rules of Professional Conduct:

(a) Rule of Professional Conduct 1.3 – "A lawyer shall act with reasonable diligence and promptness in representing a client."

(b) Rule of Professional Conduct 1.4(a)(3) – "A lawyer shall keep the client reasonably informed about the status of the matter."

(c) Rule of Professional Conduct 1.4(a)(4) – "A lawyer shall promptly comply with reasonable requests for information."



(d) Rule of Professional Conduct 1.5(a) – "A lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee."

(e) Rule of Professional Conduct 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."

(f) Rule of Professional Conduct 1.15(b) (for conduct on or after 9/20/08) – "A lawyer shall hold all Rule 1.15 Funds and property separate from the lawyer's own property. Such property shall be identified and appropriately safeguarded."

(g) Rule of Professional Conduct 1.15(e) – "Except as stated in this Rule or otherwise permitted by law or by agreement with the client or third person, a lawyer shall promptly deliver to the client or third person any property, including but not limited to Rule 1.15 Funds, that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding the property; Provided, however, that the delivery, accounting and disclosure of Fiduciary Funds or property shall continue to be governed by the law, procedure and rules governing

the requirements of Fiduciary administration, confidentiality, notice and accounting applicable to the Fiduciary entrustment."

(h) Rule of Professional Conduct 1.16(d) – "Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law."

(i) Rule of Professional Conduct 8.4(c) – "It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation."

#### CHARGE XVI – THE MILLER MATTER

313. On October 31, 2009, Rick L. Miller (hereinafter, Mr. Miller) discovered that his neighbor had cut down about a half dozen trees which included three 100-year old oak trees located well within Mr. Miller's property in Carnegie, Allegheny County, Pennsylvania.

314. During January 2010, Mr. Miller met with Respondent to discuss the possibility of initiating a civil action against his neighbor for cutting down the trees located on Mr. Miller's property.

315. Respondent was not retained at this preliminary meeting with Mr. Miller. Mr. Miller wanted to consider the different options he had to seek civil damages against his neighbor.

316. During September 2010, Respondent met with Mr. Miller at his home to visually inspect the damage incurred and assess the possibility of initiating a civil action against Mr. Miller's neighbor.

317. At that time, Respondent agreed to represent Mr. Miller and to initiate a civil action against Mr. Miller's neighbor.

318. Respondent told Mr. Miller that he would retain an arborist who would inspect the damaged trees and determine the resultant monetary value that was lost on the property.

319. An oral agreement was reached whereby Mr. Miller would repay Respondent for the retention of the arborist.

320. Mr. Miller drew a personal check dated September 28, 2010, numbered 530, payable to Respondent in the amount of \$1,500, which represented payment of Respondent's fee to handle the civil matter.

321. Respondent negotiated the check paid to him by Mr. Miller.

322. Although Respondent had not regularly represented Mr. Miller, Respondent did not communicate to him, in writing, the basis or rate of the fee either before or within a reasonable time after concerning the representation.

323. At the conclusion of the meeting, Respondent told Mr. Miller that he would be in touch with him in about two weeks.

324. Once Respondent received Mr. Miller's check he never initiated any contact with Mr. Miller.

325. Sometime during December 2010, Mr. Miller was able to reach Respondent by telephone to discuss the civil matter. Respondent told Mr. Miller he was too busy to discuss the matter and would call him back later.

326. Respondent never returned Mr. Miller's call.

327. On March 24, 2011, April 6, 2011, April 25, 2011, May 2, 2011, and May 11, 2011, Mr. Miller left call back messages on Respondent's cell phone requesting that Respondent contact him.

328. Respondent did not return any of Mr. Miller's calls.

329. Respondent did not file a civil action on behalf of Mr. Miller in the Court of Common Pleas of Allegheny County.

330. On June 13, 2011, Mr. Miller received a telephone message from someone claiming to be Respondent's secretary indicating that Respondent would like to meet with Mr. Miller on June 22, 2011 at the Embassy Suites, Coraopolis, Pennsylvania at 1:00 p.m.

(a) The caller did not leave a telephone number where Respondent could be reached; and,

(b) The telephone number from where she was calling was listed as a private line.

331. On June 22, 2011, a woman left a telephone message on Mr. Miller's answering machine indicating that Respondent was ill and cancelling the meeting scheduled for later in the day.

332. By letter dated June 22, 2011, addressed to Respondent, Mr. Miller indicated that:

(a) Respondent had not provided him with a receipt or fee agreement contract;

(b) Respondent had not initiated a civil action on his behalf;

(c) Respondent had not returned his telephone messages left for Respondent on March 24, 2011, April 6, 2011, April 25, 2011, May 2, 2011 and May 11, 2011;

(d) He did not have a good address to reach Respondent at; and,

(e) As a result, Respondent was discharged as his attorney and he requested a full refund of Respondent's fee by June 29, 2011.

