

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

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 24 DB 2019
Petitioner	:	
	:	File No. C1-17-880
v.	:	
	:	Attorney Registration No. 88663
STUART THOMAS COTTEE	:	
Respondent	:	(Philadelphia)

O R D E R

AND NOW, this ^{28th} 20 day of February, 2019, in accordance with Rule 208(a)(5), Pa.R.D.E., the determination by a Review Panel of the Disciplinary Board of the above captioned matter is accepted; and it is

ORDERED that the said STUART THOMAS COTTEE of Philadelphia, be subjected to a **PUBLIC REPRIMAND WITH CONDITIONS** by the Disciplinary Board of the Supreme Court of Pennsylvania as provided in Rule 204(b) and Rule 205(c)(8) of the Pennsylvania Rules of Disciplinary Enforcement.

Within thirty (30) days from the date of this Order, Respondent shall submit to the Prothonotary of the Board and Disciplinary Counsel proof that he has:

1. Paid the Complainants the remainder of the \$4,000 that he owes to each of them; specifically, Respondent shall pay an additional \$1,900 to Complainant Green and an additional \$3,025 to Complainant Crump;
2. Sent a letter to each of the Complainants, with copies to the Board Prothonotary and Disciplinary Counsel, informing them that:
 - a) he never settled any personal injury claims on behalf of either of the Complainants;
 - b) he failed to file any personal injury action on behalf of either of the Claimants within the applicable statute of limitations and that this failure constituted legal malpractice on the part of Respondent;
 - c) the releases that the Complainants signed were obtained in violation of the Pennsylvania Rules of Professional Conduct; and
 - d) the Complainants may still retain independent counsel to advise them on pursuing a legal malpractice action against Respondent if they so desire and each

Complainant's acceptance of the \$4,000 shall not serve as a release or satisfaction of any claim that Complainants may assert against Respondent in the future;

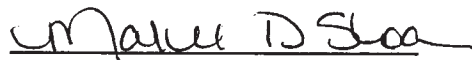
Failure to comply with the above Conditions shall be grounds for reconsideration of this matter and prosecution of formal charges against Respondent under the specific provision of Enforcement Rule 204(b). Costs shall be paid by the Respondent.

BY THE BOARD:


Board Chair

TRUE COPY FROM RECORD

Attest:


Marcee D. Sloan, Prothonotary
The Disciplinary Board of the
Supreme Court of Pennsylvania

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PUBLIC REPRIMAND

Stuart Thomas Cottee, 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. Cottee, the record indicates that in 2016, you began representing Yeves Green and Sharon Crump in a personal injury civil action arising out of injuries they suffered upon alighting an automobile at a property owned by James Alexander. Even though you had not previously represented your clients, you did not communicate to them in writing the basis or rate of your fee. On June 9, 2016, you filed suit in the Court of Common Pleas of Philadelphia County on behalf of your clients against James Alexander. You erroneously alleged that the injuries occurred at the address where your clients lived, not Mr. Alexander. On July 7, 2016, you filed a praecipe to settle, discontinue and end civil action. On July 21, 2016, you filed another civil action, this time against SPMB Properties. However, SPMB was the owner of the property where your clients lived. SPMB filed Requests for Admissions, but you failed to respond. On

June 5, 2017, you filed a praecipe to settle, discontinue and end civil action. By letter dated June 13, 2017, your clients informed you that you had sued the wrong defendant, but you failed to respond to that letter. You did not re-institute suit against James Alexander, and the statute of limitations had expired on July 22, 2016. You never settled any personal injury claims on behalf of either of your clients. Despite multiple requests by your clients for information as to the status of their matter, you failed to inform them of the status and their loss of their rights to pursue their claims.

To conceal your neglect from your clients, you directed your investigator and his agent, Wayne Oliver, to inform your clients that you had settled their civil action against James Alexander for \$4,000 apiece. Mr. Oliver met with your clients, at which time he had them sign releases purporting to release you from any potential malpractice claims. You intended the amount of \$4,000 as "settlement" of any malpractice claims that your clients had against you. However, to date you have not paid each of your clients the entire amount of \$4,000. At some point after July 1, 2017, you paid \$2,100 to Mr. Green and \$975 to Ms. Crump. You did not furnish your clients with a distribution sheet or accounting with respect to the foregoing monies. By letter dated September 13, 2017, your clients requested a distribution letter and a copy of their file, within ten days. You received that letter but failed to respond.

On March 13, 2018, Office of Disciplinary Counsel served on you a DB-7 Request for Statement of Respondent's Position and request for documents. You responded on April 19, 2018 and denied every allegation, but you failed to verify the answer, and failed to submit the requested documents. Office of Disciplinary Counsel filed a supplementary DB-7A, but you failed to respond.

As a result of your conduct, you have violated the following Rules of Professional Conduct (“RPC”) and Pennsylvania Rules of Disciplinary Enforcement (“Pa.R.D.E.”):

1. RPC 1.1 – A lawyer shall provide competent representation to a client.
2. RPC 1.4(a)(3) and (4) – A lawyer shall keep the client reasonably informed about the status of the matter and promptly comply with reasonable requests for information.
3. RPC 1.4(b) – A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.
4. 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.
5. RPC 1.8(h)(1) and (2) – A lawyer shall not: make an agreement prospectively limiting the lawyer’s liability to a client for malpractice unless the client is independently represented in making the agreement; or settle a claim or potential claim for such liability with an unrepresented client or former client unless that person is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel in connection therewith.
6. RPC 5.3(b), (c)(1) and (2) – With respect to a nonlawyer employed or retained by or associated with a lawyer: a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person’s conduct is compatible with the professional obligations of the lawyer; and a lawyer shall be responsible for conduct of such a person that would be

a violation of the Rules of Professional Conduct if engaged in by a lawyer if (1) the lawyer orders or, (2) with the knowledge of the specific conduct, ratifies the conduct involved; or the lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed or has direct supervisory authority over the person, and in either case knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

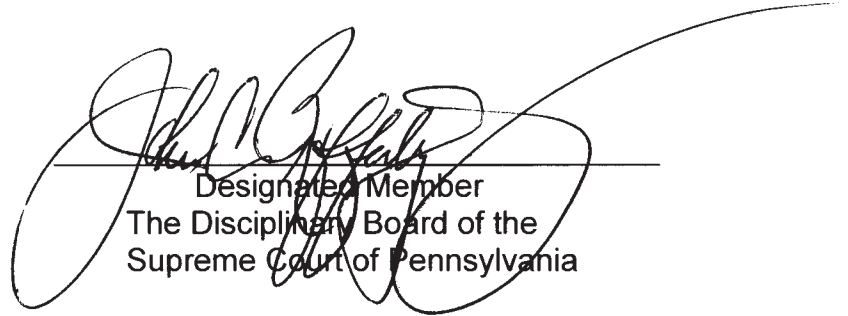
7. RPC 8.1(a) – A lawyer in connection with a disciplinary matter shall not knowingly make a false statement of material fact.
8. RPC 8.4(a) – It is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another.
9. RPC 8.4(c) – It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.
10. Pa.R.D.E. 203(b)(7) – Failing, without good cause, to respond to the supplemental request under Disciplinary Board Rules, §87.7(b) for a statement of the respondent-attorney's position.

It is my duty to reprimand you for your misconduct. We note that you have practiced law since 2002 and have no prior record of discipline. Please be advised that any subsequent violations on your part can only result in further discipline and perhaps more severe sanctions. We sincerely hope that you will conduct yourself in such a manner that future disciplinary action will be unnecessary.

Mr. Cottee, your conduct in this matter is now fully public. This Public Reprimand is a matter of public record.

As you stand before the Board today, we remind you that you have a continuing obligation to abide by the Rules of Professional Conduct and 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

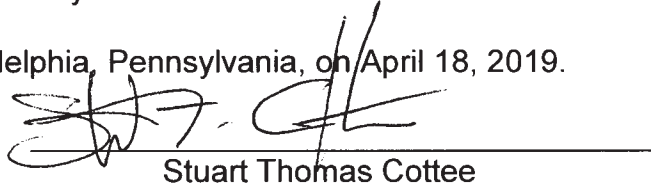


Designated Member
The Disciplinary Board of the
Supreme Court of Pennsylvania

Administered by a designated panel of three Members of The Disciplinary Board of the Supreme Court of Pennsylvania, at Philadelphia, Pennsylvania, on April 18, 2019.

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 Board offices located at the 1601 Market Street, Suite 3320, Philadelphia, Pennsylvania, on April 18, 2019.



Stuart Thomas Cottee