

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1879 Disciplinary Docket No. 3
Petitioner :
 :
v. : No. 77 DB 2012
 :
 :
HOWARD GOLDMAN, : Attorney Registration No. 37951
Respondent : (Philadelphia)

ORDER

PER CURIAM:

AND NOW, this 19th day of November, 2012, there having been filed with this Court by Howard Goldman his verified Statement of Resignation dated August 21, 2012, 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 Howard Goldman 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 11/19/2012

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

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

OFFICE OF DISCIPLINARY COUNSEL	:	No. 77 DB 2012
Petitioner	:	
	:	
v.	:	Attorney Registration No. 37951
	:	
HOWARD GOLDMAN	:	
Respondent	:	(Philadelphia)

RESIGNATION BY RESPONDENT

Pursuant to Rule 215
of the Pennsylvania Rules of Disciplinary Enforcement

5. He acknowledges that the material facts upon which the allegations of complaint contained in "Exhibit A" are based are true.

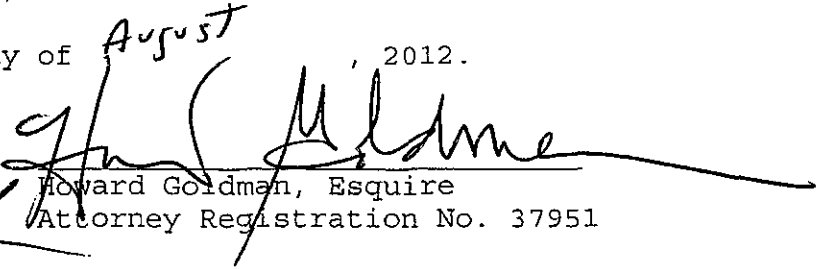
6. He submits the within resignation because he knows that if charges were predicated upon the misconduct under investigation, he could not successfully defend himself against them.

7. 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).

8. 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.

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 21st day of August, 2012.


Howard Goldman, Esquire
Attorney Registration No. 37951

WITNESS: 

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :
 Petitioner :
 : No. DB 2012
 :
 : Atty. Reg. No. 37951
 :
HOWARD GOLDMAN, :
 Respondent : (Philadelphia)

PETITION FOR DISCIPLINE

NOTICE TO PLEAD

To Mr. Goldman:

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 I Office of Disciplinary Counsel, Seven Penn Center, 16th Floor, 1635 Market Street, Philadelphia, PA 19103, and the original and three (3) conformed copies filed with the Office of the Secretary, the Disciplinary Board of the Supreme Court of Pennsylvania, Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 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.

brought in accordance with the various provisions of said Rules of Disciplinary Enforcement.

2. Respondent, Howard Goldman, was admitted to practice law in the Commonwealth on April 26, 1983.

3. Respondent maintains an office for the practice of law at 10 Canal Street, Suite 204, Bristol, PA 19007.

4. Pursuant to Pa.R.D.E. 201(a)(1), Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

CHARGE I: JIDHAL A. NEWSOME

5. On April 23, 2002, Mr. Jidhal A. Newsome was arrested on charges of possession with intent to deliver a controlled substance and possession of a controlled substance, *Commonwealth v. Newsome*, MC-51-CR-0436201-2002 (Municipal Court, Philadelphia County); on August 8, 2003, Mr. Newsome was found guilty of all charges and sentenced to 18 months of probation and payment of \$525.74 in court costs/fees.

6. On August 29, 2009, Mr. Newsome was arrested on drug-related charges, *Commonwealth v. Newsome*, MC-51-CR-0040053-2009 (Municipal Court, Philadelphia County); on May 5, 2010, the charges against Mr. Newsome were withdrawn.

7. On April 25, 2011, Respondent met with Mr. Newsome, during which time:

- a. Mr. Newsome requested that Respondent represent him in the expungement of his criminal record in both his 2003 conviction and his 2009 arrest;
- b. Respondent received \$500 in cash from Mr. Newsome to handle his expungement; and
- c. Respondent gave Mr. Newsome a handwritten receipt that said:

4/25/11

Received from Jidhal Newsome
\$500 for Expungement

HGoldman

8. Respondent failed to possess the requisite knowledge to handle Mr. Newsome's matter in that Respondent lacked the legal knowledge that Mr. Newsome's criminal conviction on drug-related charges could not be expunged.

