

19-0879

**BEFORE THE INVESTIGATIVE PANEL
OF THE LAWYER DISCIPLINARY BOARD
STATE OF WEST VIRGINIA**



In Re: E. LAVOYD MORGAN, JR., a member of **Bar No.:** 6938
The West Virginia State Bar **I.D. Nos.:** 17-05-329, 17-05-523, 17-02-554
17-05-574, 18-03-081, 18-05-236
18-05-240, 18-05-246, 18-05-268
18-05-276, 18-05-282, 18-05-284
18-05-304, 18-05-312, 18-05-313
18-05-314, 18-05-343, 18-05-370
18-05-418, 18-05-490, 19-03-135
& 19-05-152

STATEMENT OF CHARGES

To: E. Lavoyd Morgan, Jr., Esquire
Post Office Box 1847
Lewisburg, West Virginia 24901

YOU ARE HEREBY notified that a Hearing Panel Subcommittee of the Lawyer Disciplinary Board will hold a hearing pursuant to Rules 3.3 through 3.16 of the Rules of Lawyer Disciplinary Procedure, with regard to the following charges against you:

1. E. Lavoyd Morgan, Jr. (hereinafter "Respondent") is a lawyer practicing in Lewisburg, which is located in Greenbrier County, West Virginia. Respondent, having passed the bar exam, was admitted to The West Virginia State Bar on October 2, 1995. As such, Respondent is subject to the disciplinary jurisdiction of the Supreme Court of Appeals of West Virginia and its properly constituted Lawyer Disciplinary Board.

COUNT I
I.D. No. 17-05-329
Complaint of Office of Lawyer Disciplinary Counsel

2. On or about June 8, 2017, the Office of Lawyer Disciplinary Counsel (hereinafter “ODC”) was provided with documentation showing Respondent had billed the Public Defender Services Corporation (hereinafter “PDS”) for time over 18 hours on eighteen days. Specifically, the time and days were listed as follows:

<u>Date</u>	<u>Number of Hours Submitted to PDS</u>
2/22/16	18.6
3/22/16	19.1
5/2/16	22.8
5/6/16	18.3
5/23/16	22.4
7/6/16	18.5
7/12/16	20.2
7/26/16	27.0
8/4/16	18.3
8/9/16	23.7
8/17/16	20.3
8/30/16	20.4
9/2/16	26.9
9/26/16	18.6
9/28/16	19.2
10/17/16	21.8
12/13/16	20.1
1/3/17	20.2

3. On or about September 28, 2017, Respondent responded that his office used a combination of written contemporaneous time slips and time reconstructed from review of the files at the time of billing. When reconstructing time, the office manager often would enter time related to a given court appearance on the same date as the court appearances, even if it did not occur on that date. Time spent on weekends was

- often moved to a weekday. Reconstructed time also was often simply entered as the date the voucher was prepared for data entry convenience. Respondent also asserted that unaccounted-for time was lost, resulting in frequent underbilling on case files.
4. Respondent acknowledged and affirmed that it was his duty to properly review bills, maintain time records, and assure the accuracy of material submitted to the Court and to the PDS.
 5. Respondent said that he is aware of W. Va. Code 29-21-13a, which required attorneys to keep detailed time records, but noted there is nothing within the statute, the PDS website, or case law which precludes the use of reconstructed time. The only requirement under the code section is that the time records be accurate and detailed.
 6. Respondent stated that, based on a review of his billings, the daily time discrepancies were overwhelming based on the dates entered as to reconstructed time. Respondent said that other billing errors were caused by misidentification of the billing attorney and clerical errors causing a duplicate time entry. Respondent stated that he has changed office policy to require contemporaneous handwritten time slips be used on all time entered, and also instituting internal procedures to discontinue the use of reconstructed billing.
 7. In additional correspondence, Respondent stated that time for a second attorney, Denise Pettijohn, Esquire, was attributed to Respondent on several dates. Respondent said he was not alerted to the misidentification on the face of the submission materials. Respondent provided information indicating that a lot of the time was for

work on weekends or another day, and it was incorrectly submitted for the wrong dates. Respondent acknowledged duplicate travel time was submitted for the following days: (1) 1.5 hours on May 2, 2016; (2) 1.5 hours on September 2, 2016; (3) 1.5 hours on September 28, 2016; and (4) 1 hour on October 17, 2016. Respondent stated time provided by Ms. Pettijohn was claimed for him as follows: (1) 6.6 hours on May 6, 2016; (2) 5.7 hours on July 6, 2016; (3) 2.9 hours on July 26, 2016; (4) 1.3 hours on August 17, 2016; (5) 3 hours on September 2, 2016; and (6) 1.8 hours on September 28, 2016.

8. Disciplinary Counsel sought information from PDS about the days listed by Respondent as the correct days. For several days, the time already submitted by Respondent, plus the additional time he listed above, makes those days have high hours. Those days are as follows:

- A. July 11, 2016 - 10.6 hours plus the 7.9 hours from Respondent's corrections = 18.5 hours;
- B. July 25, 2016 - 11.6 hours plus 4.8 hours from Respondent's corrections = 16.6 hours;
- C. August 3, 2016 - 14.3 hours plus 4 hours from Respondent's corrections = 18.3 hours;
- D. August 8, 2016 - 17.3 hours plus 3.4 hours from Respondent's corrections = 20.7 hours; and
- E. August 29, 2017 - 15.8 hours plus 1.4 hours from Respondent's corrections = 17.2 hours.

9. Respondent was asked to address these dates, along with the numerous corrections with high numbers of hours for weekends. Additionally, Respondent's correction to

add 9.5 hours to December 20, 2016, makes the total number of hours submitted for that day = 28.8 hours.

10. Respondent filed additional correspondence and again stated time for weekends or other days were submitted for the wrong dates. Further, Respondent said 6.1 hours for a paralegal on August 3, 2016, was submitted as his work.¹
11. Regarding his high hours billed for weekends, Respondent stated that he is required to work weekends to handle follow-up work made necessary by his weekday schedule. Respondent noted that due to personal health issues that required health care appointments during regular working hours, it was the norm in 2016 and currently for him to work on one weekend day, if not both weekend days. Further, Respondent stated that he was forwarding a check to PDS for the 5.5 hours of duplicate travel time in the amount of \$247.50.²
12. On or about January 11, 2018, Disciplinary Counsel obtained updated information from PDS, which showed that Respondent had days previously noted which had an increase in the number of hours billed, and those are as follows:

A.	February 22, 2016	18.6 hours (old)	19.0 hours (new)
B.	May 23, 2016	22.4 hours (old)	22.7 hours (new)
C.	September 28, 2016	19.2 hours (old)	22.3 hours (new)
D.	December 13, 2016	20.1 hours (old)	20.9 hours (new)
E.	January 3, 2017	20.2 hours (old)	22.5 hours (new)

¹ At a rate of \$45.00 an hour, with 6.1 hours being submitted incorrectly by Respondent, a refund of of \$274.50 is due to PDS.

² At a rate of \$45.00 an hour, with 5.5 hours being submitted incorrectly by Respondent, a refund of of \$247.50 is due to PDS.

13. Respondent also had new days with eighteen or more hours, and they are as listed:

A.	May 31, 2016	18.0 hours
B.	October 21, 2016	20.7 hours
C.	October 26, 2016	18.8 hours
D.	November 10, 2016	18.3 hours
E.	November 29, 2016	20.5 hours
F.	December 2, 2016	18.5 hours
G.	December 5, 2016	18.0 hours
H.	December 19, 2016	19.4 hours
I.	December 20, 2016	19.3 hours
J.	January 25, 2017	18.0 hours
K.	February 1, 2017	18.9 hours
L.	February 2, 2017	19.9 hours
M.	March 1, 2017	21.0 hours
N.	March 6, 2017	20.5 hours
O.	March 10, 2017	19.0 hours
P.	April 19, 2017	18.5 hours

14. Respondent was asked to address the billings for those new dates, and also about December 20, 2016, wherein Respondent said that some incorrect hours should have been submitted for December 20, 2016, and the PDS report showed 19.3 hours already billed for that date. The new total for that date would be 28.8 hours.

15. Respondent filed a response and indicated that the incorrect dates were submitted along with work performed by an associate as follows: (1) 1.1 hours on October 21, 2016; (2) 3.5 hours on November 10, 2016; (3) 1.7 hours on December 2, 2016; (4) 2.8 hours on December 5, 2016; (5) 1.1 hours on December 19, 2016; (6) 2.6 hours on January 25, 2017; (7) 4.2 hours on February 1, 2017; (8) 1.1 hours on March 1, 2017; and (9) 1.2 hours on March 10, 2017. Respondent admitted to overbilling as

follows: (1) 3 hours on November 29, 2016; (2) 1.4 hours on December 2, 2016; and (3) 1 hour on December 19, 2016.³

16. In an additional response from Respondent, Respondent said that the additional hours added to the initial days were correct. Further, Respondent stated that he could not resolve the errors for December 20, 2016, in particular the 9.5 hours he attributed from December 13, 2016 to December 20, 2016. Respondent “suggest[ed] the 9.5 hours be stricken and amounts reimbursed to PDS.”⁴
17. Respondent noted that he had completed assessments with the Lawyer’s Assistance Program and was awaiting a report. Respondent further noted that he was undergoing a medical procedure on April 6, 2018.
18. An inquiry to the Supreme Court of Appeals of West Virginia revealed there were no submissions for Respondent regarding invoices for family court or mental hygiene matters.
19. Denney Bostic provided a sworn statement on July 17, 2018, and stated that Respondent billed for work which Mr. Bostic performed in court appointed cases as if Respondent had done the work. Mr. Bostic denied that Respondent put in a lot of work in court appointed cases, and rarely worked on weekends or holidays. Mr. Bostic said Respondent was not in his office everyday.

³ Respondent overbilled for 5.4 hours of out of court time and, therefore, he owes a refund of \$243.00 to PDS.

⁴ The 9.5 hours from December 13, 2016 that Respondent initially attributed to December 20, 2016, was for out of court time. Accordingly, Respondent owes a refund of \$427.50 to PDS.

20. On or about August 6, 2018, Lonnie C. Simmons, Esquire, filed a Notice of Substitution of Counsel indicating he was representing Respondent in this case.
21. At her September 7, 2018 sworn statement, Harmony Flora stated that the time on the vouchers submitted to PDS were not correct. Ms. Flora was unaware of Respondent working on weekends.
22. At her October 25, 2018 sworn statement, Denise Pettijohn, Esquire, indicated that she began work at Respondent's law office as an attorney, and there were no other attorneys working there when she began working there in or around 2014 or 2015. While working at Respondent's office, she would review vouchers submitted to PDS for the cases she handled and, at times, she would make changes on the vouchers when she reviewed them regarding the time for the action or the specificity of the action. She discovered some voucher submissions in her cases showed work performed by Respondent, when he never appeared in that case. She stated Respondent's law office went by Morgan and Associates, and she was unaware of any associate working there at that time.
23. At his sworn statement on November 1, 2018, Respondent stated that the name of his law office was E. Lavoyd Morgan and Associates, LC, but admitted that there are no other attorneys in his office as of the beginning of 2018. Respondent also acknowledged that an attorney cannot bill over 24 hours in a day. Respondent said that he did not record all of the time he worked on PDS cases, and that he would "underestimate" the time it took to prepare a pleading because he had to recreate the

time. Respondent indicated that he “c[a]me to learn that PDS prefers time entries in tenths of an hour.” Respondent denied reading the statute regarding billing to PDS. Respondent stated that he took “full responsibility . . . to make sure [the billing entries are] right.” Respondent never questioned his staff entering time he worked on the weekends on weekdays. Respondent said he never taught anyone how to handle the billing. Respondent stated that he billed in fifteen minute increments. Respondent could not answer if the 9.5 hours he attributed to December 20, 2016, in his initial response were overbilling, and said that he did not resolve the errors. Respondent then admitted that it was hard to work an 18 hour day. Respondent was unaware of what the check to PDS for \$40.50 was for. Respondent was unaware how Mr. Bostic’s work was billed to PDS, but acknowledged some attorney time billed for him was work performed by Mr. Bostic. Respondent admitted he reviewed the vouchers.

24. On or about March 22, 2019, PDS provided additional information regarding Respondent, and his submission of bills for May 4, 2017 at 19.2 hours.
25. On or about March 25, 2019, a copy of the PDS information was sent to Respondent asking him to provide a response regarding the hours.
26. On or about April 19, 2019, Respondent filed additional correspondence regarding the billing on May 4, 2017 for 19.2 hours. Respondent said there were incorrect billings for 12.0 hours incorrectly billed for that date, which included billing paralegal time as attorney time along with overbilling 1 hour of travel time as 2 hours of travel time.

Also, there was 1.5 hours billed on May 4, 2017 that should have been billed on May 3, 2017. That left only 5.7 hours for the correct hours for May 4, 2017.

27. ODC determined Respondent owed PDS a total amount of \$1,732.50⁵ for reimbursements as follows:
 - (1) For 14.9 hours (9.5 hours + 5.4 hours) of overbilling --- \$670.50;
 - (2) Billing paralegal time as attorney time --- \$274.50;
 - (3) Submitting duplicate Travel time --- \$247.50; and
 - (4) Overbilling of 12.0 hours on 5/4/17 --- \$540.00.
28. On or about September 11, 2019, Respondent submitted correspondence indicating that in the beginning of the Spring and Summer of 2018, he accepted appointed work, but did not submit any bills for his time to PDS.
29. On or about September 12, 2019, PDS provided information that showed Respondent only had one day over 8 hours, which was on September 25, 2017 and was for 13.2 hours. Further, the last submission from Respondent to PDS was on May 11, 2018
30. West Virginia Code § 29-21-13a(a) (2008) required panel counsel for the PDS to “maintain detailed and accurate records of the time expended and expenses incurred on behalf of eligible clients[.]” Subsection (d) of that status provides that panel counsel “shall be compensated . . . for actual and necessary time expended for services performed and expenses incurred[.]” Lawyer Disciplinary Board v. Cooke, 239 W.Va. 40, 49, 799 S.E.2d 117, 126 (2017).

⁵ The PDS showed a payment by Respondent for \$40.50 on June 23, 2017, but it is unclear what that amount was for, but that amount may need to be deducted from the total reimbursement if Respondent can provide proof that the payment was for reimbursement of any of the amounts listed.

31. “West Virginia Code § 29-21-14 [1981], which governs state payment of counsel fees for indigent criminal defendants, envisages a system where each client is proportionately billed according to the time spent actually representing that client; consequently, billing for more hours than are actually worked is duplicative billing that is clearly contrary to the system envisaged by the legislature.” Syllabus Point 1, Frasher v. Ferguson, 177 W.Va. 546, 355 S.E.2d 39 (1987).
32. Because Respondent has misrepresented his actual and necessary time expended for services performed in filings before the appointed circuit judge and/or appointing tribunal, Respondent has violated Rule 3.3(a)(1) of the Rules of Professional Conduct, as set forth in the appendix.
33. Because Respondent engaged in improper and unsubstantiated billing with regard to cases in which he was appointed to represent indigent clients on behalf of the PDS, Respondent has violated Rule 1.5(a), and Rules 8.4(c) and 8.4(d) of the Rules of Professional Conduct, as set forth in the appendix.
34. Because Respondent failed to ensure his staff’s conduct was compatible with his professional obligations under the Rules of Professional Conduct, Respondent has violated Rule 5.3 of the Rules of Professional Conduct, as set forth in the appendix.
35. Because Respondent made false statements about the work he performed in PDS cases, Respondent has violated Rule 8.1(a) of the Rules of Professional Conduct, as set forth in the appendix.

