

**IN THE SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL, : No. 2111 Disciplinary Docket No. 3  
Petitioner :  
v. : No. 89 DB 2014  
: Attorney Registration No. 25123  
ROBERT A. KRUG, :  
Respondent : (York County)

**ORDER**

**PER CURIAM**

**AND NOW**, this 30<sup>th</sup> day of December, 2014, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated October 21, 2014, the Joint Petition in Support of Discipline on Consent is hereby granted pursuant to Rule 215(g), Pa.R.D.E., and it is

ORDERED that Robert A. Krug is suspended on consent from the Bar of this Commonwealth for a period of three years, and he shall comply with all the provisions of Rule 217, Pa.R.D.E.

A True Copy Patricia Nicola  
As Of 12/30/2014

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

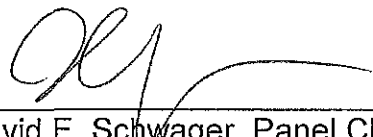
OFFICE OF DISCIPLINARY COUNSEL : No. 89 DB 2014  
Petitioner :  
v. : Attorney Registration No. 25123  
ROBERT A. KRUG :  
Respondent : (York County)

RECOMMENDATION OF THREE-MEMBER PANEL  
OF THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

The Three-Member Panel of the Disciplinary Board of the Supreme Court of Pennsylvania, consisting of Board Members David E. Schwager, Jane G. Penny, and David Alan Fitzsimons, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on September 26, 2014.

The Panel approves the Joint Petition consenting to a three year suspension and recommends to the Supreme Court of Pennsylvania that the attached Petition be Granted.

The Panel further recommends that any necessary expenses incurred in the investigation and prosecution of this matter shall be paid by the respondent-attorney as a condition to the grant of the Petition.

  
\_\_\_\_\_  
David E. Schwager, Panel Chair  
The Disciplinary Board of the  
Supreme Court of Pennsylvania

Date: 10/21/2014

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	
Petitioner,	:	No. 89 DB 2014
	:	
v.	:	Attorney Reg. No. 25123
	:	
ROBERT A. KRUG,	:	(York County)
Respondent	:	

JOINT PETITION IN SUPPORT OF DISCIPLINE ON CONSENT  
PURSUANT TO Pa. R.D.E. 215(d)

Petitioner, Office of Disciplinary Counsel, by Paul J. Killion, Chief Disciplinary Counsel, and Anthony A. Czuchnicki, Disciplinary Counsel, and Respondent, Robert A. Krug, file this Joint Petition in Support of Discipline on Consent under Rule 215(d) of the Pennsylvania Rules of Disciplinary Enforcement (hereinafter "Pa.R.D.E.") and respectfully state and aver the following:

1. Petitioner, whose principal office is located at the Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62485, Harrisburg, PA 17106, is invested, pursuant to Pa.R.D.E. 207, with the power and the duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Rules.

**FILED**

SEP 26 2014

Office of the Secretary  
The Disciplinary Board of the  
Supreme Court of Pennsylvania

2. Respondent, Robert A. Krug was born on May 11, 1951, was admitted to practice law in Pennsylvania on May 6, 1977, has a registered public address of 53 East Canal Street, Dover, York County, Pennsylvania 17315, and is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent is not represented by counsel.

SPECIFIC FACTUAL ADMISSIONS AND  
RULES OF PROFESSIONAL CONDUCT VIOLATED

4. Between 2012 and the present, ODC received five complaints alleging conduct indicative of serious neglect on Respondent's part in four different matters, committed from in or about 2001 to the present.

5. ODC filed a Petition for Discipline against Respondent on June 11, 2014, based upon the matters in these complaints. A true and correct copy of the Petition for Discipline is attached hereto as Exhibit "A."

6. The pattern of conduct described in the Petition for Discipline was similar in most of the matters: Respondent accepted client fees, began working on matters, and then fell out of contact with his clients. In each of these five matters, Respondent was to administer an estate. Many of the estates took numerous years to complete, regardless of their simplicity. Respondent occasionally, but infrequently, responded to telephone calls and email messages from clients. Complainants expressed frustration at being unable to reach Respondent, to the point that many expressed their dissatisfaction in letters to Respondent. Respondent was unable to satisfy Complainants' concerns. In certain instances, Respondent also failed to provide his clients with written fee agreements.