333. Respondent did not refund to Mr. Miller the unearned fees Mr. Miller had paid to him.

334. Mr. Miller filed a claim against Respondent with the Pennsylvania Lawyers Fund for Client Security and was awarded \$1,500 in March 2012.

335. By his conduct as alleged in Paragraphs 313 through 334 above, Respondent violated the following Rules of Professional Conduct:

(a) Rule of Professional Conduct 1.3 – "A lawyer shall act with reasonable diligence and promptness in representing a client."

(b) Rule of Professional Conduct 1.4(a)(3) – "A lawyer shall keep the client reasonably informed about the status of the matter."

(c) Rule of Professional Conduct 1.4(a)(4) – "A lawyer shall promptly comply with reasonable requests for information."

(d) Rule of Professional Conduct 1.5(a) – "A lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee."

(e) Rule of Professional Conduct 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."

(f) Rule of Professional Conduct 1.15(e) – "Except as stated in this Rule or otherwise permitted by law or by agreement with the client or third person, a lawyer shall promptly deliver to the client or third person any property, including but not limited to Rule 1.15 Funds, that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding the property; Provided, however, that the delivery, accounting and disclosure of Fiduciary Funds or property shall continue to be governed by the law, procedure and rules governing the requirements of Fiduciary administration, confidentiality, notice and accounting applicable to the Fiduciary entrustment."

(g) Rule of Professional Conduct 1.16(d) – "Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law."

(h) Rule of Professional Conduct 8.4(c) – "It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation."

SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

336. Office of Disciplinary Counsel and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct in this matter is suspension from the practice of law for one (1) year and one (1) day. Attached to this Petition is Respondent's executed Affidavit required by Rule 215(d)(1) through (4), Pa.R.D.E.

337. Respondent has no prior discipline of record.

338. Respondent owes to the Pennsylvania Lawyers Fund for Client Security approximately \$24,450.00.

339. In support of Petitioner and Respondent's joint recommendation, it is respectfully submitted that there is case law precedent relative to this matter:

(a) ***In Office of Disciplinary Counsel v. Dennis Joseph Spyra***, No. 216 DB 2009, No. 1735 Disciplinary Docket No. 3 (October 3, 2011), Mr. Spyra was suspended for a period of six months resulting from his neglect of two client matters and his violation of Rules of Professional Conduct 1.3, 1.4(a)(3), 1.4(a)(4), 1.16(d), 5.1(a), 5.1(b), and 8.4(b). Mr. Spyra had a history of discipline consisting of an



Informal Admonition and a Private Reprimand for similar misconduct.

Mr. Spyra expressed no remorse for the misconduct.

(b) *In Office of Disciplinary Counsel v. Jill A. Devine*, No. 183 DB 2007, No. 1600 Disciplinary Docket No. 3 (June 23, 2010), Ms. Devine, who had no prior discipline of record, misappropriated approximately \$2,000 in cash of entrusted funds in one matter and failed to handle another client's civil action with reasonable diligence and communication. Although Ms. Devine put her alcohol and drug addiction at issue in the disciplinary proceeding, she failed to meet her burden pursuant to *Braun*. She was suspended for one year and one day for her violation of Rules of Professional Conduct 1.3, 1.4(a)(4), 1.5(a), 1.15(a), 1.15(b), 8.4(c), and 8.4(d).

(c) *In Office of Disciplinary Counsel v. Joseph Edward Hudak*, Nos. 148 DB 2003 and 174 DB 2003, No. 852 Disciplinary Docket No. 3 (March 1, 2005), Mr. Hudak engaged in a pattern of misconduct, including lack of diligence in representing clients, failure to adequately communicate with his clients, failure to return unearned fees, and making misrepresentations. He was found to have violated Rules of Professional Conduct 1.3, 1.4(a), 1.16(d), and 8.4(c), and received

one year and one day suspension, with credit for four and one-half months served on a temporary suspension.

340. The proposed discipline herein is consistent with the discipline set forth in the aforementioned cases.

341. Respondent, through the filing of this Joint Petition, expresses great regret and accepts responsibility for his actions.

342. Respondent is a former Air Force Jag and a former Assistant District Attorney in Allegheny County, Pennsylvania.

343. Respondent recognizes that a suspension of one (1) year and one (1) day will afford him the opportunity to step back from the practice of law and to concentrate on personal issues.

344. For the reasons set forth above, Petitioner and Respondent believe that a one (1) year and one (1) day suspension from the practice of law is appropriate considering all of the facts and circumstances herein.