COUNT II
I.D. No. 17-05-523
Complaint of Travis R. Norwood

36. In his complaint filed on October 5, 2017, Travis R. Norwood stated he retained Respondent for representation in three felony cases for \$8,000.00. However, in the end, Respondent did not represent him, as he was appointed an attorney who appeared on his behalf at court proceedings and at his trial. Mr. Norwood said Respondent failed to communicate with him, which included not attending court hearings or meeting with him at the prison after the retainer contract was signed. Mr. Norwood provided a copy of a June 12, 2017 letter from Respondent's office to him that indicated that retainer agreement was enclosed for his review and signature, along with a June 12, 2017 letter from Respondent's office to John Anderson, Esquire, that indicated a proposed Order Substituting Counsel was enclosed for review and signature to be forwarded to the Court after review, along with a request for the complete client file.
37. In his response dated November 13, 2017, Respondent stated that his paralegal, Mitchell Coles, met with Mr. Norwood in prison on May 4, 2017, for an initial intake after Mr. Norwood had made a request for representation in an appeal. Respondent noted that his quote for an initial retainer was \$8,000.00 after reviewing the case, and the same was paid by Valerie Norwood on May 25, 2017, with Mr. Norwood signing

the retainer agreement on June 16, 2017.⁶ After signing the agreement, Respondent stated Mr. Norwood contacted him and sent pleadings regarding his other pending felony cases, and Respondent forwarded those on to Mr. Norwood's other counsel as he had other counsel for those matters.

38. Respondent said that it was a July 14, 2017 letter from Mr. Norwood that informed them of a request for representation in the other pending felony cases. Respondent provided a copy of a July 21, 2017 letter he sent to Mr. Norwood about his representation being limited to the appeal and conviction proceedings, and that any other cases would need a separate agreement and retainer fee. Mr. Coles spoke with Mr. Norwood on July 28, 2017, about the price for representation regarding post-trial motions and sentencing in one felony case and pre-trial representation in a separate criminal case. Respondent related that the retainer fee for both of those cases was \$5,000.00 each, and were separate from the retainer fee for the appeal. By letter dated August 2, 2017, Mr. Norwood confirmed that Respondent only represented him in the appeal case, and that he was not comfortable in paying an additional retainer fee without seeing how Respondent handled the current case.

39. Respondent stated that the proposed Order Substituting Counsel was sent to Mr. Anderson, but the proposed Order was never tendered to the Court because Mr. Norwood did not retain Respondent for the case. Respondent asserted that he was

⁶ The retainer agreement dated May 28, 2017, indicated that stated it was for representation in a "criminal/appellate matter," and listed an hourly rate of \$300.00 an hour. It was signed by Mr. Norwood on June 16, 2017.

recently contacted by Mr. Norwood to terminate his representation of him, along with a request for a full refund of the retainer. A review of Respondent's client file showed a letter from Complainant dated October 7, 2017, informing Respondent that his services were no longer needed and requesting a refund of the \$8,000.00 retainer. Respondent said he was preparing an accounting of the work performed in the case, and would refund any unused portion of the retainer fee. Respondent provided a copy of the retainer agreement with this correspondence, which stated that it "confirm[ed] the] agreement concerning [Respondent's] representation of [Mr. Norwood] in a Criminal/Appellate matter" for an initial retainer of \$8,000.00 at \$300.00 an hour. Also attached was a July 21, 2017 letter from Respondent to Mr. Norwood that stated Respondent's "representation of you is limited to an appeal and proceedings before the Supreme Court of West Virginia following your conviction, . . ." Mr. Norwood was advised that he would have to 'retain [Respondent's] services for representation before the Circuit Court of Greenbrier County, but [Mr. Norwood] must do so by separate agreement and retainer fee."

40. On or about November 26, 2017, Mr. Norwood provided correspondence wherein he admitted to meeting Mr. Coles on May 4, 2017, and that the \$8,000.00 retainer fee was for the sentencing and appeal in case number 16-F-136. Mr. Norwood stated that he was told by Mr. Coles that Respondent would likely take the other two cases after the initial \$8,000.00 was paid and, after that was paid, he received a letter from Respondent with a retainer agreement and an Order substituting counsel. Mr.

Norwood said he signed the retainer agreement on June 16, 2017, but Respondent never communicated with Mr. Norwood thereafter.

41. Mr. Norwood stated that he spoke with Mr. Coles around July 28, 2017, concerning representation in the other two cases, and was told that Respondent would take the cases for \$5,000.00 each. Mr. Norwood had indicated that he would send the money, but reconsidered after considering Respondent's failure to communicate with him or to even show up for hearings. Mr. Norwood noted that he contacted ODC for help in communicating with Respondent, but it was not successful. Mr. Norwood denied receiving the July 21, 2017 letter from Respondent.
42. On or about December 27, 2017, Disciplinary Counsel wrote to Respondent asking him to provide an accounting for representing Mr. Norwood and to address whether Respondent owed a refund of the \$8,000.00 retainer.
43. Disciplinary Counsel subpoenaed records from the regional jail on or about January 10, 2018. The regional jail provided the following:
 - 1) two privileged mail receipts for Mr. Norwood from Respondent for June 14, 2017 and November 17, 2017; 2) visitors log showed that Mr. Coles visited Mr. Norwood on May 4, 2017, and May 17, 2017; and 3) telephone log showed 108 calls from Mr. Norwood to Respondent's telephone number, and most were not accepted, with a few inmate hang ups, no answer, and one time up call.
44. On or about January 22, 2018, Respondent filed correspondence which contained a statement of account for work performed for Mr. Norwood. Respondent reiterated that Mr. Norwood retained him for an appeal, and that he was represented by other

counsel on the pending criminal charges. While Mr. Norwood sought to retain Respondent for the additional cases, Mr. Norwood did not want to pay the additional retainer. The accounting showed Respondent claimed he worked 12.6 hours, for a total of \$2,014.50 plus \$0.98 in expenses for a total of \$2,015.48.

45. On or about February 5, 2018, Disciplinary Counsel received correspondence from Mr. Norwood questioning why Respondent was charging him \$216.00 for obtaining a file from other counsel along with reviewing the case file on June 13, 2017, and \$135.00 for drafting an order of substitution when Respondent was not representing him in those cases.
46. On or about February 13, 2018, Disciplinary Counsel requested that Respondent address Mr. Norwood's questions regarding the fees charged and whether his appeal rights were preserved, and noted that the issue of the refund had not been addressed. Respondent was given twenty days to file a response.
47. Respondent failed to respond.
48. On or about April 2, 2018, Respondent was sent a letter by both regular and certified mail regarding his failure to respond to the February 13, 2018 letter. The letter noted that Respondent had been granted an extension to March 23, 2018, to file the response, but failed to do so. Respondent was asked to provide his response by April 12, 2018.
49. By letter dated April 12, 2018, Respondent filed additional correspondence and alleged that he communicated with Mr. Norwood through his staff, and indicated that

his case was not ripe for further communication which would result in charges against the retainer. Respondent stated he would send a refund check to Valerie Norwood on April 30, 2018. Respondent again provided the accounting that claimed he earned \$2,015.48. Respondent also provided a Trust Account Summary for Mr. Norwood that stated a "Trust deposit Ck No. 510 by Valerie D. Norwood (Union Bank & Trust) for \$8,000.00 on May 29, 2017, and that a "Payment from trust" was made on April 9, 2018, for \$2,015.48 for "Close File; Close ODC inquiries."

50. On or about April 23, 2018, Disciplinary Counsel sent a letter to Respondent asking him to address charging \$135.00 for drafting an order of substitution for a case Respondent was not hired for, requested the due date of Mr. Norwood's appeal, and also why the refund check was not sent until April 30, 2018.
51. On or about April 25, 2018, the April 2, 2018 letter sent to Respondent by certified mail was returned to sender due to it being unclaimed.
52. On or about April 28, 2018, Mr. Norwood sent correspondence noting that Respondent claimed he was retained on June 16, 2017, and Mr. Coles spoke with Mr. Norwood on July 28, 2017, about representation on all the criminal cases, so why would Respondent draft an Order substituting Counsel on June 12, 2017, for all of the cases forty days before the conversation occurred. A review of the accounting showed that the Order substituting Counsel was drafted on June 12, 2017.
53. Respondent failed to respond to the April 23, 2018 letter.

54. It did not appear that Respondent refunded the \$5,984.52 he indicated that was not earned, even after sending correspondence stating he was going to send the refund on April 30, 2018.
55. On or about May 25, 2018, a letter was sent by both certified and regular mail asking Respondent to address the charge for drafting a substitution order for a case wherein he did not represent Mr. Norwood, and for the due date of Mr. Norwood's appeal and the cause of the delay in sending the refund check. Respondent was given to June 4, 2018, to respond.
56. On or about June 22, 2018, the certified letter of May 25, 2018, from Disciplinary Counsel was returned to sender marked as unclaimed.
57. On or about July 3, 2018, Disciplinary Counsel obtained a subpoena for Respondent to appear for a sworn statement on August 8, 2018, which was served on July 12, 2018. Subsequently, Respondent obtained counsel and the sworn statement was rescheduled to August 27, 2018, and then rescheduled to November 1, 2018.
58. On or about August 9, 2018, Mr. Norwood provided correspondence indicating that neither he nor his mother had received the refund of the retainer payment.
59. On or about August 20, 2018, Respondent provided correspondence stating that, as a solo practitioner, he relies on the employees in his office to communicate with clients when he is in court or otherwise out of the office. Respondent said that he had problems maintaining a consistent staff presence in his office because of sporadic income in his office. Respondent stated that his ex-wife used to work in his office

when they were married and, after the divorce, she continued to work for another year in his office. Further, in 2016, Respondent hired Mitchell Coles as a paralegal for his office. Respondent said that Mr. Coles had a lot of client contact for Respondent, and he had access to everything in the office, except to withdraw money or signature authority on bank accounts. Respondent stated that he has since learned that Mr. Coles was untrustworthy and embezzled thousands of dollars from Respondent. Respondent said that he learned of the problems with Mr. Coles after he had an unanticipated surgery in 2018. Respondent related that he had various symptoms that impacted his ability to work. Respondent stated that prior to the surgery, he went through his calendar and continued any matters pending in May and June of 2018 due to his unavailability to work for several weeks. Respondent said that the plan was for Mr. Coles to manage office communications while Respondent was recuperating from his surgery.

60. On May 21, 2018, Respondent underwent surgery in both of his legs. After the surgery, Respondent was placed in the Intensive Care Unit. During the weekend after the surgery, Respondent said that Mr. Coles was arrested in Virginia and extradited to Pennsylvania and, therefore, he had no one to cover his office while he was recuperating from the surgery. Respondent related that it was discovered that Mr. Coles had multiple addresses and identities that he used to commit a wide variety of financial crimes, including welfare fraud charges in Raleigh County, West Virginia. Respondent stated that he was working with law enforcement to determine how much

money Mr. Coles had embezzled from his office, and had already determined that he took more than \$30,000.00 from Respondent. Further, Respondent said that he also determined that Mr. Coles, who is not an attorney, was operating a shadow law practice and meeting with potential clients. He said Mr. Coles would sometimes take money from the client, and then would not open the case file in Respondent's office. Respondent stated that he identified ten or more clients who had provided money to Mr. Coles for work performed by Respondent or work to be performed by Respondent, but the money was not deposited into Respondent's law firm account. Respondent said that he even ran into a friend over the last weekend who paid Mr. Coles \$5,000.00 for some work, but the money was never deposited into Respondent's law firm account. Respondent noted that he has provided *pro bono* work for the clients in the cases where he has discovered that the money was not deposited into his account.

61. Respondent said that after his surgery, he was unable to return to work immediately because he needed to recuperate and to go through physical therapy. Further, without Respondent at the office and with Mr. Coles having been arrested, there was no one to answer the telephone, take care of mail, or address any questions from clients who appeared at Respondent's office. Respondent stated that he had anticipated that Mr. Coles would handle matters until his return, but that did not happen. Respondent was able to slowly return to work in the latter part of June of 2018 and, when he returned

to his office, he found that someone had been in his office and bagged up a lot of his mail which included ethics complaints filed against him.

62. Regarding Mr. Norwood, Respondent indicated that he would address Disciplinary Counsel's questions about the substitution order, the appeal due date, and the refund after reviewing the records and file.
63. On or about September 2, 2018, Mr. Norwood filed correspondence indicating that while Respondent went through such challenges, Mr. Norwood is still facing issues with being able to fund his appeal because he never received a refund as promised.
64. At her September 7, 2018 sworn statement, Harmony Flora stated that Respondent falsified records documents sent to Mr. Norwood and created the invoice with time that was made up. Further, Mr. Coles was given responsibility regarding the bank accounts, and even opened an operating account at BB&T Bank after City National Bank stopped cashing checks. Ms. Flora said when she and Mr. Coles spoke with Respondent about what checks out of that account were for, and why funds were withdrawn, and Respondent's response was anger. Ms. Flora said she was present when Mr. Coles told Respondent about his criminal past, and this occurred a couple months after Mr. Coles started working there. Respondent responded that he was aware of Mr. Coles' past, and that it was not a problem. Further, Respondent was aware of the accounts Mr. Coles set up in Respondent's name as Respondent and Mr. Coles discussed it in front of her. Ms. Flora said she sent multiple emails to Respondent about concerns over bank statements, and that it appeared his ex-wife was

also taking money. Ms. Flora said any fraud that Mr. Coles may have committed, was done with Respondent's knowledge.

65. On or about September 26, 2018, Disciplinary Counsel sent Respondent a copy of Mr. Norwood's September 2, 2018 letter and asked Respondent to respond within twenty days of receipt of the letter.
66. At her October 25, 2018 sworn statement, attorney Denise Pettijohn, Esquire, stated that she spoke to Respondent about Mr. Coles holding himself out as an attorney. Further, a year or so before she left in September of 2017, she discussed the fact that Mr. Coles had a criminal history with Respondent. Ms. Pettijohn stated it was agreed that Mr. Coles had served his time, and he was competent in his job. Further, it was not a problem since Mr. Coles was not a signee on the bank accounts.
67. At his sworn statement on November 1, 2018, Respondent said that he maintained his IOLTA account at City National Bank since around 2007, and he did not maintain any other client trust accounts. Respondent stated when he would receive a flat fee, he would put the amount in the operating account or the IOLTA. Respondent said that he had been unable to get into the account to determine if he had funds for the refund for Mr. Norwood, and asserted that a former staff member had taken the amount of the refund. Respondent stated he is unable to determine if he pulled earned fees from his client trust account. Respondent said that he charged Mr. Norwood for preparation of pleadings in another case because it was work that he performed. Respondent stated that he "thinks" Mr. Norwood still had the ability to appeal the case when

Respondent stopped representing him, and Respondent still had not refunded the unused portion of the retainer. Respondent provided a copy of the client file at his sworn statement, and it had a copy of the \$8,000.00 check written by Valerie Norwood on May 24, 2017, and reflected a deposit into City National Bank on May 26, 2017.

68. Bank records were obtained from City National regarding Respondent's IOLTA account. A review of the IOLTA account does not show a deposit on May 26, 2017, for \$8,000.00, and only shows debits from the IOLTA account for that day. By the end of July of 2017, the IOLTA account held a negative balance.
69. On or about November 2, 2018, Respondent sent correspondence indicating that he was obtaining a forensic accountant to provide a report, and wanted extra time to obtain the report.
70. On or about November 15, 2018, Disciplinary Counsel informed Respondent that they would await the forensic accountant's report, but wanted proof that the accountant had been hired and an estimation of the time needed to complete the report.
71. On or about November 29, 2018, Mr. Norwood sent in correspondence asking again why he was charged for the substitution order, and why he was charged \$216.00 for Respondent to obtain his file in June of 2017, when the trial was not until September of 2017. Mr. Norwood indicated that he was still awaiting a refund of the retainer.
72. On or about December 4, 2018, Respondent provided the name of the accountant, Jessica Terry, and stated that she hoped to finalize the report in the next two weeks.

