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BEFORE THE BOARD OF COMMISSIONERS  
ON GRIEVANCES AND DISCIPLINE OF  
THE SUPREME COURT OF OHIO

BOARD OF COMMISSIONERS  
ON GRIEVANCES & DISCIPLINE

In re:

Complaint against

JOSEPH DUES REED, ESQ. (0025938)

713 South Front Street

Columbus, OH 43206

RESPONDENT,

by

COLUMBUS BAR ASSOCIATION

175 South Third Street S-1100

Columbus, OH 43215-5134

RELATOR.

No. **14 - 050**

COMPLAINT

AND

CERTIFICATE

(Rule V of the Supreme Court

Rules for the Government of

the Bar of Ohio.)

FILED

JUL 07 2014

BOARD OF COMMISSIONERS  
ON GRIEVANCES & DISCIPLINE

Now comes the Relator and alleges that Joseph D. Reed, Esq. (Registration No. 0025938), an Attorney at Law, duly admitted to the practice of law in this State as of Ohio on March 9, 1983 and therefore subject to the Code of Professional Responsibility, the Ohio Rules of Professional Conduct and the Rules for the Government of the Bar of Ohio, is guilty of the following misconduct:

**Discipline History**

1. Respondent was given a six-month suspension (fully stayed) by the Supreme Court of Ohio on February 9, 2000.
2. On July 11, 2006, Respondent was suspended for non-compliance with Continuing Legal Education requirements but was reinstated on October 1, 2006.

**Count One (Gravely Grievance)**

3. On April 12, 2012, Toni Gravely met with Respondent seeking assistance in a divorce matter. She paid Respondent a filing fee of \$150.00 and an additional \$375.00 (half the quoted fee of \$750) for a retainer.

4. She also provided him with her marriage license to facilitate the out-of-state divorce as she had lived in Ohio for the last 31 years without her husband.
5. Respondent accepted the payment on that date and assured Ms. Gravely everything should be wrapped up by June 2012.
6. Ms. Gravely called Respondent's office several times a week from late April till November of 2012, and left numerous messages.
7. Even when she visited his office she was unable to make contact.
8. She received no updates from Respondent on the status her divorce case that she believed was pending.
9. In fact, Respondent did not file a divorce case or take any action on his client's behalf.
10. Respondent had no further contact with his client and did not refund any portion of the \$525.00 the client had paid to him.
11. Meanwhile, Ms. Gravely's husband filed for divorce in West Virginia, forcing her to litigate the case out of state which was exactly what she had been trying to avoid.
13. By his acts and failures to act, Respondent has violated the following disciplinary rules:
  - ORPC 1.1 [failing to provide competent representation];
  - ORPC 1.3 [failing to act with *reasonable* diligence and promptness on a client's behalf];
  - ORPC 1.4(a)(3) [failing to keep a client reasonably informed];
  - ORPC 1.4(a)(4) [failing to comply with a client's *reasonable* requests for information];
  - ORPC 1.5(a) [collecting a clearly excessive fee];
  - ORPC 1.15(d) [failing to deliver to a client funds and property to which she is entitled];
  - ORPC 8.4(h) [engaging in conduct adversely reflecting on the lawyer's fitness].

#### **Count Two (Failure to Comply with Subpoena)**

14. In November 2012, Ms. Gravely contacted the Supreme Court of Ohio Office of Disciplinary Counsel to file a grievance against Respondent.

15. On November 13, 2012, Disciplinary Counsel sent a letter of inquiry to Respondent by certified mail.
16. The return receipt indicated that Respondent received the letter.
17. Respondent failed to respond to the Disciplinary Counsel's request for information.
18. On November 29, 2013, Disciplinary Counsel sent Respondent a second letter requesting an immediate response.
19. Again Respondent failed to reply.
20. Disciplinary Counsel then served a subpoena on Respondent to appear before the Disciplinary Counsel on January 16, 2013, to testify regarding the Gravely matter.
21. Respondent called Disciplinary Counsel to reschedule the appearance saying he was unavailable on the January 16<sup>th</sup>. Disciplinary Counsel gave him an extension to January 29, 2013, to reply to the original inquiry.
22. Disciplinary Counsel did not receive any further communication from Respondent, so a new subpoena was issued to and served upon Respondent for an appearance on March 13, 2013.
23. Responded failed to appear or contact Disciplinary Counsel on March 13, 2013.
24. On March 22, 2013, Disciplinary Counsel transferred the Gravely grievance to this Relator because the Columbus Bar Association had received other grievances against Respondent.
25. By his acts and failures to act, Respondent has violated the following disciplinary rules:
  - ORPC 8.1(b) [knowingly fail to respond to a demand from a disciplinary authority];
  - ORPC 8.4(h) [engaging in conduct adversely reflecting on the lawyer's fitness].

### **Count Three ( Pierce Fee Arbitration)**

26. On January 18, 2013, the Columbus Bar Association's Fee Arbitration Committee -- an ADR procedure in which Respondent was obligated to participate under the provisions of Gov. Bar R. V(4)(G) -- held a fee arbitration between Respondent and his client, R. Thomas Pierce.

27. The arbitration concluded with the finding that Respondent had not earned the entire \$5,000.00 paid by Mr. Pierce and ordered that Mr. Pierce was due a balance of \$1,125.00.

28. Included in the fee arbitration agreement is a provision in which the parties mutually agree that any arbitration award must be fully paid within ten days after receipt of the award notice. This requirement is reiterated in the award notice.

29. Respondent had actual knowledge of that fee arbitration award of \$1,125.00.

30. Eight months later, having received none of the fees owed him, Mr. Pierce obtained counsel to attempt to secure the money owed by Respondent.

31. On March 21, 2014, (fourteen months after the original fee arbitration award) Respondent paid Mr. Pierce's counsel the sum of \$1,400.00, from which Mr. Pierce received \$1,011.85 after deduction of expenses incurred by his attorney.

32. By his acts and failures to act, Respondent has violated the following disciplinary rules:

Gov.Bar R. V(4)(G) [not cooperating with an alternative dispute resolution procedure];  
ORPC 1.15(d)[ failing to deliver to a client funds and property to which he is entitled];  
ORPC 8.4(h) [engaging in conduct adversely reflecting on the lawyer's fitness].

#### Count Four (Smith/Witt Grievance)

33. On January 22, 2013, Brittany Barker, the girlfriend of Joshua Smith, a prisoner at London Correctional Institute, paid Respondent \$1,000.00 to retain him to file a judicial release motion and to represent Mr. Smith at a hearing. Respondent agreed to the representation.

34. Ms. Barker, despite leaving many messages and making numerous attempts to contact Respondent concerning Mr. Smith's case, received no response from Respondent.

35. Joshua Smith's father, Fred Witt, attempted to make contact with Respondent starting in June 2013. On July 1, 2013, Mr. Witt went to Respondent's office and hand delivered a request for a response regarding the status of his son's case. Respondent's receptionist placed Mr. Witt's message directly on Respondent's desk; however, Respondent still made no response.

36. In July or August 2013, Mr. Witt left a message for Respondent requesting, on behalf of his son, a return of the \$1,000.00 retainer since, in approximately seven months, Respondent had neither contacted Mr. Witt's son at the prison nor done any work on his son's case. Mr. Witt also filed a grievance with Relator on behalf of Mr. Smith.

37. At that point, Mr. Witt and Ms. Barker, on behalf of Respondent's client Mr. Smith, demanded that the retainer be returned so that Mr. Smith could hire a new attorney.

38. Respondent's lack of action on Mr. Smith's judicial release motion significantly delayed the process of seeking a judicial release.

39. In October 2013, Mr. Witt hired a new attorney to represent his son. The new attorney confirmed that Respondent had never filed a judicial release motion on behalf of Joshua Smith.

40. Respondent to date has not returned any portion of the \$1,000.00 retainer he accepted but did not earn, and he has never provided a response to the grievance filed by Mr. Witt despite two letters of inquiry from Relator.

41. By his acts and failures to act, Respondent has violated the following disciplinary rules:

ORPC 1.1 [failing to provide competent representation];  
ORPC 1.3 [failing to represent a client with *reasonable* diligence and promptness];  
ORPC 1.4(a)(3) [failing to keep a client reasonably informed];  
ORPC 1.4(a)(4) [failing to comply a client's *reasonable* requests for information];  
ORPC 1.5(a) [collecting a clearly excessive fee];  
ORPC 1.15(d) [failing to deliver to a client funds to which he is entitled] .  
ORPC 8.1(b) [knowingly fail to respond to a demand from a disciplinary authority];  
ORPC 8.4(h) [engaging in conduct adversely reflecting on the lawyer's fitness].

**Count Five (Failure to Cooperate - Smith Fee Arbitration)**

42. On October 28, 2013, Joshua Smith filed with Relator a request for fee arbitration

43. The facts underlying the request are set forth in Count Four of this Complaint and incorporated by reference here.

44. The Relator submitted the request to the Columbus Bar Association's Fee Arbitration Committee, an ADR procedure in which Respondent was obligated to participate under the provisions of Gov.Bar R.V(4)(G).

45. On October 31, 2013, and November 19, 2013, Relator sent letters by certified mail to Respondent regarding the request for arbitration.

46. The return receipts indicated that Respondent received both letters.

47. Respondent failed to reply.

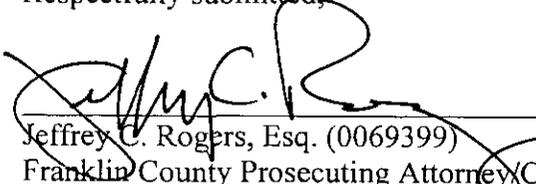
48. Due to Respondent's failure to respond to the fee arbitration request, the matter was referred to the Professional Ethics Committee.

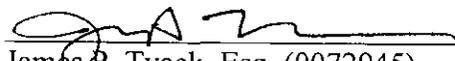
49. By his acts and failures to act, Respondent has violated the following disciplinary rules:

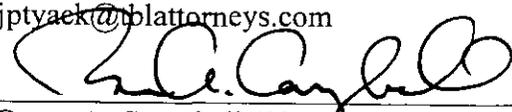
Gov.Bar R. V(4)(G) [not cooperating with an alternative dispute resolution procedure];  
ORPC 8.1(b) [knowingly failing to respond to disciplinary authorities];  
ORPC 8.4(h) [engaging in conduct adversely reflecting on the lawyer's fitness].

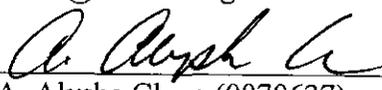
Wherefore, Relator prays that Respondent be found to have violated the Ohio Rules of Professional Conduct and the Ohio Rules for the Government of the Bar and that he be appropriately sanctioned.

Respectfully submitted,

  
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COUNSEL FOR RELATOR

**CERTIFICATE**

*The undersigned Chair of the Certified Grievance Committee of the Columbus Bar Association hereby certifies that Jeffrey C. Rogers, Esq., James P. Tyack, Esq., Bruce A. Campbell, Esq. and A. Alysha Clous, Esq., are duly authorized to represent Relator in the premises and have accepted the responsibility of prosecuting the complaint to its conclusion. After investigation, Relator believes reasonable cause exists to warrant a hearing on such complaint.*

Dated: 5/19/14

Signed: John C. Hartranft  
John C. Hartranft (0023037)  
Chair of the Certified Grievance Committee

**(Rule V of the Supreme Court Rules for the Government of the Bar of Ohio.)**

**Section (11)**

(11) *The complaint; Where Filed; By Whom Signed.* A complaint shall mean a formal written complaint alleging misconduct or mental illness of one who shall be designated as the Respondent. Six (6) copies of all such complaints shall be filed in the office of the Secretary of the Board. Complaints filed by a Certified Grievance Committee shall not be accepted for filing unless signed by one or more members of the Bar of Ohio in good standing, who shall be counsel for the Relator, and supported by a certificate in writing signed by the President, Secretary or Chairman of the Certified Grievance Committee, which Certified Grievance Committee shall be deemed the Relator, certifying that said counsel are duly authorized to represent said Relator in the premises and have accepted the responsibility of prosecuting the complaint to conclusion. It shall constitute the authorization of such counsel to represent said Relator in the premises as fully and completely as if designated and appointed by order of the Supreme Court of Ohio with all the privileges and immunities of an offices of such Court. The complaint may also, but need not, be signed by the person aggrieved.

Complaints filed by the Disciplinary Counsel shall be filed in the name of Disciplinary Counsel as Relator.

Upon the filing of a complaint with the Secretary of the Board, Relator shall forward a copy thereof to Disciplinary Counsel, to the Certified Grievance Committee of the Ohio State Bar Association, to the local bar association and to any Certified Grievance Committee serving the county of counties in which the Respondent resides and maintains his office and for the county from which the complaint arose.