

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 1876 Disciplinary Docket No. 3
Petitioner	:	
	:	
v.	:	No. 108 DB 2012 and File Nos. C4-12-
	:	640, C4-12-746, C4-12-966 and C4-13-
	:	792
WALTER C. PRUCHNIK, JR.,	:	
Respondent	:	Attorney Registration No. 30336

ORDER

PER CURIAM:

AND NOW, this 10th day of April, 2014, there having been filed with this Court by Walter C. Pruchnik, Jr., his verified Statement of Resignation dated January 28, 2014, stating that he desires to resign from the Bar of the Commonwealth of Pennsylvania in accordance with the provisions of Rule 215, Pa.R.D.E., it is

ORDERED that the resignation of Walter C. Pruchnik, Jr., is accepted; he is disbarred on consent from the Bar of the Commonwealth of Pennsylvania; and he shall comply with the provisions of Rule 217, Pa.R.D.E. Respondent shall pay costs, if any, to the Disciplinary Board pursuant to Rule 208(g), Pa.R.D.E.

A True Copy Patricia Nicola
As Of 4/10/2014

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

**BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL	:	No. 1876 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 108 DB 2012 and File Nos. C4-12-640,
	:	C4-12-746, C4-12-966 & C4-13-792
v.	:	
	:	Attorney Registration No. 30336
	:	
WALTER C. PRUCHNIK, JR.	:	
Respondent	:	(Out Of State)

RESIGNATION BY RESPONDENT

Pursuant to Rule 215
of the Pennsylvania Rules of Disciplinary Enforcement

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :
: No. 108 DB 2012
Petitioner :
:
vs. :
: Attorney Registration No. 30336
WALTER C. PRUCHNIK, JR., :
:
Respondent : (Out-of-State)

RESIGNATION
UNDER RULE 215, Pa.R.D.E.

Walter C. Pruchnik, Jr. hereby states that he is a member of the Bar of the Supreme Court of Pennsylvania, who is the subject of investigation in regard to a complaint filed with the Disciplinary Board of the Supreme Court of Pennsylvania at the number indicated above and, in conformity with Rule 215 of the Pennsylvania Rules of Disciplinary Enforcement, he further states as follows:

1. He is an attorney admitted in the Commonwealth of Pennsylvania, having been admitted to the bar on or about October 17, 1979. His attorney registration number is 30336.

2. He wishes to resign from the Bar, his resignation is freely and voluntarily rendered, he is not being subjected to coercion or duress, and he is fully aware of the implications of submitting his resignation.

3. He is aware that there is presently pending an investigation into allegations that he has been guilty of misconduct, the nature and specifics of which have been made known to him by the Petition for Discipline filed at the number shown above, a copy of which is attached hereto and incorporated herein as Exhibit 1.

4. [REDACTED]

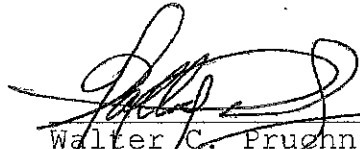
5. He submits his resignation because he knows that he could not successfully defend himself against charges predicated upon the misconduct under investigation.

6. He is fully aware that the submission of this Resignation Statement is irrevocable and that he can only apply for reinstatement to the practice of law pursuant to the provisions of Enforcement Rule 218(b).

7. He has been advised to consult with counsel in regard to submitting his resignation.

In accordance with Rule 215, Pa.R.D.E., this statement is made by the signatory subject to the penalties of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities).

Signed this 28th day of JANUARY, 2014.


Walter C. Pruchnik, Jr.
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1876, Disciplinary Docket
: No. 3 - Supreme Court
Petitioner :
v. : No. 108 DB 2012 - Disciplinary
: Board
: and
: Complaint File Nos. C4-12-640,
: C4-12-746, C4-12-966 & C4-13-792
WALTER C. PRUCHNIK, JR., : Attorney Registration No. 30336
Respondent : (Out of State)

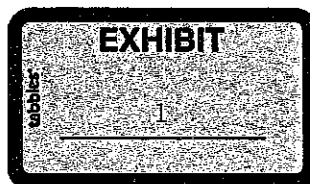
PETITION FOR DISCIPLINE

Petitioner, Office of Disciplinary Counsel, by Paul J. Killion, Chief Disciplinary Counsel, and William R. Friedman, Disciplinary Counsel, files the within Petition for Discipline, and charges Respondent Walter C. Pruchnik, Jr. with professional misconduct in violation of the Rules of Professional Conduct and the Pennsylvania Rules of Disciplinary Enforcement as follows:

1. Petitioner, whose principal office is located at 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

We hereby certify the within to be
a true and correct copy.

