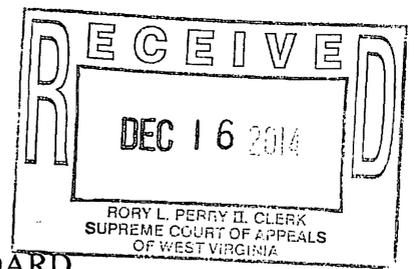


14-1119



BEFORE THE LAWYER DISCIPLINARY BOARD
STATE OF WEST VIRGINIA

IN RE: Kevin E. McCloskey
Of the Pennsylvania Bar

Bar No.: None (WV)
I.D. No.: 14-03-152

RESPONSE TO STATEMENT OF CHARGES AND NEW MATTER

Before this Honorable board now comes the Respondent, Kevin E. McCloskey, to answer the charges filed against him by the Office of Disciplinary Counsel, in which the following is averred.

1. Averment #1 is hereby denied in full. Strict proof is demanded as to the contentions of Averment #1.

COMPLAINT OF THE OFFICE OF DISCIPLINARY COUNSEL

I.D.NO. 14-03-152

2. Averment #2 is admitted.
3. Averment #3 is hereby denied in full. Respondent has no personal knowledge of a complaint filled by Stuart A. McMillan or Mark A. Kepple concerning practicing law without a license in the State of West Virginia or alleging to have a West Virginia bar number when he was not licensed to practice law in West Virginia. No documentation, including a complaint to the Disciplinary Counsel or any associated documentation has been provided to the Respondent prior to the preparation of this response. Strict proof is demanded as to the contentions of Averment #3.
4. Averment #4 is hereby denied in full. Respondent has no knowledge as to the factual contentions contained within Averment #4, therefore they are denied in full. Strict proof is demanded as to the contentions of Averment #4.
5. Averment #5 is hereby denied in full. Respondent did not receive a correspondence from the Office of Disciplinary Counsel dated March 12, 2014. No documentation, including a correspondence dated March 12, 2014, or verification of receipt of said correspondence or any other associated documentation has been provided to the

Respondent prior to the preparation of this response. Strict proof is demanded as to the contentions of Averment #5.

6. Averment #6 is hereby denied in full. Respondent has no knowledge as to the factual contentions contained within Averment #6, therefore they are denied in full. Strict proof is demanded as to the contentions of Averment #6.
7. Averment #7 is hereby denied in full. Respondent has no knowledge of a facsimile from the Honorable James P. Mazzone in reference to a civil action pending in the circuit court of Hancock County, or a correspondence to the court from Attorney Kepple that advised the court that Respondent was not licensed to practice law in West Virginia concerning practicing law without a license in the State of West Virginia. No documentation, including a facsimile to the Office of Disciplinary Counsel or any associated documentation has been provided to the Respondent prior to the preparation of this response. Strict proof is demanded as to the contentions of Averment #7.
8. Averment #8 is hereby denied in full. Respondent has no knowledge as to the factual contentions contained within Averment #8, therefore they are denied in full. No certified copies of any pleadings, including any case files, motions, or notices of appearances or any related documentation has been provided to the Respondent prior to the preparation of this response.. Strict proof is demanded as to the contentions of Averment #8
9. Averment #9 is hereby denied in full. Respondent has no knowledge as to the factual contentions contained within Averment #9, therefore they are denied in full. No

documentation, including any Affidavits of Authorization and Release have been provided to the Respondent prior to the preparation of this response.. Strict proof is demanded as to the contentions of Averment #9.

10. Averment #10 is hereby denied in full. Respondent has no knowledge as to the factual contentions contained within Averment #10, therefore they are denied in full. Respondent did not receive any correspondence from the Office of Disciplinary Counsel dated April 22, 2014. No documentation, including a correspondence dated April 22, 2014, or verification of receipt of said correspondence or any other associated documentation has been provided to the Respondent prior to the preparation of this response. By way of further answer, Respondent did not have a mailing address located at 428 Forbes Avenue, Suite 909, Pittsburgh, PA 15219 at the time of the alleged mailing. Strict proof is demanded as to the contentions of Averment #10.