73. On or about December 12, 2018, Disciplinary Counsel sent Respondent a copy of Mr. Norwood's November 29, 2018 correspondence and asked him to respond within twenty days of receipt of the letter.
74. Respondent did not respond to the December 12, 2018 letter from Disciplinary Counsel.
75. On or about January 11, 2019, Disciplinary Counsel sent Respondent a letter by certified and regular mail asking him to respond to Mr. Norwood's November 29, 2018 letter, and gave him until January 22, 2019 to respond. The green card was signed for by Respondent's counsel on January 14, 2019.
76. On or about January 16, 2019, Disciplinary Counsel sent a letter to Respondent asking for the status of the report from the forensic accountant, and for Respondent to provide a response by January 30, 2019.
77. On or about January 22, 2019, Respondent sent a letter indicating that he had some recent medical issues and the holidays caused the response to be late. Respondent advised that the report from the forensic accountant was anticipated to be completed in the next week, and a copy would be provided to Disciplinary Counsel when it was received. Regarding Mr. Norwood, Respondent reiterated the \$8,000.00 retainer was for the criminal appellate matter and Mr. Norwood did not retain him for the other cases. Respondent said it was appropriate to issue a refund of \$216.00 for obtaining the file in a case that Respondent did not represent Mr. Norwood in. As for the refund to be issued on April 30, 2018, Respondent said it was in the middle of his health

problems, and now cannot find any record showing that the refund had been paid.

Respondent stated that he is unable to pay the refund in full, and would send a \$500.00 tomorrow as the initial payment of a \$6,000.00 refund.

78. On or about April 8, 2019, Respondent sent a letter indicating that an audit could not be completed due to missing records. Another accountant, Mark Collins, was retained to provide an agreed upon procedures report, and such report would be provided in June of 2019.
79. On or about September 11, 2019, Respondent submitted correspondence indicating that he had an additional surgery on May 21, 2019. Further, no charges have been filed against Mr. Coles due to the acts committed at Mr. Morgan's office, but welfare charges are still pending against him. Respondent said he has met with authorities about Mr. Coles, and has provided documentation about money people paid to Mr. Coles who thought they were retaining Respondent, but some of that has been difficult to obtain. Respondent noted Mr. Coles history of criminal crimes, but stated he had no knowledge of the criminal history when Mr. Coles was hired. Respondent also indicated that an audit could not be performed due to missing files and documents along with not being able to identify monies paid to Mr. Coles directly. Respondent said he was working with the accountant to identify problems with how his bank accounts were handled, and to correct those issues.
80. Regarding Mr. Norwood, Respondent said he paid Mr. Norwood's mother \$500.00, and intends to pay back a total of \$6,000.00. Respondent stated he sent a check to Mr.

Norwood for \$135.00 as previously mentioned, but the jail returned the check. Respondent indicated he was trying to figure out how to get that money to Mr. Norwood.

81. Because Respondent represented a client in a case for which Respondent did not obtain a written fee agreement, Respondent has violated Rule 1.5(b) of the Rules of Professional Conduct, as set forth in the appendix.
82. Because Respondent failed to hold client funds in an account designated as a “client’s trust account” and failed to keep complete records of the funds paid to him to represent Mr. Norwood, Respondent has violated Rule 1.15(a) of the Rules of Professional Conduct, as set forth in the appendix.
83. Because Respondent failed to place unearned fees into a client trust account and left earned fees in his client trust account, Respondent has violated Rule 1.15(c) of the Rules of Professional Conduct, as set forth in the appendix.
84. Because Respondent failed to provide the client file and failed to provide to refund any unearned fee or expense, Respondent has violated Rule 1.16(d) of the Rules of Professional Conduct, as set forth in the appendix.
85. Because Respondent misrepresented the state of the case, and wrongfully misappropriated and converted funds belonging to his client or third party, Respondent violated Rules 8.4(c) and 8.4(d) of the Rules of Professional Conduct, as set forth in the appendix.

86. Because Respondent provided false information regarding the accounting he provided, Respondent violated Rule 8.1(a) of the Rules of Professional Conduct, as set forth in the appendix.
87. Because Respondent failed to timely respond to Disciplinary Counsel's lawful requests for information on numerous occasions, he violated Rule 8.1(b) of the Rules of Professional Conduct, as set forth in the appendix.

COUNT III
I.D. No. 17-02-554
Complaint of Lori Ann McKinney

88. On November 7, 2017, Complainant Lori Ann McKinney filed a complaint against Respondent. In the complaint, she stated that she retained Respondent to represent her and her husband, Richard McKinney, on December 20, 2016, through his paralegal Mitchell Coles, for some criminal charges. Mrs. McKinney indicated that the retainer was \$5,000.00, with an additional \$300.00 monthly fee, for a total of \$10,000.00 at completion of the case.
89. Mrs. McKinney also stated that when another attorney decided not to continue to represent her and Mr. McKinney in a medical malpractice case after their arrest, she dropped off all the records from the case at Respondent's office in January of 2017.
90. Mrs. McKinney alleged Respondent did not do anything for her or her husband in court during several hearings. They denied knowing what they were signing regarding the plea agreement, and signed them just minutes before the plea hearing. Further,

Mrs. McKinney alleged Respondent lied in court about meeting with them outside of court.

91. Mrs. McKinney said that Respondent also never filed the medical malpractice case as he had promised, and that the statute of limitations on the medical malpractice case has now passed. Mrs. McKinney noted that she had paid \$5,900.00 of the \$10,000.00, and said that she was not paying any more.
92. On or about January 5, 2018, after receiving an extension to file his response, Respondent stated that he was retained by Mr. and Mrs. McKinney on December 20, 2016, to represent both of them on felony criminal charges of possession with the intent to deliver methamphetamine, delivery of methamphetamine, transportation of methamphetamine into the state, and conspiracy to deliver methamphetamine. Respondent stated that he was able to secure a plea agreement for Mr. McKinney to plead guilty to one count of possession with intent to deliver methamphetamine, with all remaining counts against him dismissed, and all counts against Mrs. McKinney were to be dismissed.
93. Respondent said that both Mrs. McKinney and Mr. McKinney agreed to the plea offer, and it was shown by his testimony at the plea hearing that Mr. McKinney was satisfied with Respondent's representation.
94. Regarding the medical malpractice case, Respondent stated that Mr. and Mrs. McKinney had discussed with him about representation in a medical malpractice case in Kentucky. Respondent said that he informed them that he was not licensed in

Kentucky, and that he would have to associate with an other attorney before he could represent them. Respondent stated that he did some preliminary research into the matter, and began looking for attorneys to associate with if he decided to take the case. Respondent said that he was unable to take the case because he received the October 2, 2017 letter from Mrs. McKinney, which was the ethics complaint in this matter. Respondent moved to withdraw from Mr. McKinney's case, and the same was granted by the court. Respondent said that he did not take any further action regarding the medical malpractice case.

95. On or about February 13, 2018, Disciplinary Counsel sent Respondent a letter asking him when did he first receive the information about the medical malpractice from Mrs. McKinney, when did he start looking for counsel in Kentucky, and to provide an accounting of the work he performed for the McKinneys in the criminal matter. Respondent was given twenty days to respond.
96. On or about February 20, 2018, Mrs. McKinney filed a reply and reiterated the allegations in her complaint. Mrs. McKinney said that since January of 2017, Respondent told her that he was going to file her husband's medical malpractice claim. In September of 2017, Mrs. McKinney stated that she learned from a Kentucky lawyer that the statute of limitations in Kentucky is one year, as her husband was injured in Kentucky, and the date of the injury was August 4, 2016.
97. Respondent did not respond to Disciplinary Counsel's February 13, 2018 letter.

98. On or about April 2, 2018, Disciplinary Counsel sent a letter by certified and regular mail to Respondent regarding the February 13, 2018 letter, and gave him until April 12, 2018 to respond.
99. On or about April 12, 2018, Respondent provided additional correspondence wherein he stated that he began looking for Kentucky counsel in April of 2017, as Mrs. McKinney provided the information about the medical malpractice case on March 30, 2017. Respondent said that he could not provide an accounting for the work he performed for Mrs. McKinney and her husband, but noted that they were on a monthly payment plan for the retainer. Respondent said that Mrs. McKinney stopped making payments prior to filing the ethics complaint. Respondent stated that when he located the file, he would finalize the accounting statement and provide it to the ODC.
100. On or about April 23, 2018, Disciplinary Counsel wrote to Respondent inquiring about the statute of limitations for a medical malpractice case in Kentucky, along with the accounting and requesting copy of the fee agreements for the criminal and medical malpractice cases.
101. On or about April 25, 2018, the certified April 2, 2018 letter sent to Respondent was returned to sender due to being unclaimed.
102. Respondent failed to respond to the April 23, 2018 letter from Disciplinary Counsel.
103. On or about May 25, 2018, Disciplinary Counsel sent a letter by certified and regular mail to Respondent regarding the April 23, 2018 letter, and gave him until June 4, 2018 to respond.

104. On or about June 25, 2018, the certified letter sent to Respondent on May 25, 2018 was returned to sender due to being unclaimed.
105. On or about July 3, 2018, Disciplinary Counsel obtained a subpoena for Respondent to appear for a sworn statement on August 8, 2018, which was served on July 12, 2018. Subsequently, Respondent obtained counsel and the sworn statement was rescheduled to August 27, 2018, and then rescheduled to November 1, 2018.
106. At his July 17, 2018 sworn statement, Denney Bostic stated that he explained the plea agreement to the McKinneys.
107. At her September 7, 2018 sworn statement, Harmony Flora stated that only Mr. Bostic met with the McKinneys.
108. On or about August 20, 2018, Respondent filed additional correspondence and Paragraphs 59-61, *supra*, are incorporated herein by reference.
109. Regarding the McKinneys, Respondent said he could not find the McKinneys' criminal file and denied agreeing to represent them in the medical malpractice case. Respondent said he could not provide an accounting without the criminal file, but would review his office's computer data. Respondent stated he did consult with other attorneys licensed in Kentucky to see if they were interested in the case, but all responses were in the negative.
110. On August 30, 2018, Mrs. McKinney sent a letter indicating that she had no knowledge of any person named Mitchell Coles doing anything inappropriate. Mrs. McKinney said Respondent's denial of any agreement to take on the medical

malpractice case was false. Mrs. McKinney also stated that Respondent failed to file the necessary documents with probation for alternative sentencing to be an option.

111. At his sworn statement on November 1, 2018, Respondent stated he had a lot of involvement in the McKinneys case, and both had indicated at a plea hearing that they were satisfied with his representation. Respondent maintained he went reviewed the plea agreement with them, and that he had indicated to them that he would look into the Kentucky medical malpractice case. Respondent admitted that he did not research the medical malpractice issue, and then stopped working on the medical malpractice case after receiving the ethics complaint even though the statute of limitations in Kentucky on those type of cases is one year and the ethics complaint was filed more than a year after the accident. Respondent further admitted that he never told the McKinneys that he was not going to handle the medical malpractice case. Respondent said that he cannot find the McKinney's criminal and/or medical malpractice file, and has cannot provide an accounting of the work he performed as now he no longer has access to computer program that contained the information.

112. On or about September 11, 2019, Respondent submitted correspondence indicating he could not find the McKinney's files. However, Respondent found his appointment calendar, that he provided a copy of, that showing appointments and hearings in their cases.

113. Because Respondent failed to act diligently and failed to expedite litigation in handling the McKinney's medical malpractice case allowing the statute of limitations

to expire, Respondent has violated Rules 1.3, 3.2, 8.4(c) and 8.4(d) of the Rules of Professional Conduct, as set forth in the appendix.

114. Because Respondent, himself, failed to keep communicate with the McKinnys about their plea agreement and the medical malpractice case, Respondent has violated Rule 1.4(b) of the Rules of Professional Conduct, as set forth in the appendix.
115. Because Respondent failed to keep complete records of the funds paid to him to represent the McKinnys, Respondent has violated Rule 1.15(a) of the Rules of Professional Conduct, as set forth in the appendix.
116. Because Respondent failed to provide the client file, Respondent has violated Rule 1.16(d) of the Rules of Professional Conduct, as set forth in the appendix.

COUNT IV
I.D. No. 17-05-574
Complaint of Wanda M. Tallman

117. Complainant Wanda M. Tallman filed her ethics complaint against Respondent on or about November 7, 2017. Ms. Tallman stated that her granddaughter, Stephanie Parkin, hired Respondent to represent her. Ms. Tallman said that she paid Respondent a \$500.00 retainer fee from her own personal checking account. About a month later, in June of 2017, Connie S. Parkin, Ms. Tallman's daughter, asked Ms. Tallman for a credit card check for \$3,000.00 to pay to Respondent. Ms. Tallman provided a copy of the June 22, 2017 check written from her account to Respondent for \$3,000.00, and Respondent's signature appeared on the back of the check. Ms. Tallman stated that Respondent has done no work in the case, and he never made any contact with her.

Ms. Tallman said that she attempted to stop payment on the credit card check, but could not do so without providing a contract from Respondent. Ms. Tallman wanted a full refund of the \$3,500.00 paid to Respondent.

118. On or about November 30, 2017, Respondent was sent a copy of the ethics complaint along with a letter informing him to file a verified response to the complaint within twenty days of receipt of the letter.
119. On or about January 5, 2018, Respondent filed a response. Respondent stated that he was retained by Stephanie Parkin, the granddaughter of Ms. Tallman, to represent Stephanie Parkin in a family court matter in Summers County, West Virginia, on or about June 1, 2017. Respondent said that the retainer agreement was for \$3,500.00, and Stephanie Parkin indicated to him that she was going to ask family for help to pay the retainer. Respondent stated that he was not aware of the specific agreement(s) between Stephanie Parkin and her family. Respondent denied ever representing Ms. Tallman. Respondent noted that Stephanie Parkin has informed him that she is satisfied with his representation, and wants him to continue representing her. Respondent said that Stephanie Parkin also advised him that she was not seeking any refund of the monies paid to him. Respondent stated that Ms. Tallman is not his client, and he owes no duty to her.
120. On or about February 9, 2018, Ms. Tallman filed a reply, stating that she never had an agreement with Respondent to retain his legal services, but her granddaughter, Stephanie Parkin, had reached out to him. Ms. Tallman said that she never met with

Respondent to discuss the legal representation and she never received a receipt for any payment. Ms. Tallman noted that Respondent made multiple promises to Ms. Parkin that her daughter would be reunited with her after the first hearing, but that did not happen. Further, Ms. Parkin is no longer receiving legal services from Respondent and is now being represented by court appointed counsel. Ms. Tallman again requested a full refund of the \$3,500.00. In another letter received on February 20, 2018, from Ms. Tallman, she stated that when Ms. Parkin cursed at her, she tried to cancel the check, and even tried to cancel Respondent's services, but he refused to do so. Ms. Tallman stated that Respondent told Ms. Parkin to plead guilty in order to get a court appointed attorney and, therefore, she did not know what the money she paid was used for in the case.

121. On or about February 23, 2018, a letter was sent to Respondent asking him to answer whether he received the checks directly from Ms. Tallman, and to provide an itemization of the work he performed in the case, within twenty days of receipt of the letter.
122. Respondent failed to respond to the February 23, 2018 letter.
123. On or about April 2, 2018, by certified and regular mail, a letter was sent to Respondent again asking about his receipt of the checks and an itemization. Respondent was given until April 12, 2018, to file his response.
124. On or about April 12, 2018, Respondent provided additional correspondence wherein he indicated that he never accepted any type of payment from Ms. Tallman for Ms.

Parkin. Respondent further noted that he “had no dealings, agreements, or communication with” Ms. Tallman. Respondent stated that he received the \$3,500.00 retainer payment from Ms. Parkin. Respondent said that Ms. Parkin’s case was still pending in family court after the abuse and neglect case concluded before the circuit court. While the response indicated that an itemization was attached, no itemization was attached.