William R. Friedman



FILED

NOV - 8 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, : No. 1876, Disciplinary Docket
: No. 3 - Supreme Court
Petitioner :
v. : No. 108 DB 2012 - Disciplinary
: Board
: and
: Complaint File Nos. C4-12-640,
: C4-12-746, C4-12-966 & C4-13-792
WALTER C. PRUCHNIK, JR., : Attorney Registration No. 30336
Respondent : (Out of State)

PETITION FOR DISCIPLINE

NOTICE TO PLEAD

To: Walter C. Pruchnik, Jr.

Rule 208(b)(3) of the Pennsylvania Rules of Disciplinary Enforcement provides: Within twenty (20) days of the service of a petition for discipline, the respondent-attorney shall serve an answer upon Disciplinary Counsel and file the original thereof with the Disciplinary Board. Any factual allegation that is not timely answered shall be deemed admitted.

Rule 208(b)(4) provides: Following the service of the answer, if there are any issues raised by the pleadings or if the respondent-attorney requests the opportunity to be heard in mitigation, the matter shall be assigned to a hearing committee or a special master. No evidence with respect to factual allegations of the complaint that have been deemed or expressly admitted may be presented at any hearing on the matter, absent good cause shown.

* * * * *

A copy of your answer should be served upon Disciplinary Counsel at the District IV Office of Disciplinary Counsel, Suite 1300, Frick Building, 437 Grant Street, Pittsburgh, PA 15219-4407, and the original and three (3) conformed copies filed with the Disciplinary Board Executive Office, Pennsylvania Judicial Center, 601 Commonwealth Ave., Ste. 5600, P. O. Box 62625, Harrisburg, PA 17106-2625. [Disciplinary Board Rule §89.3(a)(1)]

Further, pursuant to Disciplinary Board Rule §85.13, your answer, if it contains an averment of fact not appearing of record or a denial of fact, shall contain or be accompanied by a verified-statement signed by you that the averment or denial is true based upon your personal knowledge or information and belief.

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 1876, Disciplinary Docket
	:	No. 3 - Supreme Court
Petitioner	:	
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v.	:	Board
	:	and
	:	Complaint File Nos. C4-12-640,
	:	C4-12-746, C4-12-966 & C4-13-792
	:	
WALTER C. PRUCHNIK, JR.,	:	Attorney Registration No. 30336
	:	
Respondent	:	(Out of State)

PETITION FOR DISCIPLINE

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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, Walter C. Pruchnik, Jr., was born in 1954. He was admitted to practice law in the Commonwealth of Pennsylvania on October 17, 1979. Respondent's attorney registration mailing address is 16634 Rialto Drive, Winter Garden, FL 34787. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent was administratively suspended pursuant to Rule 219, Pa.R.D.E. for failure to pay his annual registration fee effective October 19, 2012 by Order of the Supreme Court.

4. Respondent was temporarily suspended by Order of the Supreme Court entered on November 9, 2012 for failure to comply with a Subpoena.

5. By Order dated October 16, 2012, the Honorable John M. Cascio, President Judge of the Court of Common Pleas of Cambria County, appointed Conservators for Respondent's practice. On or about October 19, 2012, the Conservators took

control of Respondent's Client Trust Account (Number 3500502) and Respondent's Attorney At Law Account (Number 3500481), both accounts at Slovenian Savings & Loan Association located in Conemaugh, Pennsylvania 15909.

CHARGE I: THE BURKET MATTER

6. On November 24, 2005, Henry R. Burket, Sr. (hereinafter, decedent) died testate in Somerset County, Pennsylvania and his Last Will and Testament provided, in part, that Henry R. Burket, Jr., (hereinafter, Mr. Burket) be appointed as executor of decedent's estate.