9. To the extent that Respondent possessed the legal knowledge that Mr. Newsome's criminal conviction could not be expunged, Respondent failed to inform Mr. Newsome of that fact at the time Respondent was retained or anytime thereafter.

10. To the extent that Respondent possessed the legal knowledge that Mr. Newsome's criminal conviction could not be expunged, Respondent engaged in misleading conduct by

accepting Mr. Newsome's legal fee to expunge his criminal conviction.

11. To the extent that Respondent possessed the legal knowledge that Mr. Newsome's subsequent arrest on drug-related charges was withdrawn following the Court's granting of Mr. Newsome's Motion to Suppress, Respondent failed to advise Mr. Newsome of the major impediments to the expungement of his arrest due to the fact that there was no finding of his actual innocence and his subsequent arrest involved charges similar to his prior conviction.

12. From time to time Mr. Newsome would call Respondent on the telephone and request information regarding the status of his expungement proceeding.

13. Respondent failed to explain matters to Mr. Newsome to the extent reasonably necessary to permit him to make informed decisions regarding the representation.

14. On one occasion when Mr. Newsome called Respondent and requested information regarding the status of his expungement, Respondent stated, "I'll call you when at my desk, I don't have that information with me."

a. Respondent failed to call Mr. Newsome back and provide him with information regarding the status of his case.

15. On one occasion, Mr. Newsome informed Respondent that A.C.S. had contacted him and requested payment of \$525.74 "for court cost[s] and fines stemming from the cases" Mr. Newsome sought to have expunged.

a. Respondent advised Mr. Newsome to "ignore them."

16. On November 9, 2011, Mr. Newsome called Respondent, during which time:

a. Mr. Newsome requested a refund of Respondent's unearned fee; and

b. Respondent informed Mr. Newsome that his "expungement was on the judge's desk" and Respondent would call him back in a week.

17. Respondent failed to call Mr. Newsome within a week as Respondent stated he would.

18. On or before December 13, 2011, Mr. Newsome went to the Criminal Justice Center and inquired as to the status of his expungements, at which time a court clerk informed Mr. Newsome that his criminal conviction could not be expunged and that no papers had been filed with the Court seeking expungement of his arrest.

19. Respondent knowingly made false and misleading statements to Mr. Newsome about the status of his expungement matter.

20. Respondent failed to act with reasonable diligence in handling Mr. Newsome's expungement matter.

21. Respondent failed to refund his unearned fee to Mr. Newsome.

22. On December 19, 2011, Office of Disciplinary Counsel (ODC) served Respondent with a DB-7 Request for Statement of Respondent's Position.

23. On January 13, 2012, Respondent's counsel requested a 30-day extension of time to file a response.

24. On or about January 20, 2012, Respondent's counsel informed Disciplinary Counsel that Respondent would not be filing a response to the DB-7 Request.

25. By his conduct as alleged in paragraphs 5 through 24 above, Respondent violated the following Rules:

- a. RPC 1.1, which states that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation;
- b. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;

- c. RPC 1.4(a)(2), which states that a lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- d. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;
- e. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information;
- f. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;
- g. RPC 1.16(d), which states that 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. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation; and

i. Pa.R.D.E. 203(b)(7), which states the following: 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 also be grounds for discipline.

CHARGE II: UNAUTHORIZED PRACTICE OF LAW

26. By Supreme Court Order dated August 30, 2005, Respondent was suspended from the practice of law in Pennsylvania.

27. By Supreme Court Order dated November 14, 2008, Respondent was reinstated to the practice of law in Pennsylvania.

28. On or before September 27, 2008, Respondent received a telephone call from Jacqueline Vargas about handling her legal matter.

29. On September 27, 2008:

- a. Respondent met with Ms. Vargas at her store in the Manayunk section of Philadelphia; and
- b. Respondent had a lengthy legal consultation with Ms. Vargas about Respondent's handling of her breach of contract matter against Michael T. Carr, Century 21 Absolute Realty, REMAX Keystone, and Brenda Jones.

30. Respondent falsely held himself out to Ms. Vargas as a lawyer currently eligible to handle her legal matter.

31. Respondent failed to inform Ms. Vargas that Respondent was suspended from the practice of law and could not handle her legal matter until Respondent was reinstated to practice law in Pennsylvania.

32. Respondent engaged in the unauthorized practice of law when Respondent had a legal consultation with Ms. Vargas.

33. On or before October 25, 2008, Respondent gave Ms. Vargas a written contingent fee agreement from the "the law firm of Goldman & Associates, P.C. (law firm)."

34. Respondent negotiated the written fee agreement with Ms. Vargas in that Respondent initially wanted to receive either an hourly fee or 50% of the gross recovery.

35. Respondent engaged in the unauthorized practice of law when Respondent negotiated the terms of the fee agreement with Ms. Vargas.

36. Respondent's written fee agreement providing that Respondent's law firm promised it would represent Ms. Vargas was a misleading statement about Respondent's legal services, in that Respondent was suspended from the practice of law in Pennsylvania and could not provide legal services to Ms. Vargas.

37. Respondent's written fee agreement provided that "[i]n consideration of law firm's promise to represent me in connection with the above civil action, law firm shall receive forty 40% of whatever gross sums it obtains"

38. On October 25, 2008, Ms. Vargas signed the fee agreement retaining Respondent's law firm to represent her.

39. For approximately two or three weeks after Ms. Vargas signed the fee agreement, Ms. Vargas called Respondent to discuss the status of her legal matter.

40. Respondent failed to return Ms. Vargas's telephone calls and advise Ms. Vargas that Respondent could not lawfully handle her legal matter.

41. By his conduct as alleged in paragraphs 26 through 40 above, Respondent violated the following Rules:

- a. RPC 1.4(a)(2), which states that a lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- b. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information;
- c. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;
- d. RPC 5.5(a), which states that a lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so;
- e. RPC 7.1, which states that a lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of

fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;

- f. RPC 7.5(a), which states that a lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government, government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1. If otherwise lawful a firm may use as, or continue to include in, its name, the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession;
- g. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- h. RPC 8.4(d), which states that it is professional misconduct for a lawyer to

engage in conduct that is prejudicial to the administration of justice;

- i. Pa.R.D.E. 203(b)(3), which states that wilful violation of any other provision of the Enforcement Rules, shall be grounds for discipline, via the Enforcement Rules charged in subsections (i) through (n), *infra*;
- j. Pa.R.D.E. 217(c)(1), which states that a formerly admitted attorney shall promptly notify, or cause to be notified, of the disbarment, suspension, administrative suspension or transfer to inactive status, by registered or certified mail, return receipt requested: (1) all persons or their agents or guardians to whom a fiduciary duty is or may be owed at any time after the disbarment, suspension, administrative suspension or transfer to inactive status;
- k. Pa.R.D.E. 217(d), which states that Orders imposing suspension, disbarment, administrative suspension or transfer to inactive status shall be effective 30 days after entry. The formerly admitted attorney,

after entry of the disbarment, suspension, administrative suspension or transfer to inactive status order, shall not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature. However, during the period from the entry date of the order and its effective date the formerly admitted attorney may wind up and complete, on behalf of any client, all matters which were pending on the entry date;

1. Pa.R.D.E. 217(j)(1), which states that all law-related activities of the formerly admitted attorney shall be conducted under the supervision of a member in good standing of the Bar of this Commonwealth who shall be responsible for ensuring that the formerly admitted attorney complies with the requirements of this subdivision (j). If the formerly admitted attorney is engaged by a law firm or other organization providing legal services, whether by employment or other relationship, an attorney of the firm or organization shall be designated by the

firm or organization as the supervising attorney for purposes of this subdivision;

- m. Pa.R.D.E. 217(j)(2), which states that a formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except in accordance with the following requirements: For purposes of this subdivision (j), the only law-related activities that may be conducted by a formerly admitted attorney are the following: (i) legal work of a preparatory nature, such as legal research, assembly of data and other necessary information, and drafting of transactional documents, pleadings, briefs, and other similar documents; (ii) direct communication with the client or third parties to the extent permitted by paragraph (3); and 20 (iii) accompanying a member in good standing of the Bar of this Commonwealth to a deposition or other discovery matter or to a meeting regarding a matter that is not currently in litigation, for the limited purpose of providing clerical assistance to the member

in good standing who appears as the representative of the client;

- n. Pa.R.D.E. 217(j)(3), which states that a formerly admitted attorney may have direct communication with a client or third party regarding a matter being handled by the attorney, organization or firm for which the formerly admitted attorney works only if the communication is limited to ministerial matters such as scheduling, billing, updates, confirmation of receipt or sending of correspondence and messages. The formerly admitted attorney shall clearly indicate in any such communication that he or she is a legal assistant and identify the supervising attorney; and
- o. Pa.R.D.E. 217(j)(4)(i), (ii), (iv), (v), and (vi), which states that a formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except in accordance with the following requirements: Without limiting the other restrictions in this subdivision (j), a formerly admitted attorney is specifically

prohibited from engaging in any of the following activities: ... (i) performing any law-related activity for a law firm, organization or lawyer if the formerly admitted attorney was associated with that law firm, organization or lawyer on or after the date on which the acts which resulted in the disbarment or suspension occurred, through and including the effective date of disbarment or suspension; (ii) performing any law-related services from an office that is not staffed by a supervising attorney on a full time basis; (iv) representing himself or herself as a lawyer or person of similar status; (v) having any contact with clients either in person, by telephone, or in writing, except as provided in paragraph (3); and (vi) rendering legal consultation or advice to a client.

**Charge III: False and Misleading Statements
to Disciplinary Authorities**

42. By letter dated July 12, 2010, from Respondent to Kathryn J. Peifer, Executive Director, PA Lawyers Fund for Client Security (Fund), Respondent wrote that:

- a. the "automated monthly ADH payments to Litton Mortgage" were "from my own money, not my client's."

43. In Respondent's December 2, 2010, DB-7 Answer, Respondent wrote:

- a. in paragraph 3, that the "source of these funds [Litton Mortgage and State of New Jersey] was from Ms. Glick and Mr. Goldman's personal funds (they live together)" and that Respondent was acting as fiancée and a lawyer; and
- b. in paragraph 10, Respondent repeated that he was acting "both as fiancée and lawyer" and stated that he "advanced funds for the purpose of making these [mortgage] payments."

44. In Respondent's March 22, 2011 letter to Office of Disciplinary Counsel (ODC), Respondent wrote:

- a. in paragraph 3, that "Mr. Goldman acted as her [Ms. Glick's] attorney in this matter [Litton Mortgage]"; and
- b. in paragraph 4, that "[t]he source of the funds for the Glick mortgage was cash fees

Mr. Goldman received and deposited in his IOLTA account."

45. To the extent that the funds in the IOLTA account were Respondent's personal funds, Respondent failed to hold his property separate from his client's property.

46. To the extent that the funds in the IOLTA account were Respondent's client's funds, Respondent made false and misleading statements to the Fund when Respondent wrote that the funds were "from my own money, not my client's."

47. By letter dated June 21, 2010, from Respondent to the Fund explaining Respondent's overdraft, Respondent wrote in the third paragraph: "I have two accounts with the same bank, Wachovia. Instead of writing the check from my general account as I personally would be covering the filing fees, I used the IOLTA account by mistake."

48. In Respondent's July 12, 2010 letter to the Fund explaining Respondent's payments to Litton Mortgage from Respondent's IOLTA account, Respondent wrote:

- a. "[o]nce again I inadvertently paid these debts by using the wrong account"; and
- b. "I am in the process of closing my general account to open it in another bank so that this stupidity will not repeat itself."

49. In Respondent's December 2, 2010, DB-7 Answer, Respondent wrote in paragraph 10, that "the funds were advanced funds for the purpose of making these [mortgage] payments."

