

BEFORE THE BOARD OF PROFESSIONAL  
CONDUCT OF  
THE SUPREME COURT OF OHIO

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BOARD OF PROFESSIONAL CONDUCT

In re:

Complaint against

Ernest A. Eynon II, Esq.  
1 West 4th St., Suite 2100  
Cincinnati, OH 45202  
Attorney Registration No. (0022392)

No. 16-055

Respondent,

COMPLAINT AND CERTIFICATE

CINCINNATI BAR ASSOCIATION  
225 East Sixth St., 2<sup>nd</sup> Floor  
Cincinnati, OH 45202

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

Relator.

FILED

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BOARD OF PROFESSIONAL CONDUCT

Now comes Relator and alleges that Ernest A. Eynon II, an Attorney at Law duly admitted to the practice of law in the State of Ohio on November 8, 1969, is guilty of the following misconduct:

**Background**

1. Respondent was previously suspended from the practice of law in Ohio pursuant to *Disciplinary Counsel v. Eynon*, 135 Ohio St.3d 274, 2013-Ohio-953, 985 N.E.2d 1285 (2013). The entire one year suspension was stayed on the conditions that he commit no further misconduct, remain in compliance with his OLAP contract, and satisfactorily complete his counseling.

**Count 1**

2. In 2007, Respondent was retained to represent William and Marjorie Short in a commercial dispute involving their contribution to a restaurant franchise.

3. In 2007, Respondent brought an action against the franchise and the majority shareholder on behalf of Mr. and Mrs. Short. This action was voluntarily dismissed in 2010 and refiled in 2011.
4. After years of litigation, both parties agreed to participate in mediation through the Hamilton County Mediation Department. On May 30, 2015, a settlement agreement was reached by which Mr. and Mrs. Short were to receive \$15,000.
5. On June 2, 2015, Respondent received a cashier's check made payable to Mr. and Mrs. Short. However, upon the completion of the case and the execution of the settlement agreement, Respondent failed to deliver the settlement check to Mr. and Mrs. Short and failed to respond to numerous inquiries from the Shorts concerning the status of that payment. Instead, over the next year, and even after the Shorts had initiated their grievance with Relator, Respondent held on to the paper check. He did not negotiate the check and failed to deposit it into his IOLTA account.
6. Respondent admits that Mr. and Mrs. Short attempted to contact him on multiple occasions, but he failed to respond.
7. In the meanwhile, each of the two defendants in the civil case reported to the IRS that he had made a \$7,500 payment to the Shorts, with the result that IRS Form 1099's were issued and the Shorts had to pay taxes on the \$15,000 in settlement money which they never received.
8. During the course of Relator's investigation, Respondent finally released the check, through counsel, and it was delivered to Mr. and Mrs. Short. However, the bank on which it was drawn refused to honor the check because it was over one year old.

9. By reason of the foregoing, Respondent has violated his oath of office and the Rules of Professional Conduct, specifically:

- Rule 1.3 by failing to act with reasonable diligence and promptness in his representation of Mr. and Mrs. Short, with the result that they had to pay income tax on money they never received;
- Rule 1.4(a)(3) by failing to keep Mr. and Mrs. Short reasonably informed about the status of their matter;
- Rule 1.4(a)(4) by failing to comply with the reasonable requests of Mr. and Mrs. Short for information about their case;
- Rule 1.15(a) by failing to deposit the Shorts' settlement funds in an IOLTA account; and
- Rule 1.15(d) by failing to promptly deliver the settlement funds to Mr. and Mrs. Short.

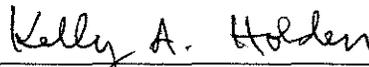
WHEREFORE, Relator alleges the Respondent is chargeable with misconduct as an attorney at law, which misconduct has brought disrepute to the legal profession, and, by reason thereof, Relator requests that Respondent be disciplined pursuant to Rule V of the Rules for the Government of the Bar of Ohio.

Respectfully submitted,

CINCINNATI BAR ASSOCIATION

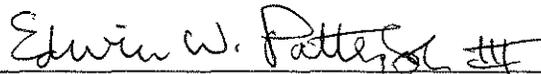


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*EWP #0019710  
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## CERTIFICATE

The undersigned, Chairman of the Grievance Committee of the Cincinnati Bar Association, hereby certifies that Brian D. Goldwasser, Kelly A. Holden, and Edwin W. Patterson, III 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: October 27, 2016



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Grievance Committee Chair

### **Gov. Bar R. V, Section 10 *Requirements for Filing a Complaint.***

(1) Definition. "Complaint" means a formal written allegation of misconduct or mental illness of a person designated as the respondent.

\* \* \*

(7) Complaint filed by Certified Grievance Committee. Six copies of all complaints shall be filed with the Director of the Board. Complaints filed by a Certified Grievance Committee shall be filed in the name of the committee as relator. The complaint shall not be accepted for filing unless signed by one or more attorneys admitted to the practice of law in Ohio, who shall be counsel for the relator. The complaint shall be accompanied by a written certification, signed by the president, secretary, or chair of the Certified Grievance Committee, that the counsel are authorized to represent the relator in the action and have accepted the responsibility of prosecuting the complaint to conclusion. The certification shall constitute the authorization of the counsel to represent the relator in the action as fully and completely as if designated and appointed by order of the Supreme Court with all the privileges and immunities of an officer of the Supreme Court. The complaint also may be signed by the grievant.

(8) Complaint filed by Disciplinary Counsel. Six copies of all complaints shall be filed with the Director of the Board. Complaints filed by the Disciplinary Counsel shall be filed in the name of the Disciplinary Counsel as relator.

(9) Service. Upon the filing of a complaint with the Director of the Board, the relator shall forward a copy of the complaint to the Disciplinary Counsel, the Certified Grievance Committee of the Ohio State Bar Association, the local bar association, and any Certified Grievance Committee serving the county or counties in which the respondent resides and maintains an office and for the county from which the complaint arose.