7. In about February 2006, Mr. Burket retained Respondent to represent him in connection with the administration of decedent's estate.

8. At that time, Respondent charged Mr. Burket \$50.00 for the initial consultation and informed Mr. Burket that Respondent's fee to represent him throughout the administration of decedent's estate would be \$1,500.

9. Although Respondent had not previously represented Mr. Burket, the basis or rate of the fee was not communicated to Mr. Burket, in writing, before or within a reasonable time after commencing the representation.

10. By check dated February 8, 2006, in the amount of \$1,500, made payable to Respondent, and annotated "Partial Atty Fees," Mr. Burket paid Respondent the \$1,500 for Respondent to represent Mr. Burket throughout the administration of decedent's estate.

11. In February 2006, Letters of Administration were issued to Mr. Burket in the Court of Common Pleas of Somerset County at file No. 2006-00075.

12. By letter dated April 6, 2007, (a copy of which was sent to Respondent) the Commonwealth of Pennsylvania, informed Mr. Burket, among other things, that the Inheritance Tax Return had not been filed for decedent's estate.

13. Mr. Burket then telephoned Respondent regarding the April 6, 2007 letter and Respondent informed Mr. Burket that Respondent would "take care of it," or words to that effect.

14. Respondent did not, at that time, or at any time thereafter, file a Pennsylvania Inheritance Tax Return for decedent's estate.

15. In about July 2007, Mr. Burket's daughter, Tammy L. Malkin (later known as Tammy L. Knorr, hereinafter, Ms. Knorr), agreed with Mr. Burket to purchase decedent's real property for the sum of \$15,000.

16. In August 2007, Respondent prepared an Agreement of Sale and the closing on decedent's real property took place on August 9, 2007.

17. By check dated August 9, 2007, Kathleen Burket, Mr. Burket's wife, on behalf of Ms. Knorr, paid to Respondent the sum of \$5,293.62 to be used toward the purchase of decedent's real property.

18. The proceeds of the \$5,293.62 check were deposited into Respondent's Client Trust Account No. 03500502, (hereinafter, Client Trust Account).

19. By check dated August 10, 2007, Slovenian Savings & Loan Association provided to Respondent, on behalf of Ms. Knorr, the sum of \$12,000 which was deposited into Respondent's Client Trust Account.

20. At that time, the net value of the proceeds due to decedent's estate was \$14,550.76.

21. Thereafter, Respondent did not distribute the proceeds in the amount of \$14,550.76 to decedent's estate or pay the realty transfer taxes in the amount of \$300.00 that had been deducted from the sale proceeds and with which Respondent was entrusted.

22. From November 2007 until October 2011 Respondent was regularly notified by the Pennsylvania Department of Revenue and by Mr. Burket of actions which needed to be taken on behalf of decedent's estate.

23. Respondent ignored those notifications.

24. In October 2011, Respondent closed his law practice without notice to Mr. Burket.

25. Thereafter, as a result of Respondent's failure to finish decedent's estate, Mr. Burket engaged new counsel, William E. Seger, Esquire and incurred additional attorney's fees.

26. Despite being requested to do so, Respondent did not deliver to Mr. Seger the records of decedent's estate or returned to Mr. Seger the funds that Respondent was holding in trust in connection with decedent's estate.

27. With regard to decedent's estate, Respondent did not file an Inventory, file a Pennsylvania Inheritance Tax Return, pay Pennsylvania inheritance taxes, file status reports, pay the realty transfer taxes, complete the administration of decedent's estate, or refund to Mr. Burket the unused portion of the fee that he paid to Respondent.

28. As of May 21, 2012, Respondent was entrusted with at least \$14,850.76 on behalf of decedent's estate.

29. As of July 2, 2012, the balance in Respondent's Client Trust Account was \$7,862.37, which was \$6,988.39 below Respondent's entrustment on behalf of decedent's estate.

30. By October 18, 2012 the balance in Respondent's Client Trust Account was \$4,406.34, which was \$10,444.42 below Respondent's entrustment on behalf of decedent's estate.

31. On or about May 1, 2013 the Pennsylvania Lawyers Fund for Client Security distributed the sum of \$18,793.62 to Mr. Burket on behalf of decedent's estate.