7. In the first matter, as alleged in the Petition for Discipline, Respondent failed to investigate the legitimacy of a claim against the estate, which the executrix believed to be fraudulent and was ultimately proven fraudulent by successor counsel.

8. In the second matter, as alleged in the Petition for Discipline, Respondent was initially engaged to administer Complainant's estate in 2001, and was thereafter retained for a secondary matter, which involved defending an action for easement by prescription. Respondent did not complete administration of the estate until 2010. After successfully defending the action for easement by prescription, Complainant requested that Respondent file an action to quiet title. Respondent admitted that he believed there was "little urgency in moving the case forward" and that "there probably should have been some movement forward." Respondent failed to file the complaint until over one year later, and thereafter, failed to move the case forward, failed to do any discovery, and failed to settle the case.

9. In the third matter, as alleged in the Petition for Discipline, Respondent was engaged to settle an estate in 2010, which he failed to administer, and it was ultimately concluded in 2014 by the Complainant directly.

10. Finally, in the fourth matter, as alleged in the Petition for Discipline, Respondent was engaged to settle an estate in 2010, which he failed to administer, and is still incomplete.

#### DISCIPLINARY RULE VIOLATIONS

11. Respondent admits to violating the following Rules of Professional Conduct in this matter:

- a. RPC 1.1 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 A lawyer shall act with reasonable diligence and promptness in representing a client;
- c. 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;
- d. RPC 1.4(a)(3) A lawyer shall ... keep the client reasonably informed about the status of the matter;
- e. RPC 1.4(a)(4) A lawyer shall ... promptly comply with reasonable requests for information;
- f. 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;
- g. RPC 1.5(b) When a 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;
- h. RPC 8.4(c) It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation; and
- i. RPC 8.4(d) It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

#### SPECIFIC JOINT RECOMMENDATIONS FOR DISCIPLINE

12. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent is a three-year Suspension. Respondent hereby consents to the discipline being imposed upon him by the Supreme Court of Pennsylvania. Attached to this Petition is Respondent's executed Affidavit required by Pa.R.D.E. 215(d), stating that he consents to the recommended discipline and including the mandatory acknowledgements contained in Pa.R.D.E. 215(d)(1) through (4).

13. In support of Petitioner and Respondent's Joint Recommendation, it is respectfully submitted as follows:

a. The aggravating circumstances are that:

- i. Petitioner currently has five (5) open complaints involving neglect, failure to communicate, and misrepresentation which are the subject of the Petition for Discipline;
- ii. Respondent has prior discipline; in 2002, Respondent received a Private Reprimand for the following violations that were related to neglect of a client's products liability matter, RPC 1.3 (diligence); RPC 1.4(a) (communication); RPC 1.4(b) (communication); RPC 4.1(a) (false statements to third persons); and RPC 8.4(c) (misrepresentation);
- iii. Respondent has further prior discipline; in 2008, Respondent received a Public Censure for violations that were related to neglect of a client's divorce matter, RPC 1.3 (diligence); RPC 1.4(a) (communication); RPC 1.4(b) (communication) and; RPC 8.4(c) (misrepresentation).

b. The mitigating circumstances are that:

- i. Respondent admits to engaging in misconduct and violating the above Rules of Professional Conduct;
- ii. Respondent is remorseful for and embarrassed by his conduct and understands he should be disciplined, as evidenced by his consent to receiving a three-year

Suspension.

14. Prior disciplinary cases provide some guidance in this matter. Discipline for serial neglect runs the gamut of public discipline from public censures to lengthy suspensions and disbarment. See, e.g., ODC v. Fick, 132 DB 2012 (eighteen-month suspension, dissenting statement stating three-year suspension more appropriate); ODC v. Quinn, 97 DB 2012 (one-year-and-one-day suspension, dissenting statement stating three-year suspension more appropriate); ODC v. Naro, 212 DB 2011 (two-year suspension; neglect, lack of communication, as well as prior misconduct); ODC v. Urbanski, 30 DB 2009 (disbarment; neglect of three matters, as well as prior discipline); ODC v. Fisher, 52 DB 2005 (disbarment; neglect, lack of communication, deception, as well as prior discipline).

15. In Fick, two Justices dissented to the eighteen-month suspension stating that they would have imposed a three-year suspension "due to respondent's prior disciplinary history." Fick, 132 DB 2012 (Baer, J., dissenting) (citing Quinn, 97 DB 2012 (Baer, J., dissenting) (opining that recidivist disciplinary offenders should receive more severe sanctions)).

16. Considering Respondent's prior misconduct, and for the sake of protection of the public, a three-year Suspension is appropriate discipline. Requiring Respondent to petition for reinstatement will give him the opportunity to demonstrate that he is in a position to diligently represent his clients; protection of the public is an overriding goal of the disciplinary system.

WHEREFORE, Petitioner and Respondent respectfully request that:



Pursuant to Pa.R.D.E. 215, a three-member panel of the Disciplinary Board review and approve the above Joint Petition in Support of Discipline on Consent and file its recommendation with the Supreme Court of Pennsylvania in which it is recommended that the Disciplinary Board of the Supreme Court of Pennsylvania enter an Order Suspending Respondent for Three Years for the conduct set forth herein.

Respectfully submitted,

Date: 9/29/14

By: Anthony Czuchnicki  
Anthony A. Czuchnicki  
Disciplinary Counsel  
Attorney Registration No. 312620  
601 Commonwealth Avenue, Suite 5800  
P.O. Box 62675  
Harrisburg, PA 17106-2675  
Telephone (717) 772-8572

Date: 9/29/14

By: Robert A. Krug  
ROBERT A. KRUG  
Respondent  
Attorney Registration No. 25123  
53 East Canal Street,  
Dover, Pennsylvania 17315  
Telephone (717) 292-5615

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	
Petitioner,	:	No. 89 DB 2014
	:	
v.	:	Attorney Reg. No. 25123
	:	
ROBERT A. KRUG,	:	(York County)
Respondent	:	

VERIFICATION

The statements made in the foregoing Joint Petition in Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d) are true and correct to the best of my knowledge, information, and belief. This statement is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 9/29/14

By: Anthony Czuchnicki  
Anthony A. Czuchnicki  
Disciplinary Counsel  
Attorney Registration No. 312620  
601 Commonwealth Avenue, Suite 5800  
P.O. Box 62675  
Harrisburg, PA 17106-2675  
Telephone (717) 772-8572

Date: 9/29/14

By: Robert A. Krug  
ROBERT A. KRUG  
Respondent  
Attorney Registration No. 25123  
53 East Canal Street,  
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BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	
Petitioner,	:	No. 89 DB 2014
	:	
v.	:	Attorney Reg. No. 25123
	:	
ROBERT A. KRUG,	:	(York County)
Respondent	:	
	:	

RESPONDENT'S AFFIDAVIT UNDER RULE 215(d) OF THE  
PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

I, Robert A. Krug, Respondent in the above-captioned matter, hereby consent to the imposition of a three-year Suspension, as jointly recommended by the Petitioner, Office of Disciplinary Counsel, and myself, in a Joint Petition in Support of Discipline on Consent and further state:

1. My consent is freely and voluntarily rendered; I am not being subjected to coercion or duress; I am fully aware of the implications of submitting the consent;
2. I am aware there is presently pending a proceeding involving allegations that I have been guilty of misconduct as set forth in the Joint Petition;
3. I acknowledge that the material facts set forth in the Joint Petition are true;
4. I consent because I know that if the charges continued to be prosecuted in the pending proceeding, I could not successfully defend against them; and

5. I acknowledge that I am fully aware of my right to consult and employ counsel to represent me in the instant proceeding.

By: Robert A. Krug  
ROBERT A. KRUG  
Respondent  
Attorney Registration No. 25123  
53 East Canal Street,  
Dover, Pennsylvania 17315  
Telephone (717) 292-5615

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	
Petitioner,	:	No. 89 DB 2014
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v.	:	Attorney Reg. No. 25123
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ROBERT A. KRUG,	:	(York County)
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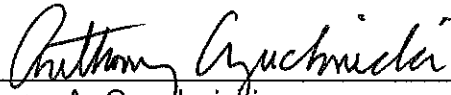
CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of Pa.R.A.P. 121.

Electronic Mail, return receipt requested, as follows:

ROBERT A. KRUG  
53 East Canal Street,  
Dover, Pennsylvania 17315

Date: 9/29/2014

By:   
Anthony A. Czuchnicki  
Disciplinary Counsel  
Attorney Registration No. 312620  
601 Commonwealth Avenue, Suite 5800  
P.O. Box 62675  
Harrisburg, PA 17106-2675  
Telephone (717) 772-8572

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	
Petitioner,	:	No. DB
	:	
v.	:	Attorney Reg. No. 25123
	:	
ROBERT A. KRUG,	:	(York County)
Respondent	:	
	:	

PETITION FOR DISCIPLINE

**NOTICE TO PLEAD**

To Robert A. Krug:

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.

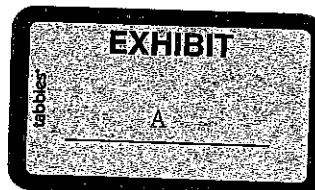
Rule 208(b)(4) provides: Following the service of the answer, if there are any issues raised by the pleadings or if the respondent-attorney requests the opportunity to be heard in mitigation, the matter shall be assigned to a hearing committee or a special master. No evidence with respect to factual 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 III Office of Disciplinary Counsel, 601 Commonwealth Avenue, Suite 5800, P.O. Box 62675, Harrisburg, PA 17106, and the original and three (3) conformed copies filed with the Office of the Secretary, the Disciplinary Board of the Supreme Court of Pennsylvania, 601 Commonwealth Avenue, Suite 5600, P.O. Box 62675, 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.

We hereby certify the within to  
be a true and correct copy.



BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	
Petitioner,	:	No. DB
	:	
v.	:	Attorney Reg. No. 25123
	:	
ROBERT A. KRUG,	:	(York County)
Respondent	:	
	:	

PETITION FOR DISCIPLINE

Petitioner, Office of Disciplinary Counsel, by Paul J. Killion, Chief Disciplinary Counsel, and Anthony A. Czuchnicki, Disciplinary Counsel, files this Petition for Discipline, and charges Respondent, Robert A. Krug, with professional misconduct in violation of the Rules of Professional Conduct as follows:

1. Petitioner, whose principal office is located at the Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62485, Harrisburg, PA 17106, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement (hereinafter "Pa.R.D.E."), with the power and the duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Rules.

2. Respondent, Robert A. Krug was born on May 11, 1951, was admitted to practice law in Pennsylvania on May 6, 1977, has a registered public address of 53 East Canal Street, Dover, York County, Pennsylvania 17315, and is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

CHARGE I

Baer Matter

3. On May 10, 2010, Mary J. Baer died testate.

4. Glenda Baer and her co-executrix, Phyllis Lanoue, engaged Respondent to settle the estate.

5. Respondent failed to provide Ms. Baer with a written fee agreement.

6. The Baer Estate was a simple estate, with no real property to be sold, and including only a few bank accounts and some CDs and U.S. Savings Bonds.

7. On August 9, 2010, Respondent initiated administration of the estate, prepaying the Inheritance Taxes, after Ms. Baer reminded him by telephone on August 5, 2010, that the Inheritance Taxes needed to be paid.

8. From August, 2010, through November, 2010, communications between Ms. Baer and Respondent were infrequent, and Respondent did little to prepare the Inheritance Tax return for filing.

9. Between November, 2010, and May, 2011, Ms. Baer made attempts to contact Respondent to discuss the status of the estate, including an inquiry regarding what information was needed to file the Inheritance Tax return.

10. Respondent failed to respond until May, 2011.

11. Respondent finally called Ms. Baer on May 9, 2011, and thereafter,



Respondent requested the necessary documents to continue with administration of the estate.

12. Ms. Baer provided the documents the same day.

13. Over two months passed before Respondent filed the Inheritance Tax return on July 25, 2011.

14. Between May, 2011, and February, 2012, there was no communication between Respondent and Ms. Baer.

15. On February 13, 2012, Ms. Baer called Respondent's office and raised various questions regarding the status of the estate with his secretary.

16. Respondent failed to respond to Ms. Baer's inquiries.

17. On February 16, 2012, Ms. Baer called and spoke with Respondent, again raising the same concerns as she had with Respondent's secretary, as well as voicing her displeasure with the delays and inactivity in administering the estate.

18. Respondent stated he would look into the file and call her back.

19. Respondent failed to further respond to Ms. Baer's inquiries.

20. On February 23, 2012, Ms. Baer sent Respondent a certified letter specifically detailing the concerns she had with administration of the estate.

21. This letter stated Ms. Baer's dissatisfaction with the long delays in settling the estate and Respondent's failure to provide copies of any filings to Ms. Baer.

22. Ms. Baer also requested copies of all documentation and return of the income tax information previously given to Respondent so she could have her accountant finalize the tax returns.

23. Respondent failed to respond or correspond with Ms. Baer regarding

these requests.

24. On March 7, 2012, a complaint was filed with the Office of Disciplinary Counsel (ODC), and a DB-7 Letter of Inquiry was sent by certified mail on August 29, 2012. This certified letter was received September 13, 2012.

25. Respondent's Answer was received November 9, 2012.

26. By letter dated November 13, 2012, Disciplinary Counsel inquired as to why this matter had not been resolved. Counsel urged Respondent to promptly contact Ms. Baer so that the estate could be settled, and provide ODC with copies of these communications.

27. Respondent failed to:

- a. correspond with Ms. Baer;
- b. provide any corresponding documentation to Disciplinary Counsel;
- c. provide an accounting to Ms. Baer; and
- d. settle the estate.

28. In or about April, 2013, Ms. Baer received notice that the Pa. O.C. Rule 6.12 Status Report was due to be filed with the Register of Wills.

29. Ms. Baer attempted to correspond with Respondent, to no avail, and corresponded directly with the Register of Wills to determine the appropriate procedure under the circumstances to settle the estate.

30. On May 20, 2013, Ms. Baer filed the Pa. O.C. Rule 6.12 Status Report herself, to complete administration of the estate.

31. By his conduct as set forth in Paragraphs 3 through 30, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.3 A lawyer shall act with reasonable diligence and promptness in representing a client;
- b. 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;
- c. RPC 1.4(a)(3) A lawyer shall ... keep the client reasonably informed about the status of the matter;
- d. RPC 1.4(a)(4) A lawyer shall ... promptly comply with reasonable requests for information; and
- e. RPC 1.5(b) When a 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.

## CHARGE II

### Gross Matter

- 32. On June 10, 2010, William W. Gross died testate.
- 33. Lee Gross and his co-executrix, Lorna Meyers, engaged Respondent to settle the estate.
- 34. The estate was not complex, and included modest real property and a large stock portfolio.
- 35. Respondent failed to provide Mr. Gross with a written fee agreement.
- 36. In February, 2011, Respondent assisted in the sale of the real estate.
- 37. On March 1, 2011, Respondent prepaid the Inheritance Taxes.
- 38. In June, 2011, Respondent made a partial distribution to the heirs in varying amounts, leaving approximately \$400,000 to be disbursed.
- 39. On October 27, 2011, Respondent filed the Inheritance Tax return.
- 40. On February 24, 2012, all parties met to discuss the draft final accounting.
- 41. Between February 24, 2012, and June 11, 2012, Mr. Gross received no

correspondence or other communication from Respondent.

42. By letter dated June 11, 2012, Mr. Gross requested a status report, which Respondent failed to provide.

43. Mr. Gross thereafter obtained new counsel, who corresponded with Respondent in an effort to have the estate finalized.

44. By DB-7 Letter of Inquiry dated August 29, 2012, ODC requested that Respondent respond and state his position in connection with Mr. Gross's allegations. This certified letter was received September 13, 2012.

45. In his Answer to the DB-7 dated November 7, 2012, Respondent asserted that he had sent a final accounting and releases to his clients, the releases had been returned, and distribution made in late August, 2012. This assertion was explicitly stated at ¶ 13 of Respondent's Answer.

46. Respondent failed to provide ODC with any documentation to substantiate his assertions.

47. By letter dated November 13, 2012, Disciplinary Counsel requested further details based upon Respondent's assertion that the estate was concluded.

48. By letter dated November 21, 2012, Respondent altered his prior declaration, stating he was "still waiting for a few [r]eleases to be signed and returned to [his] office[.]" and that he intended to file the 2012 Income Tax return "soon after January 1."

49. From Docket No. 6710-0940, on or about May 28, 2013, the Register of Wills sent Respondent a letter reminding him that he had to file a Status Report pursuant to O.C. Rule 6.12.

50. On June 6, 2013, Respondent filed a Pa. O.C. Rule 6.12 Status Report with the York County Register of Wills stating administration of the estate was still incomplete.

51. By his conduct as set forth in Paragraphs 32 through 50, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.3 A lawyer shall act with reasonable diligence and promptness in representing a client;
- b. 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;
- c. RPC 1.4(a)(3) A lawyer shall ... keep the client reasonably informed about the status of the matter;
- d. RPC 1.4(a)(4) A lawyer shall ... promptly comply with reasonable requests for information;
- e. 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; and
- f. RPC 1.5(b) When a 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.

### CHARGE III

#### Fair Matter

52. On April 23, 2001, Thelma M. Fair died testate.

53. The will designated the decedent's two sons, Melvin Fair, Jr. and Robert Fair as Co-Executors of the estate.

54. Due to Robert living out of state with his wife Roberta, Melvin became sole Executor.

55. Melvin engaged Respondent to administer the estate because

Respondent had drafted the decedent's will.

56. Respondent failed to advertise the estate.

57. Melvin and his wife, Ruth, were granted a life estate in the decedent's residence.

58. The residence was the only substantial asset of the estate.

59. Melvin and Ruth took possession of the property.

60. Melvin failed to pay the real estate taxes on the property; therefore, arrears accrued.

61. Melvin and his wife entered into a contract with Bluestone Carpentry (Bluestone) to do renovations on the property.

62. Between 2001 and 2006, Respondent did little to move administration of the estate forward.

63. On April 11, 2006, Respondent filed a Pa. O.C. Rule 6.12 Status Report with the York County Register of Wills stating that administration of the estate was complete.

64. This representation was false and misleading because the estate taxes had not been paid.

65. On May 13, 2010, Robert passed away.

66. On February 9, 2011, Marc Roberts, Esquire, contacted Roberta by letter on behalf of Bluestone.

67. This letter stated Bluestone's interest in purchasing the property.

68. Thereafter, Roberta inquired into the status of the estate administration by contacting Respondent on February 14, 2011.

69. Roberta engaged Respondent to remove Melvin as Executor of the estate, and to substitute herself and Ruth, her sister-in-law, as Co-Executors.

70. On February 20, 2011, Attorney Roberts, on behalf of Bluestone, filed a claim against the estate alleging Bluestone had not been paid for renovations to the property.

71. Respondent was aware of the claim by Bluestone; however, Respondent failed to investigate the legitimacy of Bluestone's claim.

72. The property was scheduled for public auction, to be sold in September, 2011.

73. Roberta found a buyer for the property; however, Respondent failed to obtain the Co-Executor's consent to the sale.

74. The property was ultimately sold at public auction to Bluestone.

75. On February 22, 2012, Attorney Roberts sent Respondent a Stipulation for the Tax Claim Bureau to release the surplus funds from the sale of the property to them jointly.

76. Respondent had no objections to this arrangement; however, Respondent failed to:

- a. inform Roberta of the arrangement;
- b. have his name put on the joint account with Roberts; and
- c. have the money disbursed.

77. Furthermore, Respondent failed to finalize the Inheritance Tax return.

78. The surplus funds from the sale of the property were released in April, 2012.

79. Respondent misrepresented to Roberta there was a problem with the deed that delayed administration of the estate.
80. This representation was false and misleading as there was no problem with the deed.
81. Roberta discovered, independently, in July, 2012, that the remaining funds from the sale had been put into escrow, and that the funds were being held solely by Attorney Roberts.
82. Roberta obtained new counsel who determined Bluestone's claim was fraudulent.
83. Roberta was forced to litigate the illegitimate claim because:
  - a. Respondent had failed to investigate the legitimacy of Bluestone's claim; and
  - b. Respondent stipulated to Bluestone's claim without investigating its legitimacy.
84. By his conduct as set forth in Paragraphs 52 through 83, Respondent violated the following Rules of Professional Conduct:
  - a. RPC 1.1 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 A lawyer shall act with reasonable diligence and promptness in representing a client;
  - c. 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;
  - d. RPC 1.4(a)(3) A lawyer shall ... keep the client reasonably informed about the status of the matter;



- e. RPC 1.4(a)(4) A lawyer shall ... promptly comply with reasonable requests for information;
- f. 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; and
- g. RPC 8.4(c) It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

#### CHARGE IV

##### Fetrow / Weaver Matter

85. In or about 2001 Carolyn Fetrow engaged Respondent to settle her deceased husband's estate.

86. By June, 2005, the estate was still unsettled.

87. Ms. Fetrow and her sister-in-law, Shirley Weaver, retained Respondent for an issue that had arisen involving land they had inherited from the estate.

88. Ms. Fetrow and Ms. Weaver had been sued by a neighbor to the property for an easement by prescription.

89. Respondent failed to provide a written fee agreement to Ms. Fetrow or Ms. Weaver for this separate matter.

90. Ms. Weaver had never been Respondent's client.

91. On June 13, 2005, Ms. Fetrow and Ms. Weaver provided Respondent all the information necessary to defend the action.

92. In September, 2006, the neighbor's complaint was discontinued.

93. Ms. Fetrow and Ms. Weaver requested that Respondent pursue a quiet title action against the neighbor.

94. Respondent failed to file a complaint until over a year later, on October 24,

2007.

95. Respondent admits he felt "there was little urgency in moving the case forward."

96. Respondent failed to respond to requests from Ms. Fetrow and Ms. Weaver for information on the progress of their matter.

97. Respondent failed to return telephone calls seeking status reports from Ms. Fetrow and Ms. Weaver.

98. Since the filing of the complaint, Respondent has failed to:

- a. move the case forward;
- b. initiate or complete discovery; or
- c. negotiate a settlement.

99. Respondent admits "there probably should have been some movement forward during this time period."

100. Respondent failed to conclude administration of the estate until 2010.

101. By his conduct as set forth in Paragraphs 85 through 100, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.1 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 A lawyer shall act with reasonable diligence and promptness in representing a client;
- c. 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;
- d. RPC 1.4(a)(3) A lawyer shall ... keep the client reasonably informed about the status of the matter;

- e. RPC 1.4(a)(4) A lawyer shall ... promptly comply with reasonable requests for information;
- f. 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; and
- g. RPC 1.5(b) When a 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.


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 forgoing 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

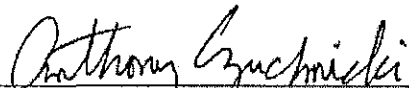
By: \_\_\_\_\_

  
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VERIFICATION

I, Anthony A. Czuchnicki, Disciplinary Counsel, verify that the statements made in the foregoing Petition for Discipline are true and correct to the best of my knowledge, information, and belief. This statement is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.



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Anthony A. Czuchnicki