125. On or about April 23, 2018, a letter was sent to Respondent advising him that the itemization was not attached to his April 12, 2018 letter, and again asked for a copy of the itemization within twenty days of receipt of the letter.
126. On or about April 25, 2018, the certified letter sent to Respondent on April 2, 2018 was returned to sender due to it being unclaimed.
127. Respondent failed to respond to the April 23, 2018 letter.
128. On or about May 25, 2018, by certified and regular mail, a letter was sent to Respondent asking for a copy of the itemization. Respondent was given until June 4, 2018 to file his response.
129. On or about June 25, 2018, the certified letter sent to Respondent on May 25, 2018 was returned to sender due to it being unclaimed.
130. On or about July 3, 2018, Disciplinary Counsel obtained a subpoena for Respondent to appear for provide a sworn statement on August 8, 2018, which was served on July 12, 2018. Subsequently, Respondent obtained counsel and the sworn statement was rescheduled to August 27, 2018, and then rescheduled to November 1, 2018.

131. On or about August 6, 2018, Lonnie C. Simmons, Esquire, filed a Notice of Substitution of Counsel indicating he was representing Respondent in this case.
132. On or about August 20, 2018, Respondent filed additional response. Paragraphs 59-61 are incorporated herein by reference.
133. Regarding Ms. Tallman, Respondent noted that ODC had informed him about the itemization not being provided and stated that his review of the client file did not show the itemization. Respondent indicated that he was going to review his computer records in an attempt to provide the itemization.
134. On or about September 13, 2018, Complainant filed an additional reply wherein she said that her granddaughter, Stephanie Parkin, denied that Respondent performed any services for her after he received the check, and she ended up with a court appointed attorney. Complainant did not think Respondent had the right to take her money, even though he apparently has had money embezzled from him.
135. On or about September 25, 2018, Stephanie Parkin, filed correspondence wherein she indicated that she had her child kept away from her by her boyfriend's mother and had a Protective Order filed against her. Ms. Parkin stated that she consulted with Respondent and hired him to represent her to obtain custody of her child for a total of \$3,500.00, which would cover representation in both the protective Order and custody of her daughter. Ms. Parkin said that Complainant, her grandmother, wrote a \$500.00 check to Respondent at the first hearing, and then provided a credit card check for \$3,000.00 before the second hearing. Ms. Parkin stated that Respondent was

late for both hearings, and all of the parties had to wait for him to begin the hearing. Stephanie Parkin said Respondent did nothing in her case after Child Protective Services became involved, and that she only saw him at the initial consultation and the two hearings. Ms. Parkin wanted the \$3,500.00 returned to Complainant.

136. At his sworn statement on November 1, 2018, Respondent stated that the \$3,500.00 was for a Domestic Violence Protective Order that was going to become a child custody case, and that money was deposited into the his IOLTA account with City National Bank. Respondent said the case became an abuse and neglect case, and Ms. Parkin had a court appointed attorney for that case. Respondent said he was “fairly sure it was a check from Ms. Tallman made out to [him].” Respondent said he attended a DVP hearing with Ms. Parkin, and there was more than one hearing in that case. Respondent noted that the case was not over, as the child custody issue was in limbo until the abuse and neglect case was completed. When questioned about the itemization, Respondent said that he would have to use his Quickbooks and that he did not have it on paper.

137. At his sworn statement, Respondent provided his client file for Ms. Parkin, and no itemization or fee agreement was found in the client file. The client file contained a Notice of Appearance that Respondent filed in Summers County Family Court for an unknown family court case number and Magistrate Case No. 17-M45D-00030 on or about May 31, 2017. There also was a copy of check written to Morgan & Associates dated May 30, 2017, for \$50.00 from John and Constance Parkin, and a copy of

Stephanie Parkin's driver's license was on the same page. On or about August 2, 2017, a \$200.00 check was written from Respondent's operating account to the Summers County Circuit Clerk and the memo line contained the word "Parkin." A receipt reflecting a June 1, 2017 payment of \$500.00 for Stephanie Parkin labeled as "legal services/retainer payment" by check and by "given to [Respondent] in summers Co. Fam. Ct."

138. Further, in July of 2018, Disciplinary Counsel subpoenaed Respondent's bank account records from City National Bank regarding his IOLTA account. It is unclear whether the \$3,000.00 check and the \$500.00 check were deposited into the account by the end of June of 2017, but the IOLTA account was in a negative balance by July of 2017, and only reflected \$35.43 in August of 2017.
139. Because Respondent charged Ms. Parkin for preparation of pleadings in a case for which Respondent did not obtain a written fee agreement, Respondent has violated Rule 1.5(b) of the Rules of Professional Conduct, as set forth in the appendix.
140. Because Respondent failed to hold client funds in an account designated as a "client's trust account" and failed to keep complete records of the funds paid to him to represent Ms. Parkin, Respondent has violated Rule 1.15(a) of the Rules of Professional Conduct, as set forth in the appendix.
141. Because Respondent failed to place unearned fees into a client trust account and left earned fees in his client trust account, Respondent has violated Rule 1.15(c) of the Rules of Professional Conduct, as set forth in the appendix.

142. Because Respondent failed to provide the client file and failed to provide to refund any unearned fee or expense, Respondent has violated Rule 1.16(d) of the Rules of Professional Conduct, as set forth in the appendix.
143. Because Respondent failed to timely respond to Disciplinary Counsel's lawful requests for information on numerous occasions, he violated Rule 8.1(b) of the Rules of Professional Conduct, as set forth in the appendix.
144. Because Respondent wrongfully misappropriated and converted funds belonging to his client or third party, Respondent violated Rules 8.4(c) and 8.4(d) of the Rules of Professional Conduct, as set forth in the appendix.

COUNT V
I.D. No. 18-03-081
Complaint of Denney W. Bostic

145. Complainant Denney W. Bostic filed his ethics complaint on or about March 7, 2018. In it, he alleged that Respondent, who was his former employer, had committed theft, fraud and embezzlement by converting funds that were due to him, or to be paid on his behalf for federal income taxes, Social Security taxes and health insurance. Mr. Bostic stated that monies had been withheld from his paycheck, but were never paid to the appropriate agencies. Mr. Bostic said he has some documentation to prove his claim and that he also suspected that his state income taxes to West Virginia had not been paid, but he had yet to see any documentation on that issue.
146. Mr. Bostic alleged that Respondent asked him to file pleadings in cases that he believed to be frivolous at best, or a fraud upon the court at worst. Mr. Bostic stated

- that he saw Respondent take \$2,500.00 in cash from a client and pocket the money without providing a receipt, then later told office staff that the client did not pay him.
147. Mr. Bostic said that Respondent refused to do the day to day things that a good lawyer should do, and that he lied to his clients and staff about all matters. Mr. Bostic said Respondent never took responsibility for his missteps, but instead blamed his staff.
148. Mr. Bostic said that Respondent has a “phantom” Charleston office, but has told the City of Charleston that he has no office when it was requested that he pay user fees to the City. Mr. Bostic provided a copy of Respondent’s letterhead, which shows both a Charleston and Lewisburg office. He indicated that the telephone number listed for Charleston was a cell phone number of Respondent’s ex-wife, Tina O’Neil (formerly Tina Morgan).
149. Mr. Bostic stated that Respondent wrote him a bad check for his salary on January 12, 2018, drawn on City National Bank. He said that the check could not be cashed at City National Bank, and the only way they would stamp it as void or rejected was if he processed it through his personal bank account. Mr. Bostic said he would not do so because he would incur fees from his bank for a bad check. Mr. Bostic said he returned to the office and was given a 2nd payroll check, drawn on BB&T, and he was able to cash that check.
150. Mr. Bostic stated that Mr. Morgan refused to pay the \$2,142.76 on his health insurance that was past due, and he provided a January 9, 2018 letter from Healthmark WV advising him that his health insurance had been terminated. He said he was also

notified that he was responsible to pay for the one month grace period premium that had been extended before the policy was cancelled. Mr. Bostic said Respondent also failed to pay workers' compensation premiums for him and a former employee, and he provided a copy of a January 10, 2018 letter from the Offices of the Insurance Commissioner which threatened to pull Respondent's business license for non-payment of mandatory fees. Mr. Bostic also provided a copy of an IRS notice sent to Respondent about having unpaid taxes for September 30, 2017, with the amount due of \$10,583.56. Mr. Bostic said that a portion of that amount represents money withheld from his pay, but that the money was instead converted to personal use by Respondent. In addition, Mr. Bostic provided a copy of a statement from the West Virginia State Tax Department sent to Respondent which showed an amount of taxes due of \$18,751.80, from the end of 2015 to the end of September 2017. Mr. Bostic believed that these were funds that should have been paid on his behalf as well.

151. Mr. Bostic stated that on March 2, 2018, Respondent wrote him a payroll check on the BB&T account, and the bank did not honor the check on that date. Mr. Bostic tried again to cash the payroll check on March 3, 2018, but again the bank would not honor the check. Mr. Bostic stated that he repeatedly requested a copy of his payroll withholding statements for the entire month of February 2018, and also for the March 2, 2018 check, but never received these documents. Mr. Bostic believed that funds had also not been paid to the proper agencies as required by law.

152. By letter dated January 4, 2018, Mr. Bostic wrote to law enforcement officers in Lewisburg to inform them of Respondent's alleged criminal activity regarding the payroll issues. Mr. Bostic sent a second letter on March 3, 2018, regarding the bounced payroll check.
153. On or about March 9, 2018, Respondent was sent a copy of the ethics complaint along with a letter directing him to file a verified response to the complaint within twenty days of receipt of the letter.
154. Respondent failed to file a response.
155. On or about April 18, 2018, by certified and regular mail, a letter was sent to Respondent asking him to respond to Mr. Bostic's complaint by April 29, 2018. The green card was signed for by Mr. Coles on April 23, 2018.
156. On or about April 30, 2018, Respondent requested an extension to file his response due to medical issues. By letter from ODC dated May 22, 2018, an extension was granted to June 5, 2018.
157. On or about June 21, 2018, Respondent called to inform ODC that he had been in the hospital and would have the response out the next week.
158. On or about July 3, 2018, Disciplinary Counsel obtained a subpoena for Respondent to appear for a sworn statement on August 8, 2018, which was served on July 12, 2018. Subsequently, Respondent obtained counsel and the sworn statement was rescheduled to August 27, 2018, and then rescheduled to November 1, 2018.

159. On or about July 17, 2018, Mr. Bostic's sworn statement was taken. Mr. Bostic admitted he was a disbarred attorney after he consented to such due to criminal issues involving embezzlement. Respondent represented Mr. Bostic in that criminal matter, and when Respondent needed somebody to work at his office, he hired Mr. Bostic as the senior paralegal. Mr. Bostic stated Respondent took \$2,500.00 in cash from client Kenneth Cutlip, without giving a receipt, and then continued to bill the client. When Mr. Cutlip called the office about the issue, Mr. Bostic told him to not pay any more money. Another instance involved Respondent taking cash from a client seeking to have his gun rights restored, even though Mr. Bostic believed caselaw in West Virginia did not allow the gun rights to be restored. When Mr. Bostic told Respondent about current caselaw, Respondent said he could not tell the client that because he already took the money. The case was still at Respondent's office when Mr. Bostic left Respondent's employment. Mr. Bostic said he refused to meet with clients at the jail because such meetings would not be protected by attorney client privilege.
160. Mr. Bostic stated Respondent's letterhead showing a Lewisburg and a Charleston office was false, because it was an empty office in Charleston, West Virginia. When Mr. Bostic had to meet with a client there, there was a disconnected telephone and computer. When the City of Charleston wanted user fees from Respondent, he denied having an office in Charleston. Mr. Bostic said Respondent only had one associate working for him for a time, but not when he left, even though Respondent's law office remained "E. Lavoyd Morgan, Jr. and Associates, LLC" when no other attorney

worked there. Mr. Bostic had a paycheck from Respondent dated March 2, 2018 which contained the name of "E. Lavoyd Morgan, Jr. and Associates."

161. Mr. Bostic provided a copy of the Criminal Complaint: Worthless Check that he filed against Respondent on March 15, 2018 in Greenbrier County, West Virginia Magistrate Court.
162. On or about August 20, 2017, Respondent filed additional correspondence. Paragraphs 59-61, *supra*, are incorporated herein by reference. Respondent also denied Mr. Bostic's allegations.
163. At her September 7, 2018 sworn statement, Harmony Flora stated Respondent took \$2,500.00 in cash from client W.H. to restore his gun rights, and after she spoke with Mr. Bostic, she learned that a felon could not have his gun rights restored. Nevertheless, Respondent told Mr. Handy guaranteed restoration of the gun rights by Thanksgiving to Mr. H., but he never filed anything. Ms. Flora said the money was not refunded to Mr. Handy during her employment with Respondent. Ms. Flora was aware that the Charleston office did not exist, even though it was included on all law firm advertising. Ms. Flora stated she received a bad check from Respondent for her salary, and that it happened on more than one occasion. While she received notices that her health insurance was not paid, it was eventually paid. Ms. Flora said she understood Respondent's policy for workers' compensation was going to be cancelled for failure to pay. Further, she stated that Respondent worked at "E. Lavoyd Morgan, Jr. and Associates" by himself, without any other attorney at times. Ms. Flora talked

- about a client named Suzie Jenkins who hired Respondent to represent her in an annexation and waste disposal issue. Ms. Flora was aware Ms. Jenkins paid almost \$13,000.00, and part of that, \$3,000.00, was for a federal appeal that was never filed.
164. At her October 25, 2018 sworn statement, Denise Pettijohn, Esquire stated that Respondent's law office went by "Morgan and Associates," and she was unaware of any associate working there at the time.
165. At his sworn statement on November 1, 2018, Respondent said Mr. Bostic exaggerated the work he performed in court appointed cases. Respondent said he had an office in Charleston at one time. Respondent admitted to bouncing Mr. Bostic's last paycheck. Respondent also admitted Mr. Bostic's health insurance coverage was terminated at one point. As of the date of the sworn statement, Respondent said his workers' compensation premiums were paid up, but he admitted to owing both state and federal taxes. Respondent said that he understood the paycheck that bounced for Mr. Bostic was eventually paid.
166. Bank records from BB&T for account entitled "E. Lavoyd Morgan, Jr. & Associates, LC" appears to be an operating account. There were several checks written from the account to employees for paychecks and deposits made from Attorney Finance Corporation, which is money from work performed in PDS cases. There were also deposits which appear to be retainer fees.

167. Because Respondent failed to hold client funds in an account designated as a “client’s trust account”, Respondent has violated Rule 1.15(a) of the Rules of Professional Conduct, as set forth in the appendix.
168. Because Respondent failed to place unearned fees into a client trust account, Respondent has violated Rule 1.15(c) of the Rules of Professional Conduct, as set forth in the appendix.
169. Because Respondent uses “and Associates” in the title of his law office when he is the only attorney in his office, Respondent has violated Rule 7.5 of the Rules of Professional Conduct, as set forth in the appendix.
170. Because Respondent failed to timely respond to Disciplinary Counsel’s lawful requests for information on numerous occasions, he violated Rule 8.1(b) of the Rules of Professional Conduct, as set forth in the appendix.
171. Because Respondent failed to pay state and federal taxes, and failed to pay his workers’ compensation premiums, all in violation of law, Respondent violated Rule 8.4(b) of the Rules of Professional Conduct, as set forth in the appendix.
172. Because Respondent provided a worthless check, in violation of law, Respondent violated Rules 8.4(b) and 8.4(d) of the Rules of Professional Conduct, as set forth in the appendix.

