

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2520 Disciplinary Docket No. 3  
: :  
Petitioner : No. 131 DB 2018  
: :  
v. : Attorney Registration No. 60730  
: :  
SCOTT ALAN WESTCOTT, : (Allegheny County)  
: :  
Respondent :

ORDER

**PER CURIAM**

**AND NOW**, this 3<sup>rd</sup> day of September, 2019, upon consideration of the Verified Statement of Resignation, Scott Alan Westcott is disbarred on consent from the Bar of this Commonwealth. See Pa.R.D.E. 215. Respondent shall comply with the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board pursuant to Pa.R.D.E. 208(g).

A True Copy Patricia Nicola  
As Of 09/03/2019

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2520 Disciplinary Docket  
: No. 3  
Petitioner :  
Board : No. 131 DB 2018 - Disciplinary  
vs. :  
: Attorney Registration No. 60730  
SCOTT ALAN WESTCOTT, :  
: Respondent : (Allegheny County)

RESIGNATION  
UNDER Pa.R.D.E. 215

Scott Alan Westcott, hereby tenders his unconditional resignation from the practice of law in the Commonwealth of Pennsylvania in conformity with Pa.R.D.E. 215 ("Enforcement Rules") and further states as follows:

1. He is an attorney admitted in the Commonwealth of Pennsylvania, having been admitted to the bar on or about February 15, 1991. His attorney registration number is 60730. He remains on suspension by Order of your Honorable Court dated September 10, 2018, issued pursuant to Rule 208(f)(1), Pa.R.D.E.

2. He desires to submit his resignation as a member of said bar.

3. 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 this resignation.

FILED

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4. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant proceeding. He has retained, consulted with and acted upon the advice of counsel in connection with his decision to execute the within resignation.

5. He is aware that there is presently pending an investigation into allegations that he has been guilty of misconduct, the nature of which allegations have been made known to him by a Petition for Discipline, filed October 15, 2018, a true and correct copy of which is attached hereto, made a part hereof and marked Exhibit "A."

6. He acknowledges that the material facts upon which the complaint is predicated contained in Exhibit "A" are true.

7. He submits the within resignation because he knows that he could not successfully defend himself against the charges of professional misconduct set forth in the attached exhibit.

8. 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) and (c).

9. He is aware that pursuant to Enforcement Rule 215(c) the fact that he has tendered his resignation shall become a matter of public record immediately upon delivery of the resignation statement to Disciplinary Counsel or the Secretary of the Board.

10. Upon entry of the order disbaring him on consent, he will promptly comply with the notice, withdrawal, resignation, trust account, and cease-and-desist provisions of Enforcement Rule 217 (a), (b), (c) and (d).

11. After entry of the order disbaring him on consent, he will file a verified statement of compliance as required by Enforcement Rule 217(e) (1).

12. He is aware that the waiting period for eligibility to apply for reinstatement to the practice of law under Enforcement Rule 218(b) shall not begin until he files the verified statement of compliance required by Enforcement Rule 217(e) (1), and if the order of disbarment contains a provision that makes the disbarment retroactive to an earlier date, then the waiting period will be deemed to have begun on that earlier date.

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

Signed this 6<sup>th</sup> day of August, 2019.

  
\_\_\_\_\_  
Scott Alan Westcott

WITNESS: Morgan E. [Signature]

BEFORE THE DISCIPLINARY BOARD OF THE  
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OFFICE OF DISCIPLINARY COUNSEL, : No. 2520 Disciplinary Docket  
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: :  
SCOTT ALAN WESTCOTT, : Attorney Registration No. 60730  
: :  
Respondent : (Allegheny County)

PETITION FOR DISCIPLINE

The Petitioner, Office of Disciplinary Counsel, by Paul J. Killion, Esquire, Chief Disciplinary Counsel, and Samuel F. Napoli, Esquire, Disciplinary Counsel, files the within Petition for Discipline, and charges Respondent Scott Alan Westcott with professional misconduct in violation of the Rules of Professional Conduct as follows:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, PA, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement (hereafter "Pa.R.D.E."), with the power and 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.