32. In regard to his representation of Henry R. Burket, Jr., a Letter of Inquiry was issued on May 21, 2012 and was personally served on Respondent on June 4, 2012.

33. The reminder letter dated July 6, 2012 sent to Respondent by regular mail was not returned to Office of Disciplinary Counsel.

34. The reminder letter dated July 6, 2012 sent to Respondent by certified mail, return receipt requested was delivered to Respondent on July 10, 2012.

35. A supplemental Letter of Inquiry was issued on July 25, 2012 and was personally served on Respondent on July 30, 2012.

36. Respondent did not respond to the Letter of Inquiry or the supplemental Letter of Inquiry

37. By his conduct as alleged in Paragraphs 6 through 36 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)(3) - "A lawyer shall keep the client reasonably informed about the status of the matter."

(c) 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."

(d) Rule of Professional Conduct 1.15(a) (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."

(e) Rule of Professional Conduct 1.15(b) (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 1.15(e) (on or after 9/20/08) - "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 that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law."

(h) Rule of Professional Conduct 8.1(b) (on or after 1/1/05) - "An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6."

(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."

(j) Pennsylvania Rule of Disciplinary Enforcement 203(b)(7) (on or after 6/27/11) - "Failure by a respondent-attorney without good cause to respond to Disciplinary Counsel's request or supplemental request under Disciplinary Board Rules, § 87.7(b) for a statement of the respondent-attorney's position, shall be grounds for discipline."

CHARGE II: THE OFFICE OF DISCIPLINARY COUNSEL MATTER

Pritt Estate

38. On June 7, 2009, Catherine Pritt (hereinafter, Decedent) died testate in Cambria County, Pennsylvania. Thereafter Robert J. Bulka, Jr. (hereinafter, Mr. Bulka) was appointed as Executor of Decedent's Estate and Mr. Bulka retained Respondent to represent Decedent's Estate.

39. On June 4, 2010, \$32,750.86 was wire transferred into Respondent's Client Trust Account on behalf of Decedent's Estate in connection with the sale of Decedent's real property.

40. On February 7, 2011, Respondent deposited an additional \$6,901.32 into Respondent's Client Trust Account that Respondent received on behalf of the Decedent's Estate.

41. On or about October 27, 2011, Respondent sent to Mr. Bulka an Accounting for Decedent's Estate which set forth estate assets and disbursements on behalf of the Estate.

42. Page 4 of the Accounting for Decedent's Estate showed, among other things, that on October 26, 2011, Respondent had made an inheritance tax payment in the amount of \$2,521.88 in connection with Decedent's Estate.

43. Respondent did not, at that time or anytime thereafter, make a Pennsylvania inheritance tax payment on behalf of Decedent's Estate.

44. After making disbursements on behalf of decedent's estate, Respondent was still entrusted with at least \$2,521.88 on behalf of Decedent's Estate.

45. Respondent has not filed a Pennsylvania inheritance tax return, paid any Pennsylvania inheritance taxes, filed an Inventory, filed a Status Report, or completed the administration of the Pritt Estate.

46. As of November 4, 2013, Respondent is still entrusted with at least \$2,521.88 on behalf of the Pritt Estate.

American Express/Chase Payments

47. On various occasions between January 2011 and April 2012, Respondent made disbursements totaling \$28,764.64 from Respondent's Client Trust Account to American Express and Chase, which disbursements were not authorized, and were used to pay expenses unrelated to client matters.

48. Respondent misappropriated at least \$28,764.64 from Respondent's Client Trust Account.

49. In this file opened by Office of Disciplinary Counsel on its own motion, a Letter of Inquiry was issued on July 25, 2013 and was personally served on Respondent on July 30, 2013.

50. Respondent did not respond to the Letter of Inquiry.

51. By his conduct as alleged in Paragraphs 38 through 50 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 1.15(b) (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 8.1(b) (on or after 1/1/05) - "An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6."

(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."

(e) Pennsylvania Rule of Disciplinary Enforcement 203(b)(7) (on or after 6/27/11) - "Failure by a respondent-attorney without good cause to respond to Disciplinary Counsel's request or supplemental request under Disciplinary Board Rules, § 87.7(b) for a statement of the respondent-attorney's position, shall be grounds for discipline."