11. Averment #11 is hereby denied in full. Respondent has no knowledge as to the factual contentions contained within Averment #11, therefore they are denied in full. No documentation, including a correspondence dated April 22, 2014, or verification of receipt of said correspondence or any other associated documentation has been provided to the Respondent prior to the preparation of this response. By way of further answer, Respondent did not have a mailing address located at 428 Forbes Avenue, Suite 909, Pittsburgh, PA 15219 at the time of the alleged mailing. Additionally, Averment #11, when read in conjunction with Averment #10, makes no sense: it is factually impossible for Office of Disciplinary Counsel to receive back a

correspondence it allegedly mailed on April 22, 2014 on April 13, 2014, 9 days prior to the alleged mailing date. Strict proof is demanded as to the contentions of Averment #11.

12. Averment #12 is admitted in part and denied in part. Is it admitted that Respondent spoke to an employee of the Office of Disciplinary Counsel on or about April 17, 2014. It is admitted that Respondent was advised that a complaint was filed against him. It is admitted that Respondent provided contact information to the Office of Disciplinary Counsel. However, it is denied that Respondent contacted the Office of Disciplinary Counsel on April 14, 2014. It is denied that the Office of Disciplinary Counsel provided copies of the two correspondences it alleged to have previously forwarded to Respondent. It is denied that Respondent was advised by telephone that a response was to be filed within 20 days, pursuant to Rules 2.4 and 2.5 of the West Virginia Rules of Lawyer Disciplinary Procedure. No documentation, including any correspondences dated March 12, 2014 or April 22, 2014, or verification of receipt of said correspondence or any other associated documentation has been provided to the Respondent prior to the preparation of this response. Strict proof is demanded as to the contentions of Averment #12.

13. Averment #13 is hereby denied in full. Respondent has no knowledge as to the factual contentions contained within Averment #13, therefore they are denied in full. No documentation, including any e-mails from the West Virginia State Bar have been provided to the Respondent prior to the preparation of this response. Strict proof is demanded as to the contentions of Averment #13.

14. Averment #14 is denied in full. Respondent has no knowledge as to the factual contentions contained within Averment #14, therefore they are denied in full. No documentation, including any Affidavits have been provided to the Respondent prior to the preparation of this response. Strict proof is demanded as to the contentions of Averment #14.
15. Averment #15 is hereby denied in full. Respondent has no knowledge as to the factual contentions contained within Averment #15, therefore they are denied in full. No documentation, including any correspondence to the Office of Disciplinary Counsel have been provided to the Respondent prior to the preparation of this response. Strict proof is demanded as to the contentions of Averment #15.
16. Averment #16 is admitted in part and denied in part. It is admitted that Respondent was served with a Subpoena by Mr. Pastore on or about September 8, 2014 at the Frick Building, located at 437 Grant Street, Suite 1300, Pittsburgh, PA 15219. It is admitted that Respondent provided Mr. Pastone his current address of 236 Donna Avenue, Morgantown, WV 26505. All of factual averment contained within Averment #16 are hereby denied in full. No documentation, including an Affidavit of Service or related documentation, have been provided to the Respondent prior to the preparation of this response. Strict proof is demanded as to the contentions of Averment #16.
17. Averment #17 is admitted in part and denied in part. It is admitted that Respondent forwarded a correspondence dated September 25, 2014 to the Office of Disciplinary Counsel by regular mail on September 25, 2014 and facsimile on September 29,

2014. It is admitted that the correspondence included contact information. It is admitted that Respondent informed the Office of Disciplinary Counsel that Respondent would not be able to attend due to the fact that Respondent had not been provided any of the documentation associated with the alleged Complaint, including the Complaint itself. Further, Respondent informed the Office of Disciplinary Counsel that Respondent felt that pursuant to W. Va. R. Civ. P. 45(c), it placed an unreasonable burden on the Respondent to travel a three and a half hour one-way trip from his residence in Monongalia County to Kanawha County to give a sworn statement that could have been scheduled in Monongalia county pursuant to W. Va. R. Civ. P. 45(c), and that pursuant to W. Va. R. Civ. P. 45(d)(1) places an additional undue burden and expense on the Respondent to attend to provide a sworn statement in Charlestown, WV, at 2:00 would require Respondent to be unavailable to care for his minor daughters. Respondent indicated that he would be more than willing to provide a sworn statement by means of a telephone conference, video conference or in-person if the matter was re-scheduled in Monogilia County. All other factual averments of Averment #17 are hereby denied. Strict proof is demanded as to the contentions of Averment #17.