FILED 10/15/2018 The Disciplinary Board of the Supreme Court of Pennsylvania
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2. Respondent, Scott Alan Westcott, was born in 1964. He was admitted to practice law in the Commonwealth of Pennsylvania on February 15, 1991. Respondent's attorney registration mailing address is Westcott Law Firm, 429 Fourth Avenue, Ste. 1404, Pittsburgh, PA 15219. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. By Order of the Supreme Court of Pennsylvania dated September 4, 2018, effective October 4, 2018, pursuant to the provisions of Rules 208(f)(1) and (2), Pa.R.D.E., concerning emergency temporary interim suspensions, Respondent was temporarily suspended from the practice of law.

#### CHARGE

4. In or about December of 2013, Starr Aviation (hereinafter, Starr), provided workers' compensation benefits to its employees through an insurance policy issued and/or administered by Chubb Indemnity Insurance Company (Chubb).

5. Starr, which later became Republic Airline, employed Kristine Stamos (hereinafter, Ms. Stamos), who on December 14, 2013, sustained personal injuries at the Greentree Doubletree Hotel, outside of Pittsburgh, during the course of her employment.

6. Because of the injuries sustained by Ms. Stamos, she received from her employer's insurer workers' compensation payments for which matter she was represented by R. Cordell Funk, Esquire.

7. On or about January 3, 2014, Ms. Stamos met with Respondent to retain him to represent her in a personal injury claim against the Greentree Doubletree Hotel, RIDA Greentree, LLC, and/or Liberty Mutual Fire Insurance Company (hereafter, RIDA Greentree, LLC), for her injuries occurring on December 14, 2013.

8. By letter dated January 6, 2014, Respondent sent Ms. Stamos a Power of Attorney and contingent fee agreement for his representation of Ms. Stamos in her personal injury claim against RIDA Greentree, LLC.

9. Shortly thereafter, Ms. Stamos executed the written contingent fee agreement, by which Respondent was to receive 33 1/3% of any recovery from RIDA Greentree, LLC, or any person or entity responsible for her injuries which occurred on December 14, 2013.

10. A statutory workers' compensation lien against the proceeds of any settlement or judgment obtained in the personal injury claim for the benefits provided to Ms. Stamos by virtue of

the Pennsylvania Workers' Compensation Act, 77 P.S. §671 (the "Act") was known to Respondent.

11. By letter dated November 11, 2014, Respondent was notified by Brenda Hass (hereinafter, Ms. Hass), Subrogation Specialist, with Gallagher Bassett Services, a third-party administrator for Chubb, that there was an outstanding lien for workers' compensation benefits paid to or on behalf of Ms. Stamos, in the amount of \$98,686.83.

12. By letter dated November 17, 2014, to Ms. Hass, Respondent, among other things:

(a) Acknowledged that he represented Ms. Stamos in respect to her claim against RIDA Greentree, LLC;

(b) Acknowledged that the workers' compensation lien in this matter was then \$98,686.83; and,

(c) Requested that Ms. Hass provide him with an offer to compromise the lien.

13. By letter to Respondent dated January 9, 2015, Ms. Hass stated that the workers' compensation lien had increased to \$98,757.23.



14. By letter to Ms. Hass dated March 16, 2015, Respondent:

(a) Stated that he had received a settlement offer from "RIDA Greentree" of \$160,000;

(b) Falsely stated that his contingent fee agreement with Ms. Stamos was for 40% of the proceeds of any settlement, when in fact it was for 33 1/3% of such proceeds;

(c) Stated that, pursuant to statute, the lien in this case should be reduced by a prorated portion of his [purported] 40% contingent fee, and therefore should be reduced from \$98,686.83 to \$59,212.10; and,

(d) Requested that the claim be further reduced by another \$10,000 to \$49,212.10, in order to resolve this matter without having to proceed to civil litigation.

15. If the original amount of the lien communicated to Respondent was reduced by a prorated portion of Respondent's actual 33 1/3% contingent fee, it would be reduced from \$98,686.83 to \$65,791.22.

16. On or about March 17, 2015, pursuant to Respondent's advice, Ms. Stamos executed a General Release in settlement of her

personal injury claim, for payment to her in the amount of \$190,000.

17. In the General Release, it is stated by Ms. Stamos, among other things, that:

I further certify, state, acknowledge, warrant, and declare that each and every person, attorney, carrier, entity or association which claims to have a lien on the proceeds of this settlement arising out of this incident is aware of this Release and its terms and I understand that said released parties are relying expressly upon this unconditional express warranty in making payment hereunder.