CHARGE III: THE BOYLES MATTER

52. On or about April 21, 2000 Respondent prepared and notarized the Last Will and Testament of Harry Strapello.

53. On May 18, 2000, Harry Strappello (hereinafter, decedent), died testate in Cambria County, Pennsylvania.

54. Decedent's Will provided, among other things, that:

(a) Decedent's residence, together with household furnishings were to be held in trust for decedent's sister, Judith Joyce Boyles (hereinafter, Ms. Boyles);

(b) One-fifth of decedent's residuary estate was to be held in trust for Ms. Boyles;

(c) Respondent was to "pay a monthly stipened [to Ms. Boyles] for her discretionary use and enjoyment"; and,

(d) Respondent was to serve as trustee of decedent's trust.

55. On May 22, 2000, letters testamentary were issued to Sandra Smith and Dwight Scrivener as co-executors of decedent's estate.

56. A Petition was filed on behalf of Sandra Smith to modify the trust provisions of decedent's Will.

57. Thereafter, an Order dated September 7, 2000 was entered approving the Petition to Modify Trust Provisions of Decedent's Will to permit the sale of decedent's residence.

58. On or about September 1, 2000, decedent's estate and the trust established for the benefit of Ms. Boyles sold decedent's residence for the sum of \$120,000.

59. On about October 10, 2000, the trust established for the benefit of Ms. Boyles, purchased real property at 701 Rear Linden Avenue, Johnstown, PA for Ms. Boyles for the sum of \$38,000.

60. The total cost, including closing costs, for the October 10, 2000 transaction, equaled \$39,569.66 and thus Respondent was entrusted with approximately \$80,430.34 (\$120,000 minus \$39,569.66) on behalf of the trust established for the benefit of Ms. Boyles.

61. On about November 6, 2001, Respondent prepared and filed a Pennsylvania Inheritance Tax Return on behalf of decedent's estate which showed, among other things, that the net value of decedent's estate subject to tax was \$604,036.79, and principal tax due was \$90,605.52, with a refund in the amount of \$176.61, resulting in an "actual tax" that was paid in the amount of \$90,428.91.

62. Thus, the estate had remaining assets valued at \$513,607.88.

63. Since the trust established for the benefit of Ms. Boyles received the value of \$120,000 from the sale of decedent's residence, the value of the residuary of decedent's estate was \$393,607.88, with Ms. Boyles' share of the residue being \$78,721.57, to be held in trust by Respondent.

64. As of November 7, 2001 Respondent was entrusted with approximately \$159,151.91 (\$80,430.34, the balance from the real estate transaction plus \$78,721.57) on behalf of Ms. Boyles.

65. From about the end of the year 2000 through at least the year 2009, Respondent paid various expenses on behalf of Ms. Boyles' trust.

66. Since about the end of the year 2000, Respondent has not distributed any stipend directly to Ms. Boyles.

67. By letter dated July 27, 2004 to Ms. Boyles, Respondent stated, in part, that the balance in the "annuity account" at that time was \$24,263.20.

68. The funds which Respondent received on behalf of Ms. Boyles were Non-Qualified Funds as defined in Rule of Professional Conduct 1.15(d), then in effect.

69. Since at least 2011, Respondent has not paid:

(a) The county, school and city taxes, in the amount of \$1,595.29, for the year 2011 for the Linden Avenue property;

(b) The county taxes, in the amount of \$337.48, for the year 2012; and,

(c) Various other expenses on behalf of Ms. Boyles including, but not limited to, utility bills as directed by decedent's trust.

70. Since May 2000 when Respondent began to serve as the trustee of decedent's trust established for the benefit of Ms. Boyles, Respondent has not filed an accounting of the trust on

an annual basis with the Orphans' Court of Cambria County, as required by decedent's Will.

71. Since at least July 2011, Respondent has not provided to the Social Security Administration, on behalf of Ms. Boyles, a monthly report of the funds that Respondent expended on her behalf from decedent's trust.