COUNT VI
I.D. No. 18-05-236
Complaint of Evelyn G. Lewis

173. Complainant Evelyn G. Lewis filed her ethics complaint against Respondent on or about June 8, 2018. Ms. Lewis filed for divorce on June 9, 2017, and hired Respondent to handle her case. Ms. Lewis said that she paid \$3,500.00 for the representation to Mitchell Coles, a representative of Respondent's office.
174. Ms. Lewis stated that she continually asked Mr. Coles about how the status of her case, in particular about the property appraisal and a court date. Ms. Lewis said that the first appraiser was Tim Helmick, but she and Respondent's office were unable to contact him. When Ms. Lewis contacted a second appraiser, Hodges Appraisal Group, they indicated to Ms. Lewis that they refuse to do appraisals for Respondent's office. Ms. Lewis stated that she has not received any information about a court hearing, even though she had been told by Mr. Coles that it would be set soon. Ms. Lewis said that when she went to Respondent's office on May 21, 2018, to meet with Mr. Coles, there was only a temporary officer worker there and that the worker did not see any scheduled events for her case. Attempts by the worker to contact Mr. Coles were unsuccessful.
175. Ms. Lewis stated that Respondent's office had been closed since May 22, 2018, and she wanted a refund of what she paid to Respondent.

176. By letter dated June 28, 2018, Respondent was sent a copy of the ethics complaint and directed him to file a verified response to the complaint within twenty days of receipt of the letter.
177. Respondent failed to file a response.
178. On or about July 3, 2018, Disciplinary Counsel obtained a subpoena for Respondent to appear for a sworn statement on August 8, 2018, which was served on July 12, 2018. Subsequently, Respondent obtained counsel and the sworn statement was rescheduled to August 27, 2018, and then rescheduled to November 1, 2018.
179. On or about July 20, 2018, by certified and regular mail, a letter was sent to Respondent asking him to respond to Ms. Lewis' complaint by July 30, 2018.
180. On or about July 24, 2018, Ms. Lewis filed additional correspondence, and alleged that she had stopped receiving support checks as ordered at her temporary hearing on November 21, 2017. The last check was received in April of 2018. Ms. Lewis stated that she never received any information from Respondent or his office about his office closing, and other than a notice on the office door indicating that the office was closed.
181. Ms. Lewis also said she asked for an itemized list of the services performed by Respondent's office, but received nothing in return. Ms. Lewis said that she had requested a copy of her divorce "papers" on multiple occasions from Mr. Coles, and even though he indicated that she would receive them, she never did. Ms. Lewis said

- she finally went to the courthouse to get a copy of the documents, and the \$1.00 fee per sheet was waived, as it would be sent to Ms. Lewis' new attorney.
182. Ms. Lewis stated her divorce "papers" from June 5, 2017, indicated that she would receive half of the funds taken from a joint account, but that never happened.
183. On or about August 6, 2018, Lonnie C. Simmons, Esquire, filed a Notice of Substitution of Counsel indicating that he was representing Respondent in this case.
184. On or about August 7, 2018, Respondent was sent Ms. Lewis' July 24, 2018 letter and asked to respond within twenty days of receipt of the letter.
185. On or about August 20, 2018, the certified mail sent to Respondent on July 20, 2018, was returned to sender marked as unclaimed, unable to forward. The regular mail letter was never returned to ODC.
186. On or about August 20, 2018, Respondent filed additional correspondence. Paragraphs 59-61, *supra*, are incorporated herein by reference.
187. Regarding Ms. Lewis, Respondent said that he could not find her client file, but did remember filing a divorce petition for her. Respondent alleged the client file was missing due to Mr. Coles' actions, but said he was going to recreate the file from the pleadings filed in court, and he planned to contact Ms. Lewis to see how she wants to proceed.
188. On or about August 23, 2018, Disciplinary Counsel wrote Ms. Lewis about whether she paid Mr. Coles the \$3,500.00 in cash or check, and to provide either a copy of the check or a receipt for cash.

189. On or about August 24, 2018, Ms. Lewis responded that she wrote a check out to Mr. Coles at his direction, and that she had misplaced the bank statement when she moved. Ms. Lewis noted that she asked for an itemization of the work performed in her case, and for a refund of any remaining money and never received an answer. In additional correspondence dated September 1, 2018, Ms. Lewis said she filed for divorce of June 9, 2017, and nothing was done on her case until November 21, 2017. It was then that a temporary hearing was held, and she was to receive half of her husband's retirement income, but she only received checks until April of 2018. Ms. Lewis did not know why Respondent did not take any action in her case prior to his health problems. Ms. Lewis also noted that she had not been contacted by Respondent despite his last correspondence indicating such. Ms. Lewis provided a copy of a check she wrote to Mr. Coles for \$3,500.00 on June 2, 2017, which indicated it was for a retainer fee.
190. On or about September 6, 2018, Elizabeth Ann Good, who worked for Respondent, appeared for a sworn statement. She stated Mr. Coles returned the client files he had, and from her understanding, all of the files were returned to Respondent.
191. At his sworn statement on November 1, 2018, Respondent recalled speaking with Ms. Lewis and said he would have to get into his Quickbooks to get an accounting of the work. Respondent said it would be normal for clients to speak with Mr. Coles for requests of a client file or an accounting. Respondent stated that he "wrongfully trusted" Mr. Coles. Respondent also noted that he never gave him instruction because

Mr. Coles appeared to be an experienced paralegal. Respondent did not recall speaking with Ms. Lewis about issues after the temporary hearing. Respondent said it was Mr. Coles' signature on the back of Ms. Lewis' check for the retainer fee, and he was unaware if the money had been deposited into his trust account. Respondent stated that he did not keep track of money coming in and out of his trust account, and acknowledged that he is responsible for his bank accounts. Respondent had a small client file for Ms. Lewis, which contained a few letters and a couple of pleadings from the case.

192. Bank records from City National Bank for the account entitled "The West Virginia State Bar E. Lavoyd Morgan Jr & Associates LC," do not show a deposit of \$3,500.00, although there was a deposit of \$32,500.00 on June 27, 2017. It is unclear if Ms. Lewis' check would have been included in that deposit, but the check was not written out to Respondent. Further, the IOLTA account was in a negative balance by July of 2017, and only reflected a balance of \$35.43 in August of 2017.
193. On or about January 4, 2019, Ms. Lewis sent correspondence indicating that Respondent had told her that he lost the information she had provided to Mr. Coles.
194. On or about September 11, 2019, Respondent submitted correspondence indicating Ms. Lewis was being represented by Matthew Fragile, Esquire.
195. Because Respondent failed to keep the client reasonably informed about the status of the case, and failed to promptly comply with reasonable requests for information,

Respondent violated Rule 1.4(a) of the Rules of Professional Conduct, as set forth in the appendix.

196. Because Respondent failed to hold client funds in an account designated as a “client’s trust account” and failed to keep complete records of the funds paid to him, Respondent has violated Rule 1.15(a) of the Rules of Professional Conduct, as set forth in the appendix.
197. Because Respondent failed to provide a full accounting upon request of the client, Respondent has violated Rule 1.15(d) of the Rules of Professional Conduct, as set forth in the appendix.
198. Because Respondent failed to provide the client file and failed to provide to refund any unearned fee or expense, Respondent has violated Rule 1.16(d) of the Rules of Professional Conduct, as set forth in the appendix.
199. Because Respondent failed to timely respond to Disciplinary Counsel’s lawful requests for information on numerous occasions, he violated Rule 8.1(b) of the Rules of Professional Conduct, as set forth in the appendix.

COUNT VII
I.D. No. 18-05-240
Complaint of Todd W. Clutter

200. On or about June 11, 2018, Complainant Todd W. Clutter filed an ethics complaint against Respondent. Mr. Clutter hired Respondent and paid him a \$9,000.00 retainer to represent Mr. Clutter and his wife in four cases. Mr. Clutter said that Respondent appeared to be under the influence of alcohol, and failed to represent them properly.

Specifically, Mr. Clutter said Respondent failed to appear at two hearings, which resulted in them being evicted from their property. Mr. Clutter said that Respondent had informed opposing counsel and the magistrate that he would not be at the hearing due to having surgery, but that he never told them. The magistrate rescheduled the hearing, and Mr. Clutter stated that he told the magistrate that he was terminating Respondent as his counsel.

201. Mr. Clutter asserted that his attempts to contact Respondent were unsuccessful, and Respondent's office was closed when he went there to speak to Respondent. Mr. Clutter said that Respondent has also not returned their money or their client file which he needs because it contained important information, such as receipts, and to provide to his new counsel. Mr. Clutter noted he and his wife are disabled, and live on a fixed income. Further, his wife is ill, and they have medical bills to pay, so the loss of the \$9,000.00 has been extremely difficult for them.
202. On or about June 28, 2018, Respondent was sent a copy of the ethics complaint along with a letter informing him to file a verified response to the complaint within twenty days of receipt of the letter.
203. Respondent failed to file a response.
204. On or about July 3, 2018, Disciplinary Counsel obtained a subpoena for Respondent to appear for a sworn statement on August 8, 2018, which was served on July 12, 2018. Subsequently, Respondent obtained counsel and the sworn statement was rescheduled to August 27, 2018, and then rescheduled to November 1, 2018.

205. On or about July 20, 2018, by certified and regular mail, a letter was sent to Respondent asking him to respond to Mr. Clutter's complaint by July 30, 2018.
206. On or about August 6, 2018, Lonnie C. Simmons, Esquire, filed a Notice of Substitution of Counsel indicating that he was representing Respondent in this case.
207. On or about August 20, 2018, the certified mail sent to Respondent on July 20, 2018 was returned to sender marked as unclaimed, unable to forward. The regular mail letter was never returned to ODC.
208. On or about August 20, 2018, Respondent filed additional correspondence. Paragraphs 59-61, *supra*, are incorporated herein by reference.
209. Respondent stated that Mr. Clutter's unsuccessful attempts to make contact occurred when he was recuperating from his surgery. Respondent said he had since been in contact with Mr. Clutter, represented him and his wife in several hearings, and believed any communication and other issues were now resolved.
210. In additional correspondence dated October 26, 2018, Respondent stated that he had communicated with Mr. Clutter and his wife almost daily, and they are satisfied with his representation.
211. At his sworn statement on November 1, 2018, Respondent admitted to missing two hearings for Mr. and Mrs. Clutter, not for medical issues, but said it was due to him not being aware of the hearings. Respondent further admitted that it was correct that his office was closed for a time and the telephone was shut off. Respondent stated that he did not inform clients about his medical issues. Respondent denied that Mr. Clutter

asked for his client file. Respondent said he does not have an accounting because he cannot get into Quickbooks. Respondent indicated Mr. and Mrs. Clutter were not asking for their fees back, and that he would not charge any additional fees. Respondent said Mr. and Mrs. Clutter's cases were still ongoing.

212. Because there is no clear date when Mr. Clutter paid the \$9,000.00 to Respondent, the bank records from City National Bank for the account entitled "The West Virginia State Bar E. Lavoyd Morgan Jr & Associates LC," are not helpful beyond the fact that the IOLTA account was in a negative balance by July of 2017, and only reflected the exact balance of \$188.06 from November of 2017 until July 31, 2018.
213. Bank records from BB&T for the account entitled "E. Lavoyd Morgan, Jr. & Associates, LC" appears to be an operating account. Mr. Clutter's January 18, 2018 check for \$205.00, his February 1, 2018 check for \$1,400.00, and his March 9, 2018 retainer check for \$2,500.00 were all deposited into this account.
214. On or about March 7, 2019, the West Virginia State Bar copied ODC on a letter to Mr. Clutter and his wife about the reconsideration of the denial of the claim with Lawyers Fund for Client Protection Committee. The letter indicated the file was being left open and tabled for consideration during the 2019 year.
215. On or about September 11, 2019, Respondent submitted correspondence indicating he continued to represent Mr. Clutter in five separate matters and never charged him any additional fees. However, in May of 2019, Mr. Clutter retained Jeff Pritt, Esquire to represent him.

216. Because Respondent failed to keep the client reasonably informed about the status of the case, failed to promptly comply with reasonable requests for information, and failed to communicate with the client, Respondent violated Rules 1.4(a) and 1.4(b) of the Rules of Professional Conduct, as set forth in the appendix.
217. Because Respondent failed to hold client funds in an account designated as a “client’s trust account”, Respondent has violated Rule 1.15(a) of the Rules of Professional Conduct, as set forth in the appendix.
218. Because Respondent failed to place unearned fees into a client trust account and left earned fees in his client trust account, Respondent has violated Rule 1.15(c) of the Rules of Professional Conduct, as set forth in the appendix.
219. Because Respondent failed to provide the client file and failed to provide to refund any unearned fee or expense, Respondent has violated Rule 1.16(d) of the Rules of Professional Conduct, as set forth in the appendix.
220. Because Respondent failed to timely respond to Disciplinary Counsel’s lawful requests for information on numerous occasions, he violated Rule 8.1(b) of the Rules of Professional Conduct, as set forth in the appendix.

COUNT VIII
I.D. No. 18-05-246
Complaint of Lonnie Dennis Lilly

221. Complainant Lonnie Dennis Lilly filed his ethics complaint against Respondent on or about June 13, 2018. Mr. Lilly stated he hired Respondent to represent him in a vehicle accident case. A hearing was held on April 20, 2018, and thereafter,

Respondent instructed Mr. Lilly to call Respondent's office to make an appointment to review paperwork. Mr. Lilly said that he called Respondent's office, and was told that they would call that evening with an appointment time, as Respondent was traveling at the time. Mr. Lilly stated that Respondent's office never called, and he made several calls to Respondent's office without success. On June 5, 2018, Mr. Lilly said that he drove to Respondent's office, and no one was at the office. Mr. Lilly said that a court staff member called him on June 5, 2018, and informed him that Respondent's offices were closed due to personal issues. Mr. Lilly stated Respondent took his money.

- 222. On or about June 28, 2018, Respondent was sent a copy of the ethics complaint along with a letter directing him to file a verified response to the complaint within twenty days of receipt of the letter.
- 223. Respondent failed to file a response.
- 224. On or about July 3, 2018, Disciplinary Counsel obtained a subpoena for Respondent to appear for a sworn statement on August 8, 2018, which was served on July 12, 2018. Subsequently, Respondent obtained counsel and the sworn statement was rescheduled to August 27, 2018, and then rescheduled to November 1, 2018.
- 225. On or about July 20, 2018, by certified and regular mail, a letter was sent to Respondent asking him to respond to Mr. Lilly's complaint by July 30, 2018.
- 226. On or about August 6, 2018, Lonnie C. Simmons, Esquire, filed a Notice of Substitution of Counsel indicating that he was representing Respondent in this case.

227. On or about August 20, 2018, the certified mail sent to Respondent on July 20, 2018 was returned to sender marked as unclaimed, unable to forward. The regular mail letter was never returned to ODC.
228. On or about August 20, 2018, Respondent filed additional correspondence. Paragraphs 59-61, *supra*, are incorporated herein by reference.
229. Respondent stated that the attempts by Mr. Lilly to contact him by telephone and by stopping by the office had occurred when his office was closed, while Respondent was recuperating from his surgery. Respondent said he had Mr. Lilly's file and planned to contact him.
230. In a reply filed by Mr. Lilly on or about September 7, 2018, Mr. Lilly said he paid \$50.00 cash on April 26, 2017, an \$1,000.00 electronic debit on April 27, 2017, and \$200.00 cash on April 20, 2018. Mr. Lilly provided a copy of the receipt for the \$50.00 payment and a partial copy of bank records showing the \$1,000.00 payment. Mr. Lilly stated he made two payments to Ms. Flora, but the \$200.00 cash was paid to Respondent, who had a woman present with him at the time. He stated that he also had a contingency fee matter with Respondent at 20%, and that Respondent still had half of Mr. Lilly's records.
231. On or about September 26, 2018, Respondent was sent a copy of Mr. Lilly's reply, and was asked to file a written response thereto within twenty days of receipt of the letter.