The Releasor(s) accept responsibility for satisfying any liens that have been asserted against this recovery by any worker's compensation carrier, . . . and hereby discharge Releasee(s) from any such responsibility.

18. The representation in the General Release that lienholders, which included Ms. Stamos's worker's compensation

insurance carrier, were aware of the settlement, which representation Respondent caused Ms. Stamos to make, was false.

19. On March 31, 2015, prior to the deposit of any proceeds from Ms. Stamos's settlement, the balance in Respondent's PNC Bank IOLTA Account ending 2377 (hereinafter, IOLTA Account) was \$2,007.41.

20. On April 1, 2015, Respondent deposited Liberty Mutual Insurance Check No. 17186655, made payable to Westcott Law Firm, LLC, and Kristine Stamos, in the amount of \$190,000, into his IOLTA Account, representing the proceeds of the settlement of Ms. Stamos's third party claim against RIDA Greentree which, after the clearance of an unrelated payment of \$2,000 on that same date, increased the balance in his IOLTA Account to \$190,007.41.

21. By letter to Ms. Stamos dated April 8, 2015, enclosing check No. 1148, drawn to her on Respondent's IOLTA Account, in the amount of \$80,537.10, Respondent provided Ms. Stamos with the following description of the distribution of the full \$190,000:

(a) "Workers' Compensation Lien: (\$59,462.90) reduced by attorney's fees";

(b) The remaining balance of \$130,537.10, further reduced by \$50,000 in attorney's fees; and,

(c) A balance of \$80,537.10 as Ms. Stamos's portion of the settlement proceeds.

22. As of April 8, 2015, Respondent had not yet compromised the workers' compensation lien, nor had he notified the lienholder of the settlement of the personal injury claim.

23. Reducing the workers' compensation lien of \$98,686.33 by a prorated share of Respondent's actual 33 1/3% contingent fee, as of April 1, 2015, he was entrusted with at least \$65,791.22 for payment of that lien.

24. On April 9, 2015, Check Number 1149, dated April 8, 2015, made payable to Respondent, in the amount of \$50,000, annotated "legal fee for K. Stamos," cleared Respondent's IOLTA Account, leaving a balance in his IOLTA Account of \$139,207.41.

25. By letter to Respondent dated April 10, 2015, Ms. Hass, stated the following:

(a) Payments had been made totaling \$98,906.83 in regard to Ms. Stamos's workers' compensation claim; and,

(b) Her company was willing to accept a reduction of the lien in the amount of \$2,500, to \$97,406.83.

26. Because Respondent did not notify Chubb, nor any of its representatives, that he had settled Ms. Stamos's personal injury claim, it was not discovered that Respondent had settled the matter until sometime in January of 2017.

27. On April 13, 2015, Check Number 1148, dated April 8, 2015, made payable to Ms. Stamos, in the amount of \$80,537.10 cleared Respondent's IOLTA Account, leaving a balance in his IOLTA Account of \$59,494.31, which was \$6,296.91 less than the \$65,791.22 with which he was entrusted for payment of the workers' compensation lien.

28. By April 30, 2015, the balance in Respondent's IOLTA Account was \$59,174.50, which was \$6,616.72 below the minimum of \$65,791.22 with which he was entrusted for payment of the workers' compensation lien.

29. During April of 2015, many of the disbursements made from Respondent's IOLTA Account were made to or on Respondent's behalf and were personal in nature, including but not limited to the following:

(a) Six Automated Clearing House (ACH) online E-payments totaling \$2,274 to Chase and/or Capital One; and,

(b) IOLTA Account Check Number 1146, made payable to Anchor to Windward Trust, in the amount of \$2,000.

30. By May 29, 2015, due to disbursements made to or on Respondent's behalf which were personal in nature, the balance in Respondent's IOLTA Account was \$47,511.22, which was \$18,280 below the minimum of \$65,791.22 entrusted to Respondent for payment of the workers' compensation lien, which payments included but were not limited to the following:

(a) IOLTA Account Check Number 1005, made payable to Anchor to Windward Trust in the amount of \$8,850;

(b) IOLTA Account Check Number 1001, made payable to Rivers Club in the amount of \$1,004.63;

(c) Three ACH online E-payments to Chase Bank totaling \$1,800; and,

(d) IOLTA Account Check Number 1006, made payable to Fox Chapel Dental in the amount of \$1,108.65.

31. By June 30, 2015, the balance in Respondent's IOLTA Account was \$39,277.64, which was \$26,513.58 below the minimum of \$65,791.22 entrusted to Respondent for payment of the workers' compensation lien.

32. During June of 2015, many of the disbursements made from Respondent's IOLTA Account were made to or on Respondent's behalf and were personal in nature, including, but not limited to the following:

(a) Five ACH E-payments to Chase and/or Capital One totaling \$3,800;

(b) Two checks drawn on Respondent's IOLTA Account, made payable to Respondent, totaling \$3,650; and,

(c) A check drawn on Respondent's IOLTA Account made payable to Fox Chapel Dental Care in the amount of \$500.

33. Between July 1, 2015, and December 31, 2015, the balance in Respondent's IOLTA Account continued to decrease and, by December 31, 2015, the balance in Respondent's IOLTA Account was \$23,596.67, which was \$42,194.55 below the minimum of \$65,791.22

entrusted to Respondent for payment of the workers' compensation lien.

34. Between July 1, 2015 and December 31, 2015, many of the disbursements made from Respondent's IOLTA Account were made to or on Respondent's behalf and were personal in nature, including, but not limited to the following:

(a) Thirty-one ACH online E-payments to Chase, Capital One and/or Discover totaling \$16,371;

(b) Three IOLTA Account Checks made payable to the Rivers Club totaling \$1,324; and,

(c) Two IOLTA Account Checks made payable to Fox Chapel Dental Care totaling \$1,990.85.

35. From October 16, 2015, until about January of 2017, representatives of or on behalf of Chubb made numerous requests to Respondent for information concerning the settlement of Ms. Stamos's third party claim, and the payment of Chubb's lien on the proceeds thereof.



36. Respondent did not respond to these requests except, on a few occasions, to state that he was working on the matter, or words of similar effect.

37. Between January 1, 2016, and June 30, 2016, the balance in Respondent's IOLTA Account ending 2377 fell as low as \$18,120.14 on May 10, 2016, which was \$47,671.08 below the minimum of \$65,791.22 entrusted to Respondent for payment of the workers' compensation lien.

38. Between January 1, 2016, and June 30, 2016, many of the disbursements made from Respondent's IOLTA Account were made to or on Respondent's behalf and were personal in nature, including but not limited to the following:

(a) Thirty-six ACH online E-payments to either Chase, Capital One, and/or Discover totaling \$14,616; and,

(b) Two IOLA Account Checks made payable to the Rivers Club totaling approximately \$2,700.

39. Between July 1, 2016, and December 30, 2016, the balance in Respondent's IOLTA Account fell as low as \$9,169.99 on December 30, 2016, which was \$56,621.23 below the minimum of \$65,791.22

entrusted to Respondent for payment of the workers' compensation lien.

40. Between July 1, 2016, and December 30, 2016, many of the disbursements made from Respondent's IOLTA Account were made to or on Respondent's behalf and were personal in nature, including, but not limited to the following:

(a) Twenty-three ACH online E-payments to either Chase, Capital One, and/or Discover totaling \$7,794; and,

(b) Two IOLTA Account Checks, made payable to the Rivers Club, totaling approximately \$928.

41. Between January 1, 2017 and August 24, 2017, the balance in Respondent's IOLTA Account fell as low as \$71.97 on August 24, 2017, which was \$65,719.25 below the minimum of \$65,791.22 entrusted to Respondent for payment of the workers' compensation lien.

42. Between January 1, 2017 and August 24, 2017 many of the disbursements made from Respondent's IOLTA Account were made to or on Respondent's behalf and were personal in nature including but not limited to the following:

(a) Twenty-seven ACH online E-payments to Chase, Capital One, and/or Comcast totaling \$14,471.85;

(b) One IOLTA Account Check made payable to Oxford Athletic in the amount of \$509;

(c) Ten IOLTA Account Checks made payable to "Cash" or to Respondent totaling \$7,010; and,

(d) One IOLTA Account Check made payable to Rivers Club in the amount of \$300.

43. By emails to Respondent dated January 30, 2017, Aubrey Noltemeyer, Esquire, attorney for Starr Aviation/Republic Airways stated that:

(a) On September 14, 2016 Respondent had indicated that he "intended to review the file and provide what [he] believe[d] is the amount payable to [her] client after calculating the statutorily prescribed deductions";

(b) Respondent had yet to communicate with her regarding the repayment of the lien; and,

(c) She understood that the settlement agreement and settlement funds were paid to Respondent and Ms. Stamos in March 2015.

44. Respondent did not respond to Ms. Noltemeyer's emails.

45. By email to Respondent dated February 6, 2017, Ms. Noltemeyer:

(a) Again requested that Respondent provide a status of the lien repayment; and,

(b) Requested that Respondent contact her.

46. By letter dated April 5, 2017, sent via email and regular mail to Ms. Noltemeyer, Respondent:

(a) Apologized for letting this matter lapse for so long;

(b) Stated that he had been dealing with some medical issues over the course of the past years and had only been in the office intermittently;

(c) Stated he would calculate the amount of lien payable to her client starting the next week when he returned to the office; and,

(d) Stated that he had all intentions of "remitting the lien" to her client.

47. Thereafter, Respondent did not communicate with Ms. Noltemeyer, nor did he provide payment of any portion of the workers' compensation lien.

48. In about late July of 2017, Ms. Stamos telephoned Respondent's office to inquire as to the status of the lien, and why she was receiving notification that she still owed monies for the workers' compensation lien.

49. In response, Respondent stated that there was no need to worry, as he had the money in escrow, or words to similar effect, which statement was false.

50. Between September 1, 2017 and May 31, 2018, the average ledger balance in Respondent's IOLTA Account was the highest in September of 2017 at \$7,705.41 and the lowest in March of 2018 at \$383.36.

51. As of May 1, 2018, the balance in Respondent's IOLTA Account was \$67.11

52. Respondent misappropriated the entire minimum of \$65,791.22 entrusted to him for payment of the workers' compensation lien.

53. In or about October 2017, Ms. Stamos telephoned Respondent again to inquire as to whether the worker's compensation lien had been addressed.

54. Respondent responded that he wanted to "negotiate a lower amount," or words to similar effect.

55. Several weeks later, Ms. Stamos again attempted to contact Respondent in regard to the outstanding lien, and left a message with his secretary to call her.

56. Respondent did not return Ms. Stamos's call.

57. On April 24, 2018, in the Court of Common Pleas of Allegheny County, Robert W. Allen, Esquire, on behalf of Republic Airline, filed a Civil Complaint at GD 18-5298 against Respondent and his law firm for failure to make payment of the workers' compensation lien.

58. As of June 8, 2018, Respondent was still entrusted with a minimum of \$65,791.22 for payment of the workers' compensation lien.

59. By check dated June 8, 2018, in the amount of \$55,000 made payable to "Robert Allen, Esquire for Republic," Respondent paid a portion of the workers' compensation lien.

60. Respondent's \$55,000 check was drawn on an account titled "Westcott Law Firm LLC," which account was not a properly segregated account for the deposit of entrusted funds.

61. As of the date of the payment of Respondent's \$55,000 check to Mr. Allen, he was still entrusted with at least \$10,791.22 for payment of the workers' compensation lien.

62. By check dated August 13, 2018, made payable to "Robert Allen, Esquire for Republic," in the amount of \$10,791.22, drawn on the IOLTA Account of Respondent's counsel, Respondent paid the balance of the workers' compensation lien.

63. By his conduct as alleged in Paragraphs 4 through 62 above, Respondent violated the following Rules of Professional Conduct:

(a) Rule of Professional Conduct 1.15(b) - 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.

(b) 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.

(c) Rule of Professional Conduct 8.4(b) - It is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects.




(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.

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 charge 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   
Samuel F. Napoli  
Disciplinary Counsel, District IV  
Attorney Registration No. 35303  
The Disciplinary Board of the  
Supreme Court of Pennsylvania  
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437 Grant Street  
Pittsburgh, PA 15219  
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: Respondent : (Allegheny County)

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.

10/12/18  
Date

Samuel F. Napoli  
Samuel F. Napoli  
Disciplinary Counsel

**CERTIFICATE OF COMPLIANCE**

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

Submitted by: Samuel F. Napoli

Signature: 

Name: Samuel F. Napoli

Attorney No. (if applicable): 35303