72. Respondent did not advise Ms. Boyles that he had closed his law practice in about November 2011.

73. In March 2012, Ms. Boyles attempted to contact Respondent by telephone and in person, but she was not able to do so.

74. Also at about that time, Ms. Boyles asked Donald C. Nokes, Esquire to contact Respondent on her behalf and Mr. Nokes did so.

75. Respondent did not respond to Mr. Nokes' inquiry nor did Respondent otherwise communicate with Mr. Nokes.

76. Respondent has not provided Ms. Boyles with any type of accounting with regard to the funds with which Respondent is entrusted.

77. Respondent failed to complete decedent's estate.

78. On or about November 2, 2012, John M.R. Ayres, Esquire filed a Petition for Rule to Show Cause Why Respondent Should not be Removed as Attorney for Decedent's Estate and as Trustee of decedent's trust established for the benefit of Ms. Boyles.

79. By Order dated March 22, 2013 the Honorable Patrick T. Kiniry of the Orphans' Court Division of the Court of Common Pleas of Cambria County removed Respondent as the attorney for decedent's Estate and removed Respondent as the Trustee under the Trust for the benefit of Ms. Boyles. Ms. Boyles' son, Christopher Boyles was appointed Trustee.

80. In regard to his representation of Ms. Boyles, a Letter of Inquiry was issued on October 5, 2012 and was personally served on Respondent on October 11, 2012.

81. The reminder letter sent to Respondent on November 8, 2012 by regular mail was not returned to Office of Disciplinary Counsel.

82. The reminder letter to Respondent on November 8, 2012 by certified mail, return receipt requested has been unclaimed.

83. Respondent did not respond to the Letter of Inquiry.

84. By his conduct as alleged in Paragraphs 52 through 83 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 1.15(a) (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 representation separate from the lawyer's own property."

(d) Rule of Professional Conduct 1.15(b) (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."

(e) Rule of Professional Conduct 1.15(c) (on or after 9/20/08) - "Complete records of the receipt, maintenance and disposition of Rule 1.15 Funds and property shall be preserved for a period of five years

after termination of the client-lawyer or Fiduciary relationship or after distribution or disposition of the property, whichever is later. A lawyer shall maintain the following books and records for each Trust Account and for any other account in which Fiduciary Funds are held pursuant to Rule 1.15(1): (1) all transaction records provided to the lawyer by the Financial Institution or other investment entity, such as periodic statements, cancelled checks, deposited items and records of electronic transactions; and (2) check register or separately maintained ledger, which shall include the payee, date and amount of each check, withdrawal and transfer, the payor, date, and amount of each deposit, and the matter involved for each transaction. (3) The records required by this rule may be maintained in electronic or hard copy form. If records are kept only in electronic form, then such records shall be backed up at least monthly on a separate electronic storage device."

(f) Rule of Professional Conduct 1.15(e) (on or after 9/20/08) - "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 8.1(b) (on or after 1/1/05) - "An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6."

(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."

(i) Rule of Professional Conduct 8.4(d) - "It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice."

(j) Pennsylvania Rule of Disciplinary Enforcement 203(b)(7) (on or after 6/27/11) - "Failure by a respondent-attorney without good cause to respond to Disciplinary Counsel's request or supplemental request under Disciplinary Board Rules, § 87.7(b) for a statement of the respondent-attorney's position, shall be grounds for discipline."

CHARGE IV: THE KOLESZARIK MATTER

85. On September 22, 2010, Steven J. and Regina L. Koleszarik, his wife (hereinafter, the Koleszariks), retained Respondent to represent them in filing a chapter 7 bankruptcy petition, and paid him an initial \$50.00 consultation fee.

86. At that time, Respondent told the Koleszariks that his fee, including costs, to represent them in their chapter 7 bankruptcy matter would be \$2,500.

87. Thereafter, Mr. Koleszarik issued to Respondent two checks totaling \$2,500 as Respondent's fee and costs to represent the Koleszariks in their bankruptcy matter.

88. Although Respondent had not previously represented the Koleszariks, the basis or rate of the fee was not communicated to the Koleszariks, in writing, before or within a reasonable time after commencing the representation.

89. On various occasions between October 2010 and January 2011, Mr. Koleszarik hand-delivered documents to Respondent's office in connection with the Koleszariks' bankruptcy.