232. On or about October 26, 2018, Respondent filed a response, and stated that Mr. Lilly's case was moving forward and he wanted to Respondent to remain as his counsel.
233. At his sworn statement on November 1, 2018, Respondent reiterated that Mr. Lilly's attempts to contact him occurred during his absence due to medical issues, and he asserted Mr. Lilly was satisfied with him and even hugged Respondent after the last hearing. Respondent denied Mr. Lilly's case was a contingency fee case, and said he did not know what type of case it was. Respondent said he was paid to handle the initial hearing, and any fee agreement would be in the client file he brought with him to the sworn statement. Respondent denied telling Mr. Lilly about being out of the office for health reasons, and indicated that he did not have an accounting in the matter.
234. In the client file provided by Respondent at his sworn statement, a client intake sheet dated April 26, 2017, showed a consultation fee of \$50.00 and initial retainer of \$1,000.00. On or about October 20, 2017, the Kanawha County Circuit Court entered an Order in Mr. Lilly's lawsuit to transfer the venue to Raleigh County. On or about September 20, 2017, Respondent sent a letter to Mr. Lilly noting their meeting on April 26, 2017, that the \$1,000.00 retainer was to answer three sets of discovery only, that any additional work would require an additional retainer fee, and that his current scope of representation was completed so he was going to file a motion to withdraw

- as counsel. If Mr. Lilly wanted further representation, he had to contact Respondent within ten days of receipt of the letter. There was no fee agreement in the client file.
235. Bank records from City National Bank for the account entitled “The West Virginia State Bar E. Lavoyd Morgan Jr & Associates LC,” do not show a deposit of \$50.00, or \$1,000.00, although there was a deposit of \$15,000.00 on April 27, 2017. It is unclear if Mr. Lilly’s funds would have been included in that deposit. Further, the IOLTA account held in a negative balance of -\$153.57 by July of 2017, and only reflected a balance of \$35.43 in August of 2017.
236. On or about November 26, 2018, Mr. Lilly filed correspondence indicating that while Respondent appeared at the November 26, 2018 hearing for him, Respondent failed to file the “papers” as discussed during a meeting on October 1, 2018. Mr. Lilly said Respondent wanted him to drop one of the defendants and, when Mr. Lilly refused, Respondent became angry. Mr. Lilly stated Respondent met with the judge and opposing counsel without Mr. Lilly present, and Respondent was told to have the paperwork done by the end of January of 2019.
237. On or about December 12, 2018, Respondent’s counsel was sent a copy of Mr. Lilly’s last correspondence, and asked to file a response within twenty days of receipt of the letter.
238. Respondent failed to respond.

239. On or about January 11, 2019, by certified and regular mail, a letter was sent to Respondent's counsel asking for a response by January 22, 2019.⁷
240. On or about January 22, 2019, Respondent sent a letter indicating that he had some recent medical issues and the holidays caused the response to be late. Regarding Mr. Lilly, Respondent said he was going to file a bad faith claim against Mr. Lilly's insurance company, and would continue to represent him without requiring an additional retainer.
241. Because Respondent failed to act competently and diligently in handling the client's case, Respondent has violated Rules 1.1 and 1.3 of the Rules of Professional Conduct, as set forth in the appendix.
242. Because Respondent failed to keep the client reasonably informed about the status of the case, failed to promptly comply with reasonable requests for information, and failed to communicate with the client, Respondent violated Rules 1.4(a) and 1.4(b) of the Rules of Professional Conduct, as set forth in the appendix.
243. Because Respondent represented a client in a case for which Respondent did not obtain a written fee agreement, Respondent has violated Rule 1.5(b) of the Rules of Professional Conduct, as set forth in the appendix.
244. Because Respondent failed to hold client funds in an account designated as a "client's trust account" and failed to keep complete records of the funds paid to him,

⁷ The green card was returned to ODC on January 14, 2019, and it appeared it was ripped from the envelope during processing.

Respondent has violated Rule 1.15(a) of the Rules of Professional Conduct, as set forth in the appendix.

245. Because Respondent failed to place unearned fees into a client trust account and left earned fees in his client trust account, Respondent has violated Rule 1.15(c) of the Rules of Professional Conduct, as set forth in the appendix.
246. Because Respondent failed to timely respond to Disciplinary Counsel's lawful requests for information on numerous occasions, he violated Rule 8.1(b) of the Rules of Professional Conduct, as set forth in the appendix.

COUNT IX

I.D. No. 18-05-268

Complaint of Dani K. Jones & Andrew M. Arrick

247. Complainants Dani K. Jones and Andrew M. Arrick filed their ethics complaint against Respondent on or about June 18, 2018. Ms. Jones was a 61 year old disabled woman, and Mr. Arrick is her 21 year old son who lived with her. Ms. Jones said that in September of 2015, she and Mr. Arrick became homeless due to long term stagnant water standing beside and under her manufactured home in Princeton, West Virginia, causing medical issues. Ms. Jones stated that she was not responsible for any of the damages to their home, and believed she had a strong case for a lawsuit for medical, mental, and emotional problems. Ms. Jones said that her parents, which included her attorney father, helped them to prepare a lawsuit, but her mother passed away while they were preparing it.

248. Ms. Jones stated that she spoke with Mr. Coles in July of 2017 about their case. Mr. Coles was the senior paralegal and firm administrator for Respondent's law firm. Ms. Jones said that Mr. Coles agreed to meet with her on July 29, 2017, and at that meeting, he reviewed her files and agreed to take the files, which included all supporting documents and a partially completed lawsuit, for Respondent to review. Ms. Jones was concerned about the statute of limitations running soon, but Mr. Coles assured her that it was fine. Ms. Jones said that she did not hear from Mr. Coles until she texted him on August 16, 2017, and those text exchanges indicated that she was trying to get her client file back from Mr. Coles in August of 2017. Ms. Jones stated that the statute of limitations ran in her case, and the same was confirmed by Derrick W. Lefler, Esquire, in his letter of February 19, 2018, which indicated that the statute of limitations ran in October of 2017.
249. By letter dated June 28, 2018, Respondent was sent a copy of the ethics complaint directing him to file a verified response to the complaint within twenty days of receipt of the letter.
250. Respondent failed to respond.
251. On or about July 3, 2018, Disciplinary Counsel obtained a subpoena for Respondent to appear for a sworn statement on August 8, 2018, which was served on July 12, 2018. Subsequently, Respondent obtained counsel and the sworn statement was rescheduled to August 27, 2018, and then rescheduled to November 1, 2018.

252. On or about July 20, 2018, by certified and regular mail, a letter was sent to Respondent asking him to respond to the ethics complaint by July 30, 2018.
253. On or about August 6, 2018, Lonnie C. Simmons, Esquire, filed a Notice of Substitution of Counsel indicating that he was representing Respondent in this case.
254. On or about August 20, 2018, Respondent filed additional correspondence. Paragraphs 59-61, *supra*, are incorporated herein by reference.
255. Regarding Ms. Jones and Mr. Arrick, Respondent stated he did not know who these people were, and cannot find a client file for them, but it appeared that they only communicated with Mr. Coles.
256. On or about September 6, 2018, Elizabeth Ann Good appeared for a sworn statement. Ms. Good worked for Respondent and stated that Mr. Coles returned client files that he had, and from her understanding, all of the files had been returned to Respondent.
257. On or about September 18, 2018, Ms. Jones and Mr. Arrick stated Mr. Arrick communicated with Respondent's secretary, Harmony, on numerous occasions, which even included her setting up an appointment. One appointment was scheduled for the week of November 6, 2017, and they were called by Respondent's office about meeting with Respondent on November 10, 2017, in Hinton, West Virginia, to save them a drive to Lewisburg. When they arrived at the courthouse on November 10, 2017, the courthouse was closed. When they contacted Respondent's office, they were told both that he was there and that he was on his way. At some point, Respondent's office advised them that they would be meeting with Jeff Rodgers, and not

Respondent. Mr. Rodgers did not show up until hours later. Ms. Jones and Mr. Arrick said Respondent's medical problems did not begin until May of 2018, which is not during the time frame of their issues.

258. On or about October 12, 2018, the certified letter sent to Respondent on July 20, 2018, was returned to ODC. The letter sent by regular mail was never returned.
259. At his sworn statement on November 1, 2018, Respondent reiterated that he did not know who these people were, and he had no record of them in his office. Respondent denied knowing anything about a statute of limitations running, or that a meeting was scheduled for them in Hinton.
260. On or about September 11, 2019, Respondent submitted correspondence noting that he does not know these people, and that Ms. Jones and Mr. Arrick have named Respondent and Mr. Rodgers in an \$11 million lawsuit, but Respondent had not been served with the lawsuit.
261. Because Respondent failed to act competently and diligently in handling the client's case, Respondent has violated Rules 1.1 and 1.3 of the Rules of Professional Conduct, as set forth in the appendix.
262. Because Respondent failed to keep the client reasonably informed about the status of the case, failed to promptly comply with reasonable requests for information, and failed to communicate with the client, Respondent violated Rules 1.4(a) and 1.4(b) of the Rules of Professional Conduct, as set forth in the appendix.

263. Because Respondent failed to ensure his staff's conduct was compatible with his professional obligations under the Rules of Professional Conduct, Respondent violated Rule 5.3 of the Rules of Professional Conduct, as set forth in the appendix.
264. Because Respondent failed to timely respond to Disciplinary Counsel's lawful requests for information on numerous occasions, he violated Rule 8.1(b) of the Rules of Professional Conduct, as set forth in the appendix.

COUNT X
I.D. No. 18-05-276
Complaint of Rebecca S. Doss

265. Complainant Rebecca S. Doss filed her ethics complaint against Respondent on or about June 14, 2018. Ms. Doss stated that she hired Respondent to represent her in her divorce case in November of 2017. Ms. Doss said her contact with Respondent's office was through Mr. Coles. Ms. Doss stated Mr. Coles took notes, but she was unsure of what was done with them. Ms. Doss only saw Respondent twice prior to her court dates, which included him coming into the meeting to ask Mr. Coles something and briefly introducing himself, and then meeting with Respondent and Mr. Coles before a scheduled hearing. On the next day, March 1, 2018, Ms. Doss said Respondent did not say or do much. When a truancy issue was brought up, Ms. Doss told Respondent that there was evidence in her paperwork that showed the truancy occurred when the child was at her father's home, but Respondent just sat there. Respondent had little to say and indicated that he would start the appeal paperwork

after the hearing. Ms. Doss sent text messages to Mr. Coles about the falsehoods presented in court, and Respondent's failure to address them.

266. Ms. Doss gave additional information to Respondent after the March 2, 2018 hearing, but there was no contact from Respondent. On March 15, 2018, Mr. Coles contacted Ms. Doss, and she provided information to him. Ms Doss was told that a hearing was going to be scheduled, but there was no hearing date set. Mr. Coles did not contact Ms. Doss again until May 15, 2018.
267. On or about June 28, 2018, Respondent was sent a copy of the ethics complaint along with a letter informing him to file a verified response to the complaint within twenty days of receipt of the letter.
268. Respondent failed to respond.
269. On or about July 3, 2018, Disciplinary Counsel obtained a subpoena for Respondent to appear for a sworn statement on August 8, 2018, which was served on July 12, 2018. Subsequently, Respondent obtained counsel and the sworn statement was rescheduled to August 27, 2018, and then rescheduled to November 1, 2018.
270. On or about July 20, 2018, by certified and regular mail, a letter was sent to Respondent asking him to respond to Ms. Doss' complaint by July 30, 2018.
271. On or about August 6, 2018, Lonnie C. Simmons, Esquire, filed a Notice of Substitution of Counsel indicating that he was representing Respondent in this case.

272. On or about August 20, 2018, the certified mail sent to Respondent on July 20, 2018 was returned to sender marked as unclaimed, unable to forward. The regular mail letter was never returned to ODC.
273. On or about August 20, 2018, Respondent filed additional correspondence. Paragraphs 59-61, *supra*, are incorporated herein by reference.
274. Regarding Ms. Doss, Respondent stated he had not been able to find Ms. Doss' client file and has learned Ms. Doss is now represented by new counsel.
275. On or about August 29, 2018, Ms. Doss filed a reply. Ms. Doss again stated she retained Respondent on November 28, 2017, and met with Mr. Coles. Ms. Doss provided copies of the two checks she wrote to Respondent: 1) \$2,500.00 check written to Respondent on November 28, 2017; and 2) \$500.00 check written to Respondent on December 15, 2017. Ms. Doss did not remember if she signed a fee agreement, and she did not have a copy of such. Ms. Doss indicated that she provided documents to Respondent without making copies at first, and believed she lost some documents that could have been useful in her case. Ms. Doss wanted a refund of the money she paid to Respondent.
276. On or about September 6, 2018, Elizabeth Ann Good appeared for a sworn statement. Ms. Good worked for Respondent and stated Mr. Coles returned client files that he had, and from her understanding, all of the files had been returned to Respondent.
277. On or about September 10, 2018, Ms. Doss filed an additional reply and reiterated her allegations against Respondent, and said that her divorce was still not settled. Ms.

Doss said she would call Respondent, and would get his voicemail, and after a while, the voicemail box was full. Ms. Doss believed it was Respondent's responsibility to supervise his employees.

278. At his sworn statement on November 1, 2018, Respondent said he did not recall talking to Ms. Doss, but then later remembered the issue regarding truancy. Respondent admitted that it was routine that he would talk about filing an appeal, but did not recall working on an appeal for Ms. Doss. Respondent asserted Mr. Coles may have taken Ms. Doss' client file. Further, the retainer paid by Ms. Doss should have been deposited into the IOLTA account at City National.

279. Respondent did not provide Ms. Doss' client file even though he had been subpoenaed to do so.

280. Bank records from City National Bank for the account entitled "The West Virginia State Bar E. Lavoyd Morgan Jr & Associates LC," does not show a deposit after November 14, 2017, which is fourteen days before Ms. Doss' check dated November 28, 2017, and by the end of November of 2017, the remaining balance was \$188.06. No deposits were made from December of 2017 to July of 2018, and the balance remained \$188.06, even though Ms. Doss paid Respondent by check in December of 2017.

281. On or about September 11, 2019, Respondent submitted correspondence indicating Ms. Doss was represented by Brandon Gray, Esquire.

282. Because Respondent failed to act competently and diligently in handling the client's case, Respondent has violated Rules 1.1 and 1.3 of the Rules of Professional Conduct, as set forth in the appendix.
283. Because Respondent failed to keep the client reasonably informed about the status of the case, failed to promptly comply with reasonable requests for information, and failed to communicate with the client, Respondent violated Rules 1.4(a) and 1.4(b) of the Rules of Professional Conduct, as set forth in the appendix.
284. Because Respondent failed to hold client funds in an account designated as a "client's trust account", Respondent has violated Rule 1.15(a) of the Rules of Professional Conduct, as set forth in the appendix.
285. Because Respondent failed to place unearned fees into a client trust account, Respondent has violated Rule 1.15(c) of the Rules of Professional Conduct, as set forth in the appendix.
286. Because Respondent made a false statement during the investigation of the ethics complaint, Respondent has violated Rule 8.1(a) of the Rules of Professional Conduct, as set forth in the appendix.
287. Because Respondent failed to timely respond to Disciplinary Counsel's lawful requests for information on numerous occasions, he violated Rule 8.1(b) of the Rules of Professional Conduct, as set forth in the appendix.

COUNT XI
I.D. No. 18-05-282
Complaint of Tammy S. Reed

288. On or about July 2, 2018, Complainant Tammy S. Reed filed an ethics complaint against Respondent. Ms. Reed said she hired Respondent to represent her in a divorce case on July 21, 2017. Ms. Reed noted she never met with Respondent, only met with Mr. Coles, who represented himself as “almost a lawyer.” Ms. Reed paid a retainer of \$5,000.00 through a payment plan, which was paid in full. On August 3, 2017, a petition for divorce and a motion for temporary relief was filed. Nothing else was done after that, and any time she was told there was a hearing scheduled, Ms. Reed would be told on the day of the hearing that it was canceled. This happened several times. Ms. Reed finally met with Respondent in May of 2018, after making numerous telephone calls. Ms. Reed said she received no information about her case. After that meeting, Respondent and Mr. Coles disappeared, and Respondent’s office telephone was disconnected and his office was closed. She never received an itemized statement, and Respondent still had her \$5,000.00. Ms. Reed hired a new attorney, and learned nothing was done by Respondent from August 3, 2017, until she terminated his representation on June 18, 2018. Ms. Reed stated the opposing party had not filed a financial disclosure, and Respondent never told Ms. Reed about this issue, nor did he do anything to ensure the financial disclosure was filed by the opposing party. Ms. Reed provided a copy of the docket sheet, which showed that

there was never a hearing in the case, and Ms. Reed's new counsel could not get her client file from Respondent. Ms. Reed wanted refund of her retainer.