18. Averment #18 is denied in full. Respondent did not speak to any employee or staff of the Office of Disciplinary Counsel on September 29, 2014, including Attorney Vella-Kelly. Respondent did not receive a voice mail from Attorney Vella-Kelly or any other employee or staff of the Office of Disciplinary Counsel on September 29, 2014. Respondent did not receive a missed call from the Office of Disciplinary

Counsel on September 29, 2014. Respondent has no knowledge of who was allegedly with Attorney Vella-Kelly at the time she made this alleged phonecall. Strict proof is demanded as to the contentions of Averment #18.

19. Averment #19 is admitted. By way of further answer, see Averment #17 of the Respondent's Response to Statement of Charges.

20. Averment #8 is admitted in part and denied in part. It is admitted that Respondent received a correspondence from the Office of Disciplinary Counsel dated October 1, 2014 by e-mail and October 2, 2014 by regular mail. All other factual allegation contained within Averment #20 are hereby denied in full. Strict proof is demanded as to the contentions of Averment #20.

21. Averment #21 is admitted. Respondent, upon receiving the correspondence from the Office of Disciplinary Counsel, notified the Office of Disciplinary Counsel that he did not receive a phone call or voicemail from the Office of Disciplinary Counsel.

22. Averment #22 is denied in full. Respondent did not practice law in West Virginia without a license to do so. The Office of Disciplinary Counsel has failed to provide any evidence, including any documentation that Respondent signed his name to a pleading on December 10, 2013. The Office of Disciplinary Counsel has failed to provide any evidence, including any documentation, that Respondent represented that he had a West Virginia Bar number. Respondent specifically denies that he violated the provisions of Rule 5.5(a) of the Rules of Professional Conduct.

23. Averment #23 is denied in full. Respondent did not practice law in West Virginia without a license to do so. The Office of Disciplinary Counsel has failed to provide

any evidence, including any documentation that Respondent signed his name to a pleading dated February 10, 2014. Respondent specifically denies that he violated the provisions of Rule 5.5(a) of the Rules of Professional Conduct.

24. Averment #24 is denied in full. Respondent did not intentionally or maliciously fail to comply with the Office of Disciplinary Counsel's lawful request for information. Respondent contends that the Office of Disciplinary Counsel has failed to provide Respondent with any information or documentation to provide any meaning information besides baseless speculation. Further, Respondent contends that the Office of Disciplinary Counsel's Subpoena was not a lawful request pursuant to W. Va. R. Civ. P. 45(c) and W. Va. R. Civ. P. 45(d)(1). Further Respondent contends that he specifically did not violate Rule 8.1(b) of the Rules of Professional Conduct. By way of further answer, Respondent, who is not an attorney, cannot be found to have violated Rule 8.1(b), which is specifically targeted to an attorney licensed by the state of West Virginia.
25. Averment #25 is denied in full. Respondent did not engage in the practice of law in West Virginia without a license. Respondent specifically denies that intentionally or negligently violated Rules 8.4(b), 8.4(c), and 8.4(d).
26. Averment #26 is admitted in part and denied in part. Respondent admits that he received a Public Reprimand from the Supreme Court of Pennsylvania. However, Respondent specifically denies that a pattern of behavior exists. Further, Respondent contends that the issue before the Supreme Court of Pennsylvania was whole and pat

different from the issue currently complained of before Disciplinary Board of West Virginia.

WHEREFORE, Respondent, Kevin Edward McCloskey, respectfully prays this that is honorable board find the Respondent not in violation of any Rules of Professional Conduct and Rules of Disciplinary Enforcement and/or recommend no disciplinary action be taken against the Respondent

NEW MATTER RELEVANT TO DISPOSITION

27. Respondent incorporates all averments in his Answer to Petition for Discipline.
28. Respondent reserves unto himself the right to assert any other defenses if the facts, as developed through discovery or otherwise, should so warrant.
29. At no time did Respondent actively seek to engage in the practice of law in the State of West Virginia or knowingly participate in the practice of law. This would include appearing before any judicial body or judge, meeting with any clients or third parties, dispensing any legal advice, signing any correspondences, pleading or other documents, speaking to clients, other attorney, judicial bodies on the telephone, sending e-mails, preparing legal pleadings or any other activity that would be considered practicing law under the Rules of Professional Conduct and Disciplinary Enforcement Rules.
30. At no time did Respondent actively seek to mislead or knowingly misrepresent my administrative status before any judicial bodies or judges, other attorneys, clients or third parties.