90. From at least February 2011 through September 2011, the Koleszariks telephoned Respondent several times about the status of their bankruptcy matter and on the occasions that Respondent spoke with the Koleszariks, Respondent informed them that he was "working on their matter," or words to that effect, and, requested updated bills from them.

91. In about October of 2011, Mr. Koleszarik met with Respondent about the bankruptcy at which time Respondent informed Mr. Koleszarik that he:

(a) Was moving to Florida; and,

(b) Would be filing the Koleszariks' bankruptcy petition shortly.

92. In April 2012, Mr. Koleszarik telephoned Respondent about the status of the bankruptcy at which time Respondent

informed Mr. Koleszarik that after April 11, 2012, no more debts could be added to the bankruptcy petition; and, Respondent was going to file their bankruptcy petition shortly.

93. On several occasions between May 2012 and October 2012, the Koleszariks telephoned Respondent and left messages for him to return their calls.

94. Respondent did not return the Koleszariks' telephone calls nor did he otherwise communicate with them.

95. As of November 4, 2013, Respondent has not:

(a) Filed the Koleszariks' chapter 7 bankruptcy petition;

(b) Kept the Koleszariks informed as to the status of their bankruptcy matter; nor,

(c) Refunded to the Koleszariks any portion of the \$2,500 that they paid Respondent.

96. As of November 4, 2013, Respondent is entrusted with \$2,500 on behalf of the Koleszariks.

97. The Koleszariks filed a claim with the Pennsylvania Lawyers Fund for Client Security. That claim is still pending.

98. In his representation of the Koleszariks, a Letter of Inquiry was sent on February 5, 2013 by regular mail and by certified mail to Respondent, return receipt requested.

99. The letter sent by regular mail has not been returned to Office of Disciplinary Counsel.

100. The letter sent by certified mail has been returned to Office of Disciplinary Counsel as "unclaimed unable to forward."

101. Respondent did not respond to the Letter of Inquiry.

102. By his conduct as alleged in Paragraphs 85 through 101 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) (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 1.15(e) (on or after 9/20/08) - "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 that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law."

(h) Rule of Professional Conduct 8.1(b) (on or after 1/1/05) - "An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6."

(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."

(j) Pennsylvania Rule of Disciplinary Enforcement 203(b)(7) (on or after 6/27/11) - "Failure by a respondent-attorney without good cause to respond to Disciplinary Counsel's request or supplemental request under Disciplinary Board Rules, § 87.7(b) for a statement of the respondent-attorney's position, shall be grounds for discipline."

CHARGE V: THE FRAMPTON MATTER

103. In about December of 2010, Judith A. Frampton (hereinafter, Ms. Frampton), contacted Respondent's office to consult with Respondent with regard to her filing for bankruptcy.

104. On January 26, 2011, Ms. Frampton met with Respondent at Respondent's office with regard to her filing for bankruptcy.

105. At that time Respondent informed Ms. Frampton that Respondent's fee would be \$1,000.00 to represent her in the bankruptcy matter, the court filing fee would be \$299.00, the cost for two credit counseling courses would be \$100.00, and the total cost would be \$1,399.00.

106. Respondent's first Statement of Professional Services dated February 8, 2011 for Ms. Frampton's matter

showed, among other things, that Ms. Frampton paid Respondent \$50.00 for Respondent's initial consultation, Respondent's fee to represent her in her bankruptcy matter would be \$1,000, the bankruptcy filing fee would be \$299.00, the fee charged for two credit counseling courses would be \$100.00, and the total of \$1,399.00 was due Respondent.

107. On or about February 28, 2011, Ms. Frampton's brother, Paul Frampton, sent to Respondent, by way of Paypal, the sum of \$1,399.00 for Respondent to represent Ms. Frampton.

108. The sums of \$299 (the bankruptcy filing fee) and \$100, (the fee for two credit counseling courses) were entrusted funds and should have been deposited or maintained in Respondent's IOLTA Account or other account for the deposit of entrusted funds.

109. Respondent's second Statement of Professional Services dated February 28, 2011 showed, among other things, a payment received in the amount of \$1,399.00 on February 28, 2011, and a balance due of \$0.00.

110. On about April 4, 2011, Ms. Frampton took a credit counseling course by telephone in connection with her bankruptcy matter as Respondent had instructed her.

111. From at least May 2011 through October 2011, Ms. Frampton regularly telephoned Respondent and left messages for

Respondent to return her calls regarding her bankruptcy matter.

112. In late 2011 in a telephone conversation with Ms. Frampton, Respondent informed her that she needed to schedule a time to come to Respondent's office to take an on-line credit counseling course.

113. Thereafter, Ms. Frampton attempted to schedule a time to come to Respondent's office to take the on-line credit counseling course, but was unable to set up a time with Respondent or Respondent's secretary.

114. Also, sometime in late 2011, Respondent informed Ms. Frampton that a court date was scheduled for her bankruptcy, and she should be receiving notice of the date in the near future.

115. Respondent's statement to Ms. Frampton about a court date being scheduled was not true and Respondent knew the statement was not true when Respondent made it.

116. In about January or February of 2012, Ms. Frampton went to Respondent's office, but it was closed and the property at which Respondent's office was located was listed for sale.

117. Respondent did not inform Ms. Frampton that he:

(a) Had moved to Florida; and,

(b) Would no longer be representing her.

118. In about March or April of 2012, Ms. Frampton telephoned Respondent about her bankruptcy matter.

119. In that telephone conversation, Respondent informed Ms. Frampton that Attorney Forrest B. Fordham had taken over Respondent's cases and that Ms. Frampton should contact Mr. Fordham.

120. Thereafter, Ms. Frampton contacted Attorney Fordham's office and was told that someone would get back in touch with her but no one did so.

121. When Ms. Frampton did not hear from Attorney Fordham's office, she telephoned Attorney Fordham again and a representative of Attorney Fordham's office told Ms. Frampton that Conservators had been appointed to take over Respondent's files and she would need to contact them.

122. As of November 4, 2013, Respondent has not:

(a) Filed a bankruptcy petition on behalf of Ms. Frampton;

(b) Kept Ms. Frampton informed as to the status of her bankruptcy;

(c) Refunded to Ms. Frampton or to Paul Frampton the \$1,399 that was paid to Respondent on Ms. Frampton's behalf; or,

(d) Informed Ms. Frampton that he was on inactive status and/or suspended and no longer able to represent her.

123. In his representation of Ms. Frampton, a Letter of Inquiry was sent on September 17, 2013 by UPS overnight mail to Respondent and was thereafter delivered to him on September 18, 2013.

124. Respondent did not respond to the Letter of Inquiry.

125. By his conduct as alleged in Paragraphs 103 through 124 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 1.15(b) (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."

(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 that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by other law."

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misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6."

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(h) Pennsylvania Rule of Disciplinary Enforcement 203(b)(7) (on or after 6/27/11) - "Failure by a respondent-attorney without good cause to respond to Disciplinary Counsel's request or supplemental request under Disciplinary Board Rules, § 87.7(b) for a statement of the respondent-attorney's position, shall be grounds for discipline."

WHEREFORE, Petitioner prays that your Honorable Board appoint, pursuant to Rule 205, Pa.R.D.E., a Hearing Committee to hear testimony and receive evidence in support of the foregoing charges and upon completion of said hearing to make

such findings of fact, conclusions of law, and recommendations
for disciplinary action as it may deem appropriate.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION
CHIEF DISCIPLINARY COUNSEL

By *William R. Friedman*
William R. Friedman
Disciplinary Counsel
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The Disciplinary Board of the
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BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 1876, Disciplinary Docket
	:	No. 3 - Supreme Court
Petitioner	:	
	:	No. 108 DB 2012 - Disciplinary
v.	:	Board
	:	and
	:	Complaint File Nos. C4-12-640,
	:	C4-12-746, C4-12-966 & C4-13-792
WALTER C. PRUCHNIK, JR.,	:	Attorney Registration No. 30336
	:	
Respondent	:	(Out of State)

VERIFICATION

The statements contained in the foregoing Petition for Discipline are true and correct to the best of my knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

11-5-13

Date

William R. Friedman

William R. Friedman
Disciplinary Counsel