50. In Respondent's March 22, 2011 letter to ODC, Respondent wrote:

- a. in paragraph 1.b., that "[o]n two occasions, Mr. Goldman contacted his bank and authorized the bank to electronically pay the mortgage"; and
- b. in paragraph 3, that "Mr. Goldman thought that since he was acting as Ms. Glick's lawyer, the payments [of mortgage] should be paid through his IOLTA account."

51. Respondent's July 12, 2010 letter to the Fund is false in that Respondent did not "inadvertently" pay the Glick mortgage from Respondent's IOLTA account; rather, the funds were placed in Respondent's IOLTA account "for the purpose of making these payments" and Respondent knowingly and intentionally called the bank and authorized the bank to pay the mortgage from Respondent's IOLTA account.

52. By letter dated March 9, 2011, ODC requested confirmation that Respondent had closed his business account at Wachovia Bank and opened a business account at

another bank, as Respondent had expressly represented he would do in Respondent's July 12, 2010 letter to the Fund.

53. In Respondent's March 22, 2011 letter to ODC, Respondent stated that after reflection and consultation with counsel, the "account has not been closed."

- a. Respondent failed to correct a misapprehension known to have arisen in this matter.

54. By his conduct as alleged in paragraphs 42 through 53 above, Respondent violated the following Rules:

- a. RPC 8.1(a), which states that 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 knowingly make a false statement of material fact; and
- b. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

CHARGE IV: LESLIE BING

55. By letter dated September 13, 2010, from Mr. Leslie Bing to Respondent, Mr. Bing wrote requesting Respondent's representation in his post-conviction matter.

Commonwealth v. Leslie Bing, No. 1991 Criminal Division 1981 (Dauphin County Court of Common Pleas).

- a. Mr. Bing enclosed his trial transcript and an opinion letter from his former counsel, Cheryl J. Sturm, Esquire.

56. By letter dated September 24, 2010, from Respondent to Mr. Bing, Respondent wrote and advised Mr. Bing that:

- a. Respondent had received his letter;
- b. it appeared that his matter should be brought in federal court;
- c. Respondent believed that Mr. Bing's former lawyer and the transcripts indicate a new issue; and
- d. Respondent's fee would be \$5,000.

57. By letter dated October 12, 2010, from Respondent to Mr. Bing, Respondent:

- a. explained that Respondent's fee included all expenses, an appeal, and Respondent's arguing of the case, if necessary;
- b. advised that it appeared that all state claims are time barred and Mr. Bing was abandoned by trial counsel on appeal; and

c. stated that Respondent believed that Ms. Sturm's letter is "very, very helpful to support Respondent's claim."

58. By letter dated November 1, 2010, from Respondent to Mr. Bing, Respondent:

- a. enclosed a signed and notarized fee agreement; and
- b. requested that Mr. Bing sign and return the fee agreement with payment of \$5,000.

59. By letter dated November 8, 2010, from Mr. Bing to Respondent, Mr. Bing enclosed Respondent's \$5,000 retainer fee and Respondent's fee agreement.

60. Respondent received the \$5,000 retainer fee and fee agreement.

61. By letter dated November 8, 2010, from Mr. Bing to Respondent, Mr. Bing discussed his appellate issues.

62. By letter dated December 16, 2010, from Respondent to Mr. Bing, Respondent stated that Mr. Bing's "matter is being expedited and should be filed very soon. All papers will be sent to Respondent for review and editing. I think that it is a strong case, considering the prior lawyer's letter."

63. Respondent failed to handle Mr. Bing's post-conviction matter with reasonable diligence and provide Mr. Bing with the promised papers.

64. By letter dated December 23, 2010, from Mr. Bing to Respondent, Mr. Bing requested prompt clarification regarding what matter Respondent would be expediting and in what court Respondent would be filing his matter.

65. Respondent received Mr. Bing's letter.

66. Respondent failed to respond to Mr. Bing's reasonable request for information.

67. By letter dated March 1, 2011, from Mr. Bing to Respondent, Mr. Bing:

- a. reminded Respondent that Respondent had not responded to his prior correspondence;
- b. explained that since Respondent received his \$5,000 check, Respondent has failed to communicate with him;
- c. warned that should he not receive a response from Respondent within a reasonable period of time, Mr. Bing would have "absolutely no choice" but to contact the courts and disciplinary authorities regarding Respondent's representation; and

d. reiterated his request that Respondent contact him regarding what, if any, pleadings Respondent intended to file and where Respondent would file them.

68. Respondent received Mr. Bing's letter.

69. By letter dated March 4, 2011, which was a Friday, from Respondent to Mr. Bing, Respondent wrote:

- a. "papers are being worked on in your case which I feel is very strong"; and
- b. "I will have papers for you next week for review before I file the same."

70. Respondent failed to deliver anything to Mr. Bing by Saturday, March 12, 2011, as promised.

71. By letter dated March 14, 2011, from Mr. Bing to Respondent, Mr. Bing acknowledged receipt of Respondent's March 4, 2011 letter, and reiterated his concerns about what issues Respondent was raising in the pleadings.

72. Respondent failed:

- a. to act with reasonable diligence and provide Mr. Bing with the draft of papers for filing; and
- b. to respond to Mr. Bing's reasonable requests for information.

73. By letter dated April 3, 2011, from Mr. Bing to Respondent, Mr. Bing:

- a. complained that Respondent had failed to communicate with him and provide him with Respondent's draft pleadings;
- b. placed Respondent on notice that on April 7, 2011, he intended to file a complaint against Respondent with the Disciplinary Board;
- c. terminated Respondent's representation;
- d. requested a refund of Respondent's \$5,000 fee since Respondent had failed to provide him with Respondent's proposed habeas corpus filing;
- e. explained that if Respondent refunded his \$5,000, he would not file a complaint against Respondent with the Disciplinary Board; and
- f. informed Respondent that he had retained new counsel to represent him.

74. By letter dated April 20, 2011, from Respondent to Mr. Bing, Respondent:

- a. acknowledged receipt of his letter terminating Respondent's representation;

- b. explained that Respondent had "come to the conclusion that perhaps [Respondent] were overly optimistic in" Respondent's correspondence to Mr. Bing because Respondent's analysis revealed that Mr. Bing had not exhausted his state remedies as required prior to seeking habeas corpus relief;
- c. claimed that Respondent was about to notify Mr. Bing of this fact when Respondent received his letter;
- d. professed to have done "much work" on Mr. Bing's matter and contracted with a paralegal who did extensive research; and
- e. offered to refund \$2,500 to Mr. Bing.

75. By letter dated May 2, 2011, from Mr. Bing to Respondent, Mr. Bing:

- a. stated that he found it difficult to accept that Respondent had done extensive work since he had not "received one piece of writing [sic] material" from Respondent;
- b. directed Respondent to refund the full \$5,000 to him; and

- c. advised Respondent that he will wait "two to three weeks" for Respondent's response before pursuing his complaint with disciplinary authorities.

76. On May 5, 2011, ODC received Mr. Bing's complaint against Respondent.

77. By letter dated May 25, 2011, from Respondent to Mr. Bing, Respondent:

- a. acknowledged receipt of Mr. Bing's letter;
- b. claimed that he was going to send Mr. Bing his legal work, but he was dismissed; and
- c. volunteered to appear before a fee dispute committee to mediate Mr. Bing's claim.

78. By letter dated June 6, 2011, from ODC to Respondent, ODC:

- a. advised Respondent that ODC had received a complaint from Mr. Bing regarding Respondent's failure to communicate and refund Respondent's unearned fee;
- b. requested that within two weeks from the date of ODC's letter, Respondent write to Mr. Bing, provide him with a full accounting of Respondent's legal services, including

any checks showing Respondent's payment to subcontractors; and

- c. requested that Respondent send a copy of his letter to ODC.

79. By letter dated June 16, 2011, from Respondent to ODC, Respondent requested an extension of time to respond to ODC's letter because Respondent's counsel was on vacation.

80. By letter dated June 20, 2011, ODC granted Respondent until July 25, 2011 to comply with ODC's request.

81. Respondent did not write to Mr. Bing and provide him with a detailed accounting of his services as ODC had requested.

82. Respondent failed to refund his unearned fee to Mr. Bing.

83. By his conduct as alleged in paragraphs 55 through 82 above, Respondent violated the following Rules:

- a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- b. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter.

- c. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information;
- d. RPC 1.15(e), which states that 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; and
- e. RPC 1.16(d), which states that 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 V: KEITH STANLEY BROWN MATTER

84. On July 22, 2009, Mr. Keith Stanley Brown filed a *pro se* P.C.R.A. petition in three separate matters in the Court of Common Pleas of Philadelphia County. ***Commonwealth v. Keith Stanley Brown***, CP Nos. CR-0014546-2007, CR-0004604-2008, and CR-0007418-2008.

85. On or about July 27, 2009, Respondent received a \$1,000 money order from Ms. Edna E. Brown to represent her son, Mr. Brown, on his pending P.C.R.A. petition.

- a. Respondent failed to provide Ms. Brown with a written fee agreement setting forth the basis and rate of Respondent's fee.

86. Respondent spoke to Mr. Brown on the telephone regarding his PCRA petition, during which time Mr. Brown

requested that Respondent obtain the transcript for his criminal conviction.

- a. Respondent failed to act with reasonable diligence and comply with Mr. Brown's request for a copy of his transcript.

87. Thereafter, Respondent made false and misleading statements to Mr. Brown when Respondent informed Mr. Brown that Respondent had obtained his transcript and explained what Respondent purportedly could "do" for Mr. Brown.

88. Respondent failed to act with reasonable diligence in handling Mr. Brown's P.C.R.A. matter, in that Respondent:

- a. failed to enter Respondent's appearance on behalf of Mr. Brown; and
- b. failed to either file an amended P.C.R.A. petition or advise Mr. Brown that Respondent could not help him and refund the unearned fee.

89. On September 16, 2009, John P. Cotter, Esquire, was appointed to represent Mr. Brown.

90. Respondent failed to keep Mr. Brown reasonably informed about the status of his legal matter and advise him that:

- a. Respondent was no longer representing him;
and
- b. Mr. Cotter had been appointed to represent
Mr. Brown.

91. Respondent failed to refund his unearned fee to Ms. Brown upon the termination of the representation.

92. By his conduct as alleged in paragraphs 84 through 91 above, Respondent violated the following Rules:

- a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- b. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;
- c. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information;
- d. RPC 1.5(b), which states that 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. RPC 1.16(d), which states that 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; and
- f. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

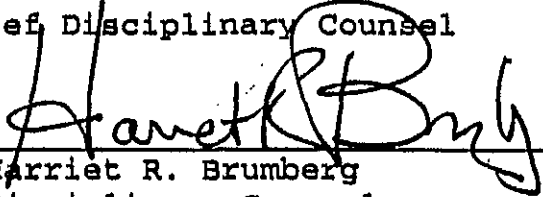
WHEREFORE, Petitioner prays that your Honorable Board appoint, pursuant to Rule 205, Pa.R.D.E., a Hearing Committee to hear testimony and receive evidence in support of the foregoing charges and upon completion of said hearing to make such findings of fact, conclusions of law, and recommendations for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

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

Paul J. Killion
Chief Disciplinary Counsel

By



Harriet R. Brumberg
Disciplinary Counsel
Attorney Registration No. 31032

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(215) 560-6296

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

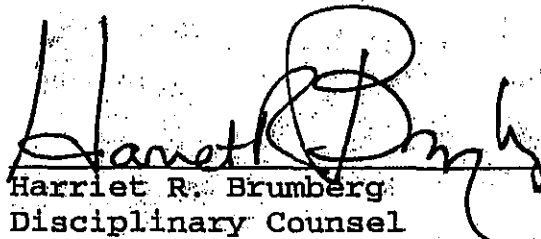
OFFICE OF DISCIPLINARY COUNSEL, :
Petitioner :
: No. DE 2012
v. :
: Atty. Reg. No. 37951
HOWARD GOLDMAN, :
Respondent : (Philadelphia)

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.

5/14/2012

Date


Harriet R. Brumberg
Disciplinary Counsel