31. At no time did Respondent actively seek to market his services as an attorney in any way, did not engage in any networking activities, nor did Respondent do anything else to attempt to attract legal business to himself or the law firm where he was employed.

WHEREFORE, Respondent, Kevin Edward McCloskey, respectfully prays this that is honorable board find the Respondent not in violation of any Rules of Professional Conduct and Rules of Disciplinary Enforcement and/or recommend no disciplinary action be taken against the Respondent

Respectfully Submitted,

A handwritten signature in black ink, consisting of a stylized 'K' followed by a horizontal line that tapers to the right.

KEVIN EDWARD MCCLOSKE

BEFORE THE LAWYER DISCIPLINARY BOARD
STATE OF WEST VIRGINIA

IN RE: Kevin E. McCloskey
Of the Pennsylvania Bar

Bar No.: None (WV)
I.D. No.: 14-03-152

VERIFICATION

The undersigned, being duly sworn according to law, deposes and says that he has examined the pleadings and he is making this verification to assure compliance with the pertinent rules pertaining to timely filing of pleadings and other documents described by said rules; and that the facts set forth in the foregoing document are true and correct to the best of his knowledge, information and belief.

DATE



KEVIN EDWARD MCCLOSKEY

BEFORE THE LAWYER DISCIPLINARY BOARD
STATE OF WEST VIRGINIA

IN RE: Kevin E. McCloskey
Of the Pennsylvania Bar

Bar No.: None (WV)
I.D. No.: 14-03-152

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Response to Statement of Charges and New Matter was served via First Class Mail, postage prepaid, this 4th day of December, 2014 on the following:

Supreme Court of Appeals
Office of the Clerk
1900 Kanawha Boulevard East, State Capital
Charlestown WV 25305

Joanna M. Vella Kirby
Lawyer Disciplinary Counsel
Office of Disciplinary Counsel
City Center East, Suite 1200C
4700 MacCorkle Avenue SE
Charleston WV 25304


Kevin Edward McCloskey, Esquire

Kevin McCloskey
236 Donna Avenue
Morgantown, WV 26505
Cell: (412) 952 - 2738
kevinemccloskeyesq@gmail.com

December 4, 2014

BY FIRST CLASS MAIL

Supreme Court of Appeals
Office of the Clerk
1900 Kanawha Boulevard East, State Capital
Charlestown WV 25305

IN RE: Kevin E. McCloskey
Of the Pennsylvania Bar

Bar No.: None (WV)
I.D. No.: 14-03-152

To Whom it May Concern

Please find enclosed an original and one copy of an Response to Charges and New Matter in regards to the above-captioned disciplinary proceeding. Please file the original, and return the time-stamped copy to me in the self-addressed stamped envelope enclosed, By way of copy of this correspondence, this answer has been served on the disciplinary counsel.

Thank you for your anticipated cooperation. If you have any questions, please do not hesitate to contact me immediately.

Respectfully Yours

Kevin McCloskey

Enclosure

cc: Joanna M. Vella Kirby, Disciplinary Counsel

BEFORE THE LAWYER DISCIPLINARY BOARD
STATE OF WEST VIRGINIA

IN RE: Kevin E. McCloskey
Of the Pennsylvania Bar

Bar No.: None (WV)
I.D. No.: 14-03-152

RESPONSE TO STATEMENT OF CHARGES AND NEW MATTER

Before this Honorable board now comes the Respondent, Kevin E. McCloskey, to answer the charges filed against him by the Office of Disciplinary Counsel, in which the following is averred.

1. Averment #1 is hereby denied in full. Strict proof is demanded as to the contentions of Averment #1.

COMPLAINT OF THE OFFICE OF DISCIPLINARY COUNSEL

I.D.NO. 14-03-152

2. Averment #2 is admitted.
3. Averment #3 is hereby denied in full. Respondent has no personal knowledge of a complaint filled by Stuart A. McMillan or Mark A. Kepple concerning practicing law without a license in the State of West Virginia or alleging to have a West Virginia bar number when he was not licensed to practice law in West Virginia. No documentation, including a complaint to the Disciplinary Counsel or any associated documentation has been provided to the Respondent prior to the preparation of this response. Strict proof is demanded as to the contentions of Averment #3.
4. Averment #4 is hereby denied in full. Respondent has no knowledge as to the factual contentions contained within Averment #4, therefore they are denied in full. Strict proof is demanded as to the contentions of Averment #4.
5. Averment #5 is hereby denied in full. Respondent did not receive a correspondence from the Office of Disciplinary Counsel dated March 12, 2014. No documentation, including a correspondence dated March 12, 2014, or verification of receipt of said correspondence or any other associated documentation has been provided to the

Respondent prior to the preparation of this response. Strict proof is demanded as to the contentions of Averment #5.

6. Averment #6 is hereby denied in full. Respondent has no knowledge as to the factual contentions contained within Averment #6, therefore they are denied in full. Strict proof is demanded as to the contentions of Averment #6.
7. Averment #7 is hereby denied in full. Respondent has no knowledge of a facsimile from the Honorable James P. Mazzone in reference to a civil action pending in the circuit court of Hancock County, or a correspondence to the court from Attorney Kepple that advised the court that Respondent was not licensed to practice law in West Virginia concerning practicing law without a license in the State of West Virginia. No documentation, including a facsimile to the Office of Disciplinary Counsel or any associated documentation has been provided to the Respondent prior to the preparation of this response. Strict proof is demanded as to the contentions of Averment #7.
8. Averment #8 is hereby denied in full. Respondent has no knowledge as to the factual contentions contained within Averment #8, therefore they are denied in full. No certified copies of any pleadings, including any case files, motions, or notices of appearances or any related documentation has been provided to the Respondent prior to the preparation of this response.. Strict proof is demanded as to the contentions of Averment #8
9. Averment #9 is hereby denied in full. Respondent has no knowledge as to the factual contentions contained within Averment #9, therefore they are denied in full. No

documentation, including any Affidavits of Authorization and Release have been provided to the Respondent prior to the preparation of this response.. Strict proof is demanded as to the contentions of Averment #9.

10. Averment #10 is hereby denied in full. Respondent has no knowledge as to the factual contentions contained within Averment #10, therefore they are denied in full. Respondent did not receive any correspondence from the Office of Disciplinary Counsel dated April 22, 2014. No documentation, including a correspondence dated April 22, 2014, or verification of receipt of said correspondence or any other associated documentation has been provided to the Respondent prior to the preparation of this response. By way of further answer, Respondent did not have a mailing address located at 428 Forbes Avenue, Suite 909, Pittsburgh, PA 15219 at the time of the alleged mailing. Strict proof is demanded as to the contentions of Averment #10.

11. Averment #11 is hereby denied in full. Respondent has no knowledge as to the factual contentions contained within Averment #11, therefore they are denied in full. No documentation, including a correspondence dated April 22, 2014, or verification of receipt of said correspondence or any other associated documentation has been provided to the Respondent prior to the preparation of this response. By way of further answer, Respondent did not have a mailing address located at 428 Forbes Avenue, Suite 909, Pittsburgh, PA 15219 at the time of the alleged mailing. Additionally, Averment #11, when read in conjunction with Averment #10, makes no sense: it is factually impossible for Office of Disciplinary Counsel to receive back a

correspondence it allegedly mailed on April 22, 2014 on April 13, 2014, 9 days prior to the alleged mailing date. Strict proof is demanded as to the contentions of Averment #11.

12. Averment #12 is admitted in part and denied in part. Is it admitted that Respondent spoke to an employee of the Office of Disciplinary Counsel on or about April 17, 2014. It is admitted that Respondent was advised that a complaint was filed against him. It is admitted that Respondent provided contact information to the Office of Disciplinary Counsel. However, it is denied that Respondent contacted the Office of Disciplinary Counsel on April 14, 2014. It is denied that the Office of Disciplinary Counsel provided copies of the two correspondences it alleged to have previously forwarded to Respondent. It is denied that Respondent was advised by telephone that a response was to be filed within 20 days, pursuant to Rules 2.4 and 2.5 of the West Virginia Rules of Lawyer Disciplinary Procedure. No documentation, including any correspondences dated March 12, 2014 or April 22, 2014, or verification of receipt of said correspondence or any other associated documentation has been provided to the Respondent prior to the preparation of this response. Strict proof is demanded as to the contentions of Averment #12.

13. Averment #13 is hereby denied in full. Respondent has no knowledge as to the factual contentions contained within Averment #13, therefore they are denied in full. No documentation, including any e-mails from the West Virginia State Bar have been provided to the Respondent prior to the preparation of this response. Strict proof is demanded as to the contentions of Averment #13.

14. Averment #14 is denied in full. Respondent has no knowledge as to the factual contentions contained within Averment #14, therefore they are denied in full. No documentation, including any Affidavits have been provided to the Respondent prior to the preparation of this response. Strict proof is demanded as to the contentions of Averment #14.
15. Averment #15 is hereby denied in full. Respondent has no knowledge as to the factual contentions contained within Averment #15, therefore they are denied in full. No documentation, including any correspondence to the Office of Disciplinary Counsel have been provided to the Respondent prior to the preparation of this response. Strict proof is demanded as to the contentions of Averment #15.
16. Averment #16 is admitted in part and denied in part. It is admitted that Respondent was served with a Subpoena by Mr. Pastore on or about September 8, 2014 at the Frick Building, located at 437 Grant Street, Suite 1300, Pittsburgh, PA 15219. It is admitted that Respondent provided Mr. Pastone his current address of 236 Donna Avenue, Morgantown, WV 26505. All of factual averment contained within Averment #16 are hereby denied in full. No documentation, including an Affidavit of Service or related documentation, have been provided to the Respondent prior to the preparation of this response. Strict proof is demanded as to the contentions of Averment #16.
17. Averment #17 is admitted in part and denied in part. It is admitted that Respondent forwarded a correspondence dated September 25, 2014 to the Office of Disciplinary Counsel by regular mail on September 25, 2014 and facsimile on September 29,

2014. It is admitted that the correspondence included contact information. It is admitted that Respondent informed the Office of Disciplinary Counsel that Respondent would not be able to attend due to the fact that Respondent had not been provided any of the documentation associated with the alleged Complaint, including the Complaint itself. Further, Respondent informed the Office of Disciplinary Counsel that Respondent felt that pursuant to W. Va. R. Civ. P. 45(c), it placed an unreasonable burden on the Respondent to travel a three and a half hour one-way trip from his residence in Monongalia County to Kanawha County to give a sworn statement that could have been scheduled in Monongalia county pursuant to W. Va. R. Civ. P. 45(c), and that pursuant to W. Va. R. Civ. P. 45(d)(1) places an additional undue burden and expense on the Respondent to attend to provide a sworn statement in Charlestown, WV, at 2:00 would require Respondent to be unavailable to care for his minor daughters. Respondent indicated that he would be more than willing to provide a sworn statement by means of a telephone conference, video conference or in-person if the matter was re-scheduled in Monogilia County. All other factual averments of Averment #17 are hereby denied. Strict proof is demanded as to the contentions of Averment #17.

18. Averment #18 is denied in full. Respondent did not speak to any employee or staff of the Office of Disciplinary Counsel on September 29, 2014, including Attorney Vella-Kelly. Respondent did not receive a voice mail from Attorney Vella-Kelly or any other employee or staff of the Office of Disciplinary Counsel on September 29, 2014. Respondent did not receive a missed call from the Office of Disciplinary

Counsel on September 29, 2014. Respondent has no knowledge of who was allegedly with Attorney Vella-Kelly at the time she made this alleged phonecall. Strict proof is demanded as to the contentions of Averment #18.

19. Averment #19 is admitted. By way of further answer, see Averment #17 of the Respondent's Response to Statement of Charges.
20. Averment #8 is admitted in part and denied in part. It is admitted that Respondent received a correspondence from the Office of Disciplinary Counsel dated October 1, 2014 by e-mail and October 2, 2014 by regular mail. All other factual allegation contained within Averment #20 are hereby denied in full. Strict proof is demanded as to the contentions of Averment #20.
21. Averment #21 is admitted. Respondent, upon receiving the correspondence from the Office of Disciplinary Counsel, notified the Office of Disciplinary Counsel that he did not receive a phone call or voicemail from the Office of Disciplinary Counsel.
22. Averment #22 is denied in full. Respondent did not practice law in West Virginia without a license to do so. The Office of Disciplinary Counsel has failed to provide any evidence, including any documentation that Respondent signed his name to a pleading on December 10, 2013. The Office of Disciplinary Counsel has failed to provide any evidence, including any documentation, that Respondent represented that he had a West Virginia Bar number. Respondent specifically denies that he violated the provisions of Rule 5.5(a) of the Rules of Professional Conduct.
23. Averment #23 is denied in full. Respondent did not practice law in West Virginia without a license to do so. The Office of Disciplinary Counsel has failed to provide

any evidence, including any documentation that Respondent signed his name to a pleading dated February 10, 2014. Respondent specifically denies that he violated the provisions of Rule 5.5(a) of the Rules of Professional Conduct.

24. Averment #24 is denied in full. Respondent did not intentionally or maliciously fail to comply with the Office of Disciplinary Counsel's lawful request for information. Respondent contends that the Office of Disciplinary Counsel has failed to provide Respondent with any information or documentation to provide any meaning information besides baseless speculation. Further, Respondent contends that the Office of Disciplinary Counsel's Subpoena was not a lawful request pursuant to W. Va. R. Civ. P. 45(c) and W. Va. R. Civ. P. 45(d)(1). Further Respondent contends that he specifically did not violate Rule 8.1(b) of the Rules of Professional Conduct. By way of further answer, Respondent, who is not an attorney, cannot be found to have violated Rule 8.1(b), which is specifically targeted to an attorney licensed by the state of West Virginia.

25. Averment #25 is denied in full. Respondent did not engage in the practice of law in West Virginia without a license. Respondent specifically denies that intentionally or negligently violated Rules 8.4(b), 8.4(c), and 8.4(d).

26. Averment #26 is admitted in part and denied in part. Respondent admits that he received a Public Reprimand from the Supreme Court of Pennsylvania. However, Respondent specifically denies that a pattern of behavior exists. Further, Respondent contends that the issue before the Supreme Court of Pennsylvania was whole and pat

different from the issue currently complained of before Disciplinary Board of West Virginia.

WHEREFORE, Respondent, Kevin Edward McCloskey, respectfully prays this that is honorable board find the Respondent not in violation of any Rules of Professional Conduct and Rules of Disciplinary Enforcement and/or recommend no disciplinary action be taken against the Respondent

NEW MATTER RELEVANT TO DISPOSITION

27. Respondent incorporates all averments in his Answer to Petition for Discipline.
28. Respondent reserves unto himself the right to assert any other defenses if the facts, as developed through discovery or otherwise, should so warrant.
29. At no time did Respondent actively seek to engage in the practice of law in the State of West Virginia or knowingly participate in the practice of law. This would include appearing before any judicial body or judge, meeting with any clients or third parties, dispensing any legal advice, signing any correspondences, pleading or other documents, speaking to clients, other attorney, judicial bodies on the telephone, sending e-mails, preparing legal pleadings or any other activity that would be considered practicing law under the Rules of Professional Conduct and Disciplinary Enforcement Rules.
30. At no time did Respondent actively seek to mislead or knowingly misrepresent my administrative status before any judicial bodies or judges, other attorneys, clients or third parties.

31. At no time did Respondent actively seek to market his services as an attorney in any way, did not engage in any networking activities, nor did Respondent do anything else to attempt to attract legal business to himself or the law firm where he was employed.

WHEREFORE, Respondent, Kevin Edward McCloskey, respectfully prays this that is honorable board find the Respondent not in violation of any Rules of Professional Conduct and Rules of Disciplinary Enforcement and/or recommend no disciplinary action be taken against the Respondent

Respectfully Submitted,

KEVIN EDWARD MCCLOSKE

BEFORE THE LAWYER DISCIPLINARY BOARD
STATE OF WEST VIRGINIA

IN RE: Kevin E. McCloskey
Of the Pennsylvania Bar

Bar No.: None (WV)
I.D. No.: 14-03-152

VERIFICATION

The undersigned, being duly sworn according to law, deposes and says that he has examined the pleadings and he is making this verification to assure compliance with the pertinent rules pertaining to timely filing of pleadings and other documents described by said rules; and that the facts set forth in the foregoing document are true and correct to the best of his knowledge, information and belief.

DATE

KEVIN EDWARD MCCLOSKEY

BEFORE THE LAWYER DISCIPLINARY BOARD
STATE OF WEST VIRGINIA

IN RE: Kevin E. McCloskey
Of the Pennsylvania Bar

Bar No.: None (WV)
I.D. No.: 14-03-152

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Response to Statement of Charges and New Matter was served via First Class Mail, postage prepaid, this 4th day of December, 2014 on the following:

Supreme Court of Appeals
Office of the Clerk
1900 Kanawha Boulevard East, State Capital
Charlestown WV 25305

Joanna M. Vella Kirby
Lawyer Disciplinary Counsel
Office of Disciplinary Counsel
City Center East, Suite 1200C
4700 MacCorkle Avenue SE
Charleston WV 25304

Kevin Edward McCloskey, Esquire