WHEREFORE, Petitioner and Respondent respectfully request that pursuant to Rules 215(d) and 215(f), Pa.R.D.E., the Three Member Panel of the Disciplinary Board review and approve this Joint Petition in Support of Discipline on Consent under Rule 215(d), Pa.R.D.E. and files its recommendation with the Supreme Court

of Pennsylvania, in which it is recommended that the Supreme Court enter an Order imposing upon Respondent a one (1) year and one (1) day suspension.

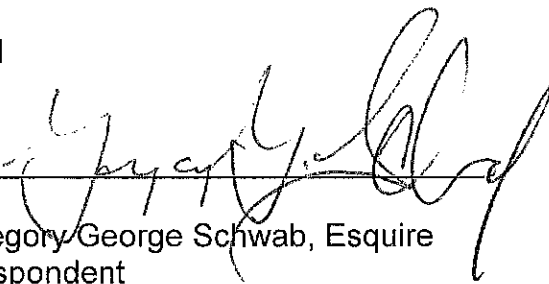
Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION  
CHIEF DISCIPLINARY COUNSEL

By   
Susan N. Dobbins  
Disciplinary Counsel

and

By   
Gregory George Schwab, Esquire  
Respondent

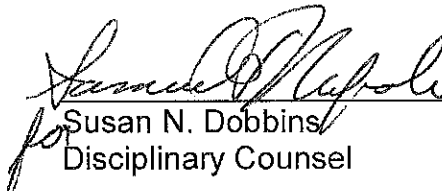
BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :  
: Petitioner : No. 36 DB 2013  
: v. :  
GREGORY GEORGE SCHWAB, : Attorney Registration No. 43918  
: Respondent : (Allegheny County)

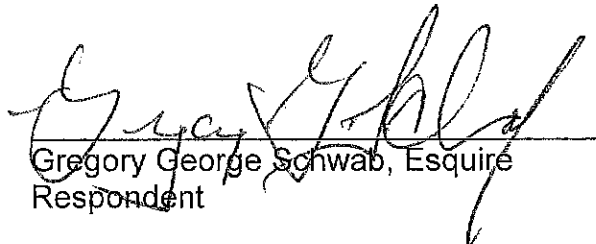
VERIFICATION

The statements contained in the foregoing Joint Petition in Support of Discipline on Consent Under Rule 215(d), Pa.R.D.E. are true and correct to the best of our knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

6/9/13  
Date

  
for Susan N. Dobbins  
Disciplinary Counsel

19 June 13  
Date

  
Gregory George Schwab, Esquire  
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	
	:	
Petitioner	:	No. 36 DB 2013
	:	
v.	:	
	:	
GREGORY GEORGE SCHWAB,	:	Attorney Registration No. 43918
	:	
Respondent	:	(Allegheny County)

AFFIDAVIT UNDER RULE 215(d), Pa.R.D.E.

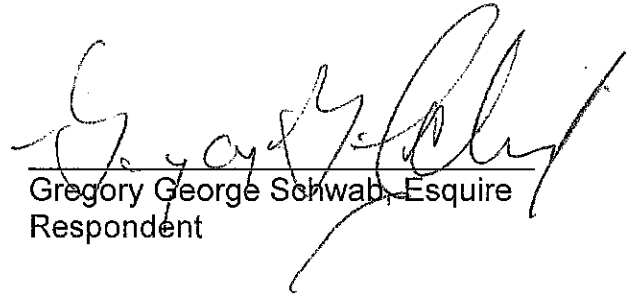
Respondent, Gregory George Schwab , hereby states that he consents to the sanction of a suspension of one year and one day as jointly recommended by Petitioner, Office of Disciplinary Counsel, and Respondent in the Joint Petition In Support Of Discipline On Consent and further states that:

1. His consent is freely and voluntarily rendered; he is not being subjected to coercion or duress; and he is fully aware of the implications of submitting the consent and he has not consulted with counsel in connection with the decision to consent to discipline;


2. He is aware that there are pending proceedings involving allegations that he has been guilty of misconduct as set forth in the Joint Petition;

3. He acknowledges that the material facts set forth in the Joint Petition are true; and,

4. He consents to the recommended discipline because he knows that if the charges pending at No. 36 DB 2013 continued to be prosecuted, he could not successfully defend against them.

  
\_\_\_\_\_  
Gregory George Schwab, Esquire  
Respondent

Sworn to and subscribed  
before me this 19<sup>th</sup>  
day of June, 2013.

  
\_\_\_\_\_  
COMMONWEALTH OF PENNSYLVANIA  
Notarial Seal  
Mark A. Pastore, Notary Public  
City of Pittsburgh, Allegheny County  
My Commission Expires Feb. 18, 2017  
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES