

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

In re:

Complaint against

Hon. Robert Nathaniel Rusu
Mahoning County Probate Court
120 Market Street
Youngstown, Ohio 44503
Attorney Registration No. 0062431

Respondent

Disciplinary Counsel
250 Civic Center Drive, Suite 325
Columbus, Ohio 43215

Relator

Relator alleges that Robert Nathaniel Rusu, an attorney at law, duly admitted to the practice of law in the state of Ohio, is guilty of the following misconduct:

1. Respondent was admitted to the practice of law in the state of Ohio on November 8, 1993.
2. Respondent is subject to the Rules of Professional Conduct, the Code of Judicial Conduct and the Rules for the Government of the Bar of Ohio.
3. On July 8, 2014, respondent was sworn in as judge to an unexpired term on the Mahoning County Probate Court.
4. Before taking the bench, respondent engaged in private practice as a partner with the law firm of Lane & Rusu Co., LPA.

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No. _____ BOARD OF PROFESSIONAL CONDUCT

COMPLAINT AND CERTIFICATE

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

The Lewis Matter

5. On August 21, 2012, respondent filed an Application to Probate Will, on behalf of executor Beth Ann Malone, in the Estate of Nora E. Lewis in the Mahoning County Probate Court, 2012 ES 00434.
6. Malone's brother, Scott Conway, objected to Malone's appointment as executor of the Lewis estate.
7. On October 4, 2013, the court issued respondent a Notice of Delinquent Status due to respondent's failure to file a Fiduciary Account on behalf of Malone. Respondent never filed a Fiduciary Account on behalf of Malone.
8. On May 28, 2014, Malone informed respondent's paralegal via telephone that she had depleted the estate funds for her own benefit and that she no longer had sufficient funds in the Lewis estate account to make the final distribution to her and her mother.
9. The final distribution due to Malone's mother was \$3,851.83.
10. On June 25, 2014, respondent sent Malone a letter regarding her depletion of the estate funds. The letter advised Malone that "this is a serious situation that needs your immediate attention" and reminded Malone that she needed to reimburse the estate funds.
11. Before taking the bench, respondent did not report Malone's misuse of the funds to the court.
12. At the time respondent assumed the bench, the Lewis estate was still delinquent.
13. On July 24, 2014, respondent filed a Motion to Substitute Counsel requesting that attorney Burke be substituted as counsel for Malone in the Lewis estate matter. At the time, the Lewis estate matter was still delinquent and the estate account was still insolvent.

14. After taking the bench, respondent presided over the Lewis estate matter. In doing so, respondent participated in a number of issues including, but not limited to: (a) the ongoing delinquency of the matter; (b) consideration of removal of Malone as executor; (c) resolving delayed distribution of the estate; and (d) rejecting the final account.
15. On February 29, 2016, respondent issued a Citation Upon Delinquent Account and Orders to Appear and Show Cause to attorney Burke and Malone. The Citation ordered Malone to appear on March 24, 2016 for failure to file her Fiduciary's Account on or before February 25, 2013 (at which time respondent was Malone's attorney). The citation stated that appearance at the March 24, 2016 hearing on the Show Cause order could be avoided by the filing of the delinquent Fiduciary's Account no later than March 12, 2016.
16. Neither Burke nor Malone filed the delinquent Fiduciary's Account on or before March 12, 2016.
17. Magistrate Gary Philibin presided over the March 24, 2016 hearing on the Citation, which was not recorded or transcribed.
18. On April 1, 2016, Philibin filed a Magistrate's Decision on the Citation finding that: (a) no Account had been filed to date; and (b) Malone needed approximately \$3,800 to make final distribution to her mother but did not have the funds. Also, the Decision recommended that Burke be ordered to file an Application for Delayed Distribution on behalf of Malone with a proposed Promissory Note and Mortgage on Malone's property.
19. On April 5, 2016, respondent adopted the April 1, 2016 Decision on the Citation.
20. On April 22, 2016, Philibin presided over an additional hearing on the Citation.

21. On April 28, 2016, Magistrate Philibin filed a Magistrate's Decision on the Citation finding that Malone had reached a settlement agreement to repay her mother's distribution.
22. On April 29, 2016, respondent adopted the April 28, 2016 Decision on the Citation.
23. On May 25, 2016, respondent entered a Judgment Entry Withdrawing a Citation to Appear and Show Cause.
24. On June 30, 2016, respondent entered a Judgment Entry and Orders Rejecting Final Account.
25. On October 13, 2016, Judge R.R. Denny Clunk, sitting by assignment, approved \$3,118.52 in fees to respondent for the Lewis estate matter and \$2,385.71 in fees to Malone.
26. On October 13, 2016, the Fiduciary's Final Account was filed.
27. In April 2016, Conway filed a grievance with relator against respondent, and in May 2016, Malone filed a grievance with relator against respondent.
28. As of the date of this complaint, the Lewis estate remains "open," respondent is still designated "case judge," and respondent has not recused himself from the matter.
29. Malone has not been sanctioned in any way by the court for her depletion of the estate funds.

Other Matters

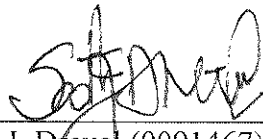
30. After taking the bench, respondent failed to withdraw, failed to recuse himself, and/or presided over an additional 200 matters in which he was attorney of record. Respondent's participation in these matter includes: (a) appointing fiduciaries; (b) approving legal fees for his own work and/or the work of his former law firm; (c) approving guardian fees; (d)

approving settlements; (e) approving and settling accounts; (f) addressing cases with delinquencies; (g) approving magistrate decisions; and (h) waiving guardianship requirements.

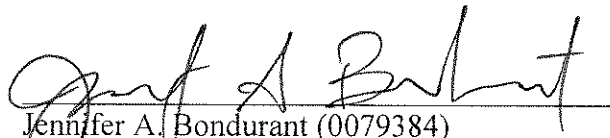
31. Respondent's conduct, as alleged above, violates Jud. Cond. R. 1.2 [A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety]; Jud. Cond. R. 2.11(A) [A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned]; and Prof. Cond. R. 8.4(d) [A lawyer shall not engage in conduct that is prejudicial to the administration of justice].

Conclusion

Relator requests that respondent be found in violation of the Ohio Rules of Professional Conduct and the Code of Judicial Conduct and be sanctioned accordingly.



Scott J. Drexel (0091467)
Disciplinary Counsel

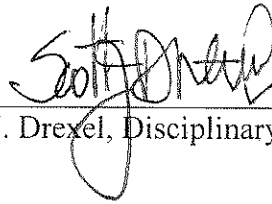


Jennifer A. Bondurant (0079384)
Assistant Disciplinary Counsel
250 Civic Center Drive, Suite 325
Columbus, Ohio 43215-7411
614.461.0256
614.461.7205 – fax
jennifer.bondurant@sc.ohio.gov

Certificate

The undersigned, Scott J. Drexel, Disciplinary Counsel, of the Office of Disciplinary Counsel of the Supreme Court of Ohio hereby certifies that Jennifer A. Bondurant is duly authorized to represent relator in the premises and has 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: January 5, 2018



Scott J. Drexel, Disciplinary Counsel

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In re:

Complaint against

Hon. Robert Nathaniel Rusu
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120 Market Street
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No. _____

Respondent

**WAIVER OF DETERMINATION
OF PROBABLE CAUSE**

Disciplinary Counsel
250 Civic Center Drive, Suite 325
Columbus, Ohio 43215


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

Relator

Pursuant to Gov.Bar R. V(11)(B), respondent, by and through his attorney, stipulates that there is probable cause for the filing of a complaint and hereby waives the determination of probable cause by a Probable Cause Panel of the Board of Professional Conduct.

Dated: _____

Nov 5, 2018



George Demetrios Jonson, Esq. (0027124)
Montgomery, Rennie and Jonson, LPA
36 East 7th Street, Suite 2100
Cincinnati, Ohio 45202
Attorney for Respondent