289. On or about July 3, 2018, Disciplinary Counsel obtained a subpoena for Respondent to appear for a sworn statement on August 8, 2018, which was served on July 12, 2018. Subsequently, Respondent obtained counsel and the sworn statement was rescheduled to August 27, 2018, and then rescheduled to November 1, 2018.
290. On or about July 5, 2018, Respondent was sent a copy of the ethics complaint along with a letter informing him to file a verified response to the complaint within twenty days of receipt of the letter.
291. Respondent failed to file a response.
292. On or about August 6, 2018, Lonnie C. Simmons, Esquire, filed a Notice of Substitution of Counsel indicating that he was representing Respondent in this case.
293. On or about August 6, 2018, by certified and regular mail, a letter was sent to Respondent's counsel asking him to respond to Ms. Kyle's complaint by August 16, 2018. The green card was signed for by counsel for Respondent on August 8, 2018.
294. On or about August 20, 2018, Respondent filed additional correspondence. Paragraphs 59-61, *supra*, are incorporated herein by reference.
295. Regarding Ms. Reed, Respondent noted that much of the communication issues occurred while he having medical issues. Respondent stated he had Ms. Reed's file, and that he filed the divorce petition in August of 2017. Respondent said he

represented Ms. Reed at her temporary support hearing. Respondent has since learned that Ms. Reed hired new counsel.

296. On or about August 29, 2018, Ms. Reed's new counsel, Christine B. Stump, Esquire, filed a reply for Ms. Reed. The following was related about Ms. Reed's case: Respondent was paid a total of \$4,150.00. When Ms. Reed met with Respondent and he did not know anything about her case, she decided to terminate his representation. Further, that meeting was the first and only meeting Ms. Reed had with Respondent. The docket sheet for Ms. Reed's case was provided, and showed that other than the original filings on August 3, 2017, nothing else was done in Ms. Reed's case. Ms. Stump noted that when she took over the case on June 18, 2018, she was alarmed to find the opposing party had filed an answer, but no mandatory financial disclosure was had been filed. She noted such could be easily corrected with a motion to compel, and nothing was filed about it for ten months. After Ms. Reed was unsuccessful in getting her client file, Ms. Stump sent a July 10, 2018 letter to Respondent requesting the client file, but there had been no response to the letter. Attached were copies of checks Ms. Reed wrote to Respondent over several months to pay the retainer,⁸ and

⁸ The following copies of checks were provided: 1) \$50.00 to Respondent on July 21, 2017; 2) \$2,500.00 to Respondent on July 21, 2017; 3) \$200.00 to Respondent on October 16, 2017; 4) \$200.00 to Respondent on November 9, 2017; 5) \$200.00 to Respondent on December 19, 2017; 6) \$200.00 to Respondent on January 4, 2018; 7) \$200.00 to Respondent on March 8, 2018; 8) \$200.00 to Respondent on April 16, 2018; and 9) \$200.00 to Respondent on May 16, 2018. The total of the checks was \$3,950.00. Ms. Reed asserted she made another payment by check for \$200.00 on February 5, 2018, which would put the total she paid Respondent \$4,150.00.

a copy of a retainer agreement dated July 21, 2017, for a divorce matter with an initial retainer of \$5,000.00.

297. On or about September 4, 2018, Ms. Stump provided additional correspondence for Ms. Reed. When she initially set up an appointment to meet Respondent, Ms. Reed met with Mr. Coles instead, and he told her that he was “almost a lawyer.” Ms. Reed denied that Respondent represented her in a temporary support hearing because no hearing was held even though she was in need of temporary support. Ms. Reed never received her client file or a refund of the retainer she paid. Ms. Reed stated that her attempts to communicate with Respondent were unsuccessful.
298. On or about September 26, 2018, a copy of the recent correspondence was sent to Respondent, and he was asked to file a response within twenty days of receipt of the letter.
299. Respondent failed to respond to the letter.
300. At his sworn statement on November 1, 2018, Respondent said he did remember Ms. Reed, but was unaware of the retainer she paid to him. Respondent was unaware that Ms. Reed was told that hearings were scheduled only to be told the day of the hearing that it was rescheduled. Respondent entered the hospital in May of 2018, but he could not recall why he did not file anything from August of 2017 to May of 2018. Respondent could not remember what he filed on Ms. Reed’s behalf, and he was not aware of the opposing side failing to file a financial disclosure. Respondent did not have an accounting for Ms. Reed’s case as he has not been able to access Quickbooks.

Respondent did not know why Ms. Reed did not get her client file, and asserted he never got a request from Ms. Stump for Ms. Reed's client file.

301. In the information provided by Respondent, there was only a client intake sheet dated August 21, 2017, for a divorce matter with a fee of \$5,000.00. There was no client file provided by Respondent even though he was subpoenaed to bring the file with him.
302. Bank records from City National Bank for the account entitled "The West Virginia State Bar E. Lavoyd Morgan Jr & Associates LC," do not show a deposit of in July of 2017, even though Ms. Reed wrote two checks to Respondent, and the IOLTA account was in a negative balance of -\$153.57 by the end July of 2017. The balance at the end of August of 2017 was only \$35.43. The balance in September of 2017 was \$16,785.43 after a deposit of \$25,000.00 was made on September 8, 2017. Ms. Reed did not make a payment in August or September of 2017. There were no deposits in October of 2017, even though Ms. Reed had sent a check to Respondent, and the balance was again \$16,785.43. November of 2017 had two deposits, but the remaining balance at the end of the month was \$188.06, even though Ms. Reed sent a check for \$200.00 in November of 2017. No deposits were made from December of 2017 to July of 2018, and the balance remained \$188.06, even though Ms. Reed sent checks in December of 2017, January of 2018, February of 2018, March of 2018, April of 2018, and May of 2018.
303. Bank records from BB&T for the account entitled "E. Lavoyd Morgan, Jr. & Associates, LC" appears to be an operating account. Ms. Reed's January 4, 2018

check for \$200.00, March 8, 2018 check for \$200.00, and April 16, 2018 check for \$200.00 were all deposited into this account.

304. Because Respondent failed to act competently and diligently in handling the client's case, Respondent has violated Rules 1.1 and 1.3 of the Rules of Professional Conduct, as set forth in the appendix.
305. Because Respondent failed to hold client funds in an account designated as a "client's trust account", Respondent has violated Rule 1.15(a) of the Rules of Professional Conduct, as set forth in the appendix.
306. Because Respondent failed to place unearned fees into a client trust account, Respondent has violated Rule 1.15(c) of the Rules of Professional Conduct, as set forth in the appendix.
307. Because Respondent failed to provide the client file and failed to provide to refund any unearned fee or expense, Respondent has violated Rule 1.16(d) of the Rules of Professional Conduct, as set forth in the appendix.
308. Because Respondent failed to ensure his staff's conduct was compatible with his professional obligations under the Rules of Professional Conduct, Respondent violated Rule 5.3 of the Rules of Professional Conduct, as set forth in the appendix.
309. Because Respondent made a false statement during the investigation of the ethics complaint, Respondent has violated Rule 8.1(a) of the Rules of Professional Conduct, as set forth in the appendix.

310. Because Respondent failed to timely respond to Disciplinary Counsel's lawful requests for information on numerous occasions, he violated Rule 8.1(b) of the Rules of Professional Conduct, as set forth in the appendix.

COUNT XII
I.D. No. 18-05-284
Complaint of Deborah J. Kyle

311. On or about June 26, 2018, Complainant Deborah J. Kyle filed this ethics complaint against Respondent. Ms. Kyle hired Respondent in August of 2017 for representation in a divorce, and paid him \$3,050.00 upfront for the representation. Ms. Kyle indicated that the case was primarily handled by Mr. Coles, and that she never received any invoices and was unable to communicate with Respondent, beyond text messages to Mr. Coles. On January 18, 2018, there was a hearing and all Respondent asked her was how much she would settle the case for and then walked off to talk to opposing counsel. Ms. Kyle indicated Respondent barely spoke to her, and the hearing ended in a bifurcated divorce Order. Attempts to communicate with Respondent thereafter were unsuccessful until Mr. Coles sent a text message on May 10, 2018, indicating that he was going to meet with opposing counsel that evening. Ms. Kyle tried to find out what happened, but got no response. When she went to Respondent's office on June 12, 2018, she found a sign saying it was closed for a week, and there was no answer on the office phone or Mr. Coles' phone. Ms. Kyle returned on June 18, 2018, and the sign was still there. When she inquired about the situation just down the hall, Ms. Kyle was told no one had been in the office since May 9, 2018. Ms. Kyle

was sent to the office of Robert Frank, Esquire,⁹ but he would not talk to her, and did not contact her after she left her name and contact information. Ms. Kyle said she has experienced mental and financial strain as a result.

- 312. On or about June 29, 2018, Respondent was sent a copy of the ethics complaint along with a letter informing him to file a verified response to the complaint within twenty days of receipt of the letter.
- 313. On or about July 3, 2018, Disciplinary Counsel obtained a subpoena for Respondent to appear for a sworn statement on August 8, 2018, which was served on July 12, 2018. Subsequently, Respondent obtained counsel and the sworn statement was rescheduled to August 27, 2018, and then rescheduled to November 1, 2018.
- 314. Respondent failed to file a response.
- 315. On or about July 20, 2018, by certified and regular mail, a letter was sent to Respondent asking him to respond to Ms. Kyle's complaint by July 30, 2018.
- 316. On or about August 6, 2018, Lonnie C. Simmons, Esquire, filed a Notice of Substitution of Counsel indicating that he was representing Respondent in this case.
- 317. On or about August 20, 2018, the certified mail sent to Respondent on July 20, 2018 was returned to sender as unclaimed, unable to forward. The regular mail letter was never returned to ODC.

⁹ Mr. Frank was at one point Respondent's counsel in a disciplinary matter, but was later replaced by Mr. Simmons.

318. On or about August 20, 2018, Respondent filed additional correspondence. Paragraphs 59-61, *supra*, are incorporated herein by reference.
319. Regarding Ms. Kyle, Respondent noted that much of the communication issues occurred while he was having medical issues. Respondent said he had not found her client file, and also does not recall having her as a client. Respondent planned to speak with opposing counsel to see what information that attorney has on the case.
320. On or about September 6, 2018, Ms. Kyle's new counsel, Christine B. Stump, Esquire, filed a reply for Ms. Kyle. The following was related about Ms. Kyle's case: Respondent was retained on August 4, 2017, and he filed a divorce petition on August 23, 2017, along with a motion for temporary relief. From August 4, 2017, until the hearing on January 18, 2018, Ms. Kyle never spoke or met with Respondent. Ms. Kyle met Respondent at the courthouse prior to her hearing. It was noted the other side had failed to file a financial disclosure but, nevertheless, Respondent tried to settle the matter for less than what Ms. Kyle believed she was entitled to. Ms. Kyle refused to settle the property issues, and a bifurcated divorce Order was entered. For the next six months after that hearing, Ms. Kyle tried to get information about her case, but was unsuccessful. It was noted Respondent never filed a motion for discovery or to compel financial disclosure. Ms. Kyle could not understand how Respondent could not recall representing her, as he signed and filed her divorce petition and appeared in court with her. Ms. Kyle never received any billing statements from Respondent. Attached to the reply was a copy of the retainer agreement dated August 4, 2017, for

a domestic matter for a initial retainer of \$3,000.00, and was signed by Ms. Kyle on August 4, 2017.¹⁰ A check for \$3,000.00 from Ms. Kyle written to Respondent dated August 4, 2017, was also provided, along with records showing a \$50.00 payment to Respondent on August 3, 2017, which was a consultation fee.

321. On or about September 26, 2018, a copy of the reply was sent to Respondent, and he was asked to file a response within twenty days of receipt of the letter.
322. Respondent failed to respond to the letter.
323. At his November 1, 2018 sworn statement, Respondent said he was unable to locate Ms. Kyle's file, and his attempts to look at the file in the clerk's office were unsuccessful, as he was not listed as counsel. Respondent did not have an accounting in the case. Further, Respondent did not remember the hearing in January of 2018. Respondent said Ms. Kyle's issues with his office occurred when he was dealing with medical issues. Respondent did not know why he did not seek a motion to compel the financial disclosure from the other side, and indicated he would have filed such if he knew it was an issue. Even though Respondent was sent a copy of the reply containing a copy of the retainer, and a copy of the check written to him, Respondent denied being aware of the retainer agreement and any payment made by Ms. Kyle.
324. There was no client file provided by Respondent even though he was subpoenaed to bring the file with him.

¹⁰ The retainer agreement was in the name Deborah Peal, as were the pleadings in the case. The Bifurcated Divorce Order restored Ms. Kyle to her maiden name.

325. Bank records from City National Bank for the account entitled “The West Virginia State Bar E. Lavoyd Morgan Jr & Associates LC,” shows a deposit of \$871.50 on August 15, 2017, which was then paid out by check dated August 18, 2017, for settlement proceeds to what appears to be another client. There was another deposit of \$225.00 on August 2, 2017, but that was one day before Ms. Kyle’s payment of the consultation fee of \$50.00 and two days before the date of her check for \$3,000.00. The end balance in August of 2017 was only \$35.43. The balance in September of 2017 was \$16,785.43 after a deposit of \$25,000.00 was made on September 8, 2017. The ending balance in October of 2017 was again \$16,785.43. November of 2017 had two deposits, but the remaining balance at the end of the month was \$188.06. No deposits were made from December of 2017 to July of 2018, and the balance remained \$188.06.
326. Because Respondent failed to act competently and diligently in handling the client’s case, Respondent has violated Rules 1.1 and 1.3 of the Rules of Professional Conduct, as set forth in the appendix.
327. Because Respondent failed to keep the client reasonably informed about the status of the case, failed to promptly comply with reasonable requests for information, and failed to communicate with the client, Respondent violated Rules 1.4(a) and 1.4(b) of the Rules of Professional Conduct, as set forth in the appendix.

328. Because Respondent failed to hold client funds in an account designated as a “client’s trust account”, Respondent has violated Rule 1.15(a) of the Rules of Professional Conduct, as set forth in the appendix.
329. Because Respondent failed to place unearned fees into a client trust account, Respondent has violated Rule 1.15(c) of the Rules of Professional Conduct, as set forth in the appendix.
330. Because Respondent failed to ensure his staff’s conduct was compatible with his professional obligations under the Rules of Professional Conduct, Respondent violated Rule 5.3 of the Rules of Professional Conduct, as set forth in the appendix.
331. Because Respondent made a false statement during the investigation of the ethics complaint, Respondent has violated Rule 8.1(a) of the Rules of Professional Conduct, as set forth in the appendix.
332. Because Respondent failed to timely respond to Disciplinary Counsel’s lawful requests for information on numerous occasions, he violated Rule 8.1(b) of the Rules of Professional Conduct, as set forth in the appendix.

COUNT XIII
I.D. No. 18-05-304
Complaint of Hunter P. Chellis

333. On or about July 9, 2018, Complainant Hunter P. Chellis filed an ethics complaint against Respondent. Ms. Chellis stated Respondent represented her regarding an auto accident. She had contacted Respondent numerous times by telephone without any response, even after being told by a secretary that Respondent would get back to her.

When Ms. Chellis showed up at Respondent's office on several occasions, no one was there. Ms. Chellis expressed concerned about her case, and had tried to go to the office to get her client file, but again, no one was there.

