

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

OFFICE OF DISCIPLINARY COUNSEL	:	No. 145 DB 2012
Petitioner	:	
	:	
v.	:	Attorney Registration No. 65597
	:	
JOHN E. GOMOLCHAK	:	
Respondent	:	(Erie County)

PUBLIC REPRIMAND

John E. Gomolchak, you stand before the Disciplinary Board, your professional peers and members of the public for the imposition of a public reprimand. It is an unpleasant task to publicly reprimand one who has been granted the privilege of membership in the bar of this Commonwealth. Yet as repugnant as this task may be, it has been deemed necessary that you receive this public discipline.

Mr. Gomolchak, this matter concerns your failure to administer an estate. In early June 2007, you were retained by Robert T. East, Sr., to handle the estate of the decedent, Robert T. East, Jr. Mr. East, Sr., was appointed executor of the estate. You failed to advertise the grant of letters or that decedent's estate consisted, in part, of real property. You were made aware by letter dated May 29, 2007 from Marsha Mills Davis, Assistant Chief Counsel for the Department of Military Affairs, that a claim against the estate was filed in the amount of \$8,016.98 on behalf of the Pennsylvania Soldiers and Sailors Home, and you filed an acknowledgment of the claim.

Ms. Davis attempted to contact you with regard to the matter on February 26, March 19, March 26, and August 13, 2008 and left messages asking for a status

report on the estate. You did not respond. On January 6, 2009, Ms. Davis sent you a letter, to which you failed to respond. By letter dated March 20, 2009, Ms. Davis again wrote to you and forwarded a copy of a Petition for Accounting and stated she would file the Petition if you did not respond to the letter. You eventually responded by telephone on April 16, 2009 and informed Ms. Davis that the decedent's house was not yet sold and you would file a Pennsylvania Inheritance Tax Return and send her a copy. However, you failed to file the tax return nor did the sale of the house occur.

On September 12, 2009, Mr. East, Sr. died and Judith Reiter was to be appointed as executrix of the estate of Mr. East, Jr., but you took no action to have Ms. Reiter appointed. At that time, more than two years after you were originally retained, you still had not taken action on the estate. On February 9, 2010, Ms. Davis telephoned you and you explained that the executor had died, the decedent's home had not been sold, and you would have a contingent executor appointed. Through the latter part of 2010, you continued to take no action on the matter, even after a complaint was filed against you by Ms. Reiter and a letter of concern sent to you by Office of Disciplinary Counsel detailing your lack of diligence.

On October 25, 2010, you prepared a Petition for Grant of Letters and Ms. Reiter was appointed Executrix. You did not communicate to Ms. Reiter the basis or rate of your fee, in writing, even though you had not regularly represented her. In the meantime, Ms. Davis was still seeking a status Report from you, which you failed to deliver to her. Ms. Davis filed a Petition for Citation to Show Cause Why Account Should Not Be Filed. Ms. Reiter was served with the Petition and thereafter informed you that she was terminating your services and requesting the return of the estate file.

You failed to respond to Ms. Reiter's request and you did not forward the estate file to successor counsel until April 24, 2012.

Thus far your failure to complete the administration of the estate and to timely return the file to successor counsel has cost the estate an additional \$9,936.85. In addition, your failure to take reasonable action in this matter caused the decedent's home to be sold at tax sale in September 2011, thereby causing Ms. Reiter and another beneficiary to lose their share of the real estate.

Your actions have violated the following Rules of Professional Conduct:

1. RPC 1.1 – A lawyer shall provide competent representation to a client;
2. RPC 1.3 – A lawyer shall act with reasonable diligence and promptness in representing a client;
3. RPC 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;
4. RPC 1.4(a)(3) – A lawyer shall keep the client reasonably informed about the status of the matter;
5. RPC 1.4(a)(4) – A lawyer shall promptly comply with reasonable requests for information;
6. RPC 1.5(b) – When the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, in writing, before or within a reasonable time after commencing the representation;
7. RPC 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.

8. RPC 8.4(d) – It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice;
9. Pa.R.D.E. 203(b)(7) – Failing, without good cause, to respond to the Office of Disciplinary Counsel's letter of inquiry dated October 18, 2011.

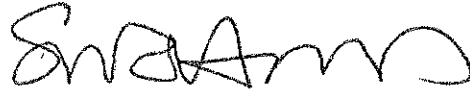
We note that you have been practicing law since 1992 and have no history of discipline. As regards this matter, you were extended many opportunities to complete the East Estate. The Estate was opened in June 2007. In September 2010, the original complaint filed by Ms. Reiter was dismissed with a letter of concern based on your assurances to Disciplinary Counsel that you would complete the estate. You never did so. You have exhibited a blatant disregard for your ethical obligations to your clients. One last obligation remains. You must submit proof within 90 days of today's date that you have reimbursed Judith Reiter for all attorneys' fees incurred. Please attend to this condition with all due diligence.

Mr. Gomolchak, the conduct that has brought you to this moment is in the record of these proceedings and is now fully public. This public reprimand is now a matter of public record.

As you stand before the Board today, we remind you that you have a continuing legal obligation to adhere to the Rules of Professional Conduct and the Rules of Disciplinary Enforcement. This public reprimand is proof that Pennsylvania lawyers will not be permitted to engage in conduct that falls below professional standards. Be

mindful that any future dereliction will subject you to disciplinary action.

This Public Reprimand shall be posted on the Disciplinary Board's website at www.padisciplinaryboard.org.

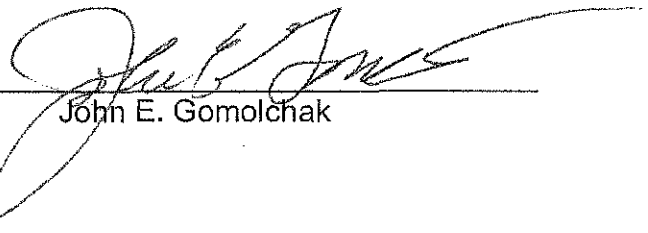


Designated Member
The Disciplinary Board of the
Supreme Court of Pennsylvania

Administered by a designated panel of three Members of The Disciplinary Board of the Supreme Court of Pennsylvania, at Pittsburgh, Pennsylvania, on June 11, 2013.

ACKNOWLEDGMENT

The undersigned, Respondent in the above proceeding, herewith acknowledges that the above Public Reprimand was administered in his presence and in the presence of the designated panel of The Disciplinary Board at the Frick Building, Suite 1300, 437 Grant Street, Pittsburgh, Pennsylvania, on June 11, 2013.



John E. Gomolchak