334. On or about July 16, 2018, Respondent was sent a copy of the ethics complaint along with a letter informing him to file a verified response to the complaint within twenty days of receipt of the letter.
335. Respondent failed to file a response.
336. Previously, on or about July 3, 2018, Disciplinary Counsel obtained a subpoena for Respondent to appear for a sworn statement on August 8, 2018, which was served on July 12, 2018. Subsequently, Respondent obtained counsel and the sworn statement was rescheduled to August 27, 2018, and then rescheduled to November 1, 2018. Respondent's counsel agreed to address all complaints at that time.
337. On or about August 6, 2018, Lonnie C. Simmons, Esquire, filed a Notice of Substitution of Counsel indicating that he was representing Respondent in this case.
338. On or about August 9, 2018, by certified and regular mail, a letter was sent to Respondent's counsel asking for a response to the complaint by August 20, 2018. The green card was signed for by the office of Respondent's counsel on August 13, 2018.
339. On or about August 20, 2018, Respondent filed additional correspondence. Paragraphs 59-61, *supra*, are incorporated herein by reference.
340. Regarding Ms. Chellis, Respondent noted her allegations regarding the failure to communicate likely occurred during his medical issues. Respondent said he continues

to represent Ms. Chellis, and will pursue her claim after he resolves the claim of her mother.

341. On or about October 26, 2018, Respondent provided correspondence wherein he indicated Ms. Chellis' case had been resolved and Ms. Chellis was satisfied with the result.

342. At his sworn statement on November 1, 2018, Respondent said Ms. Chellis' case was settled, and he sent her a check last week. Respondent said the settlement was deposited in his IOLTA account at City National. The case was settled for \$17,500.00, and while Ms. Chellis had signed the settlement check, but Respondent had not received the signed settlement sheet. Respondent was unaware of Ms. Chellis' request for her client file. There is one bill from a doctor to be paid, but Respondent was trying to negotiate that amount down, and Ms. Chellis will receive the undisputed portion of the funds.

343. In the client file provided by Respondent at the sworn statement, there was a client intake sheet dated April 21, 2017, for a car accident case. There was also a copy of a check dated October 25, 2018, written to Ms. Chellis from Respondent's IOLTA account in the amount of \$3,244.69 for settlement proceeds. There was no attorney client agreement in the file, and there was no settlement sheet.

344. On or about September 11, 2019, Respondent submitted correspondence indicating he was successful in settling Ms. Chellis' case, and provided a copy of the release and settlement agreement, which was signed by Ms. Chellis on October 12, 2018. He

provided a copy of the settlement agreement showing a payment to Ms. Chellis of \$4,244.69 along with a notation that she was previously paid \$3,244.69. He also provided copy of a check written Ms. Chellis on November 8, 2018 for \$1,000.00, and a copy of a check written to Ms. Chellis on October 25, 2018 for \$3,244.69. Both checks were written from his bank account from City National Bank entitled "E. Lavoyd Morgan, Jr. & Associates, L.C., Trust Account."

345. Bank records from City National Bank for the account entitled "The West Virginia State Bar E. Lavoyd Morgan Jr & Associates LC IOLTA Trust Account," show a deposit of \$17,500.00 on October 22, 2018, and a check cashed by Ms. Chellis on October 31, 2018 for \$3,244.69. Also, on November 14, 2018, another check for \$1,000.00 was cashed by Ms. Chellis.
346. Because Respondent failed to act diligently in handling the client's case, Respondent has violated Rule 1.3 of the Rules of Professional Conduct, as set forth in the appendix.
347. Because Respondent failed to keep the client reasonably informed about the status of the case, failed to promptly comply with reasonable requests for information, and failed to communicate with the client, Respondent violated Rules 1.4(a) and 1.4(b) of the Rules of Professional Conduct, as set forth in the appendix.
348. Because Respondent represented a client in a case for which Respondent did not obtain a written fee agreement, Respondent has violated Rule 1.5(b) of the Rules of Professional Conduct, as set forth in the appendix.

349. Because Respondent failed to timely respond to Disciplinary Counsel's lawful requests for information on numerous occasions, he violated Rule 8.1(b) of the Rules of Professional Conduct, as set forth in the appendix.

COUNT XIV
I.D. No. 18-05-312
Complaint of Sara E. Reynolds

350. On or about July 12, 2018, Complainant Sara L. Reynolds filed an ethics complaint against Respondent. Ms. Reynolds stated Respondent represented her regarding an auto accident. She had tried contacting Respondent by telephone, and received no answer. When Ms. Reynolds stopped by Respondent's office, the office was closed for the week.

351. On or about July 16, 2018, Respondent was sent a copy of the ethics complaint along with a letter informing him to file a verified response to the complaint within twenty days of receipt of the letter.

352. Respondent failed to file a response.

353. Previously, on or about July 3, 2018, Disciplinary Counsel obtained a subpoena for Respondent to appear for a sworn statement on August 8, 2018, which was served on July 12, 2018. Subsequently, Respondent obtained counsel and the sworn statement was rescheduled to August 27, 2018, and then rescheduled to November 1, 2018. Respondent's counsel agreed to address all complaints at that time.

354. On or about August 6, 2018, Lonnie C. Simmons, Esquire, filed a Notice of Substitution of Counsel indicating that he was representing Respondent in this case.

355. On or about August 9, 2018, by certified and regular mail, a letter was sent to Respondent's counsel asking for a response to the complaint by August 20, 2018. The green card was signed for by the office of Respondent's counsel on August 13, 2018.
356. On or about August 20, 2018, Respondent filed additional correspondence. Paragraphs 59-61, *supra*, are incorporated herein by reference.
357. Regarding Ms. Reynolds, Respondent noted that her allegation regarding the failure to communicate occurred while he was having medical issues. He said that he provided his cell phone number to Ms. Reynolds. Respondent said he located Ms. Reynolds' file and is still working on it. He related that she was an infant when the accident occurred and no complaint had been filed yet, as he was working to resolve the claim of her mother.
358. On or about October 26, 2018, Respondent provided correspondence wherein he indicated Ms. Reynolds case would be settled soon.
359. At his sworn statement on November 1, 2018, Respondent said Ms. Reynolds case was still pending, and should be settled by the end of the month. Respondent stated he resolved the communication issue, and although Ms. Reynolds was disappointed the case was not settled at a recent mediation, she understood the issue.
360. In the client file provided by Respondent at the sworn statement, there was a client intake sheet dated June 21, 2017, for an car wreck case. There was an attorney client agreement for a contingency fee in the file, but it had blank spaces on the front page

was to when it was made and entered, and who it was between. However, it has the signature of the mother of Ms. Reynolds on the back page.

361. On or about September 11, 2019, Respondent submitted correspondence indicating he was successful in settling Ms. Reynolds' case, and provided a copy of a check written to Ms. Reynolds on March 19, 2019 for \$2,019.69. The check was written from his bank account from City National Bank entitled "E. Lavoyd Morgan, Jr. & Associates, L.C., Trust Account."
362. Bank records from City National Bank for the account entitled "The West Virginia State Bar E. Lavoyd Morgan Jr & Associates LC IOLTA Trust Account," show a check written and cashed by Ms. Reynolds for \$2,019.69 on March 19, 2019.
363. Because Respondent failed to keep the client reasonably informed about the status of the case, failed to promptly comply with reasonable requests for information, and failed to communicate with the client, Respondent violated Rules 1.4(a) and 1.4(b) of the Rules of Professional Conduct, as set forth in the appendix.
364. Because Respondent failed to timely respond to Disciplinary Counsel's lawful requests for information on numerous occasions, he violated Rule 8.1(b) of the Rules of Professional Conduct, as set forth in the appendix.

COUNT XV
I.D. No. 18-05-313
Complaint of Theresa L. Reynolds

365. On or about July 12, 2018, Complainant Theresa L. Reynolds filed an ethics complaint against Respondent. Ms. Reynolds stated she was in auto accident in 2015,

and Respondent represented her in the matter. For the past two months, Ms. Reynolds had tried to communicate with Respondent about the status of her case without success. Although she was told that Respondent would call her back several times, he never did call her back. Several times, her telephone calls would go to voicemail and the recording indicated that the voicemail was full. When she went to Respondent's office, there was a note on the door indicating that the office was closed for the week, but she later learned the note had been there for several weeks. Ms. Reynolds stated the only significant movement in her case was that Respondent took a deposition. Ms. Reynolds wanted her client file in order to continue with her case so it can be settled.

366. On or about July 16, 2018, Respondent was sent a copy of the ethics complaint along with a letter informing him to file a verified response to the complaint within twenty days of receipt of the letter.

367. Respondent failed to file a response.

368. Previously, on or about July 3, 2018, Disciplinary Counsel obtained a subpoena for Respondent to appear for a sworn statement on August 8, 2018, which was served on July 12, 2018. Subsequently, Respondent obtained counsel and the sworn statement was rescheduled to August 27, 2018, and then rescheduled to November 1, 2018. Respondent's counsel agreed to address all complaints at that time.

369. On or about August 6, 2018, Lonnie C. Simmons, Esquire, filed a Notice of Substitution of Counsel indicating that he was representing Respondent in this case.

370. On or about August 9, 2018, by certified and regular mail, a letter was sent to Respondent's counsel asking for a response to the complaint by August 20, 2018. The green card was signed for by the office of Respondent's counsel on August 13, 2018.
371. On or about August 20, 2018, Respondent filed additional correspondence. Paragraphs , *supra*, are incorporated herein by reference.
372. Regarding Ms. Reynolds, Respondent stated the failure to communicate occurred when he was experiencing medical issues. Respondent said that Ms. Reynolds has his cell phone number, and he continues to represent her and is continuing to work on settling her case.
373. On or about October 26, 2018, Respondent provided correspondence wherein he indicated Ms. Reynolds case was resolved, and she was satisfied with the results.
374. At his sworn statement on November 1, 2018, Respondent said he settled Ms. Reynolds case for \$10,000.00, and that amount was deposited into the IOLTA account. Further, a settlement sheet was given to her, and all bills were paid out of the amount and she received a check.
375. In the client file provided by Respondent at the sworn statement, there was a client intake sheet dated May 25, 2016, for an auto accident case. Respondent had a copy of a September 28, 2018 check from National General Insurance to Respondent and Ms. Reynolds for \$10,000.00. There was a settlement sheet showing a settlement of \$10,000.00, and that Ms. Reynolds was to get a check for \$3,219.69 which was signed on October 16, 2018. Respondent also had a copy of the check he wrote to Ms.

Reynolds from his IOLTA account at City National Bank. There was also an attorney client agreement entered on May 25, 2016, for a contingency fee of 33.33%.

376. On or about September 11, 2019, Respondent submitted correspondence indicating he was successful in settling Ms. Reynolds' case, and provided a copy of the release and settlement agreement, which was signed by Ms. Reynolds on October 11, 2018. He also provided copy of a check written Ms. Reynolds on October 16, 2018 for \$3,219.69, and a copy of a check written to Ms. Reynolds on August 3, 2017 for \$14,321.17. Both checks were written from his bank account from City National Bank entitled "E. Lavoyd Morgan, Jr. & Associates, L.C., Trust Account."
377. Bank records from City National Bank for the account entitled "The West Virginia State Bar E. Lavoyd Morgan Jr & Associates LC," show a check written to Ms. Reynolds on July 3, 2017 for \$14,321.17. It also showed payments made on behalf of Ms. Reynolds by check dated July 17, 2017 to State Farm and by check dated July 14, 2017 for \$5,228.00. The end balance in July of 2017 was -153.57, and it appeared to go into the negative with the payment of \$2,066.40 to State Farm for Ms. Reynolds that was cleared through the account on July 31, 2017. The bank records also show a deposit of \$10,000.00 on October 11, 2018, and a check written and cashed by Ms. Reynolds for \$3,219.69 on October 16, 2018.
378. Because Respondent failed to act diligently in handling the client's case, Respondent has violated Rule 1.3 of the Rules of Professional Conduct, as set forth in the appendix.

379. Because Respondent failed to keep the client reasonably informed about the status of the case, failed to promptly comply with reasonable requests for information, and failed to communicate with the client, Respondent violated Rules 1.4(a) and 1.4(b) of the Rules of Professional Conduct, as set forth in the appendix.
380. Because Respondent failed to hold third party funds in an account designated as a “client’s trust account”, Respondent has violated Rule 1.15(a) of the Rules of Professional Conduct, as set forth in the appendix.
381. Because Respondent failed to timely respond to Disciplinary Counsel’s lawful requests for information on numerous occasions, he violated Rule 8.1(b) of the Rules of Professional Conduct, as set forth in the appendix.
382. Because Respondent wrongfully misappropriated and converted funds belonging to his client or third party, Respondent violated Rules 8.4(c) and 8.4(d) of the Rules of Professional Conduct, as set forth in the appendix.

COUNT XVI
I.D. No. 18-05-314
Complaint of Crystal M. Sheppard

383. Complainant Crystal M. Sheppard filed her ethics complaint against Respondent on or about July 12, 2018, and stated that Respondent represented her for an auto accident case involving insurance and she has been unable to communicate with Respondent. Ms. Sheppard said that no one was in Respondent’s office during normal work hours, and her telephone calls were not returned. Ms. Sheppard stated that Respondent failed to complete the demand packet, and her case is one year and four

months old. Ms. Sheppard said that she has tried to disengage Respondent as her attorney, but he is unavailable so she cannot get her another attorney to represent her. On July 10, 2018, Ms. Sheppard stated that she sent a notarized disengagement letter via certified mail to Respondent to terminate his representation of her.

384. On or about July 16, 2018, Respondent was sent a copy of the ethics complaint along with a letter informing him to file a verified response to the complaint within twenty days of receipt of the letter.
385. Respondent failed to file a response.
386. Previously, on or about July 3, 2018, Disciplinary Counsel obtained a subpoena for Respondent to appear for a sworn statement on August 8, 2018, which was served on July 12, 2018. Subsequently, Respondent obtained counsel and the sworn statement was rescheduled to August 27, 2018, and then rescheduled to November 1, 2018. Respondent's counsel agreed to address all complaints at that time.
387. On or about August 6, 2018, Lonnie C. Simmons, Esquire, filed a Notice of Substitution of Counsel indicating that he was representing Respondent in this case.
388. On or about August 9, 2018, by certified and regular mail, a letter was sent to Respondent's counsel asking for a response to the complaint by August 20, 2018. The green card was signed for by the office of Respondent's counsel on August 13, 2018.
389. On or about August 20, 2018, Respondent filed additional correspondence. Paragraphs 59-61, *supra*, are incorporated herein by reference.

390. Regarding Ms. Sheppard, Respondent stated the failure to communicate occurred when he was experiencing medical issues. Respondent recalled meeting with Ms. Sheppard on one occasion, and he found her file. Respondent said the file was found in a box of files discovered in Mr. Coles' possession. On or about August 16, 2018, Respondent called Ms. Sheppard and left a message, and he is awaiting her return call to determine the next step.
391. At his sworn statement on November 1, 2018, Respondent said he was working on the demand packet for Ms. Sheppard, but he was not completing it as quickly as Ms. Sheppard wanted him. Respondent was unaware if Ms. Sheppard hired new counsel, and did not recall if she had requested her client file. Respondent acknowledged receiving a letter from Ms. Sheppard terminating his representation.
392. The client file produced by Respondent contained a client intake sheet dated April 12, 2017, for an auto accident case with a contingency fee agreement. It contained the July 10, 2018 letter from Ms. Sheppard terminating his representation and her request for all records in her case. There was also an attorney-client agreement signed by Ms. Sheppard for a 40% contingency fee.
393. Because Respondent failed to act diligently in handling the client's case, Respondent has violated Rule 1.3 of the Rules of Professional Conduct, as set forth in the appendix.
394. Because Respondent failed to keep the client reasonably informed about the status of the case, failed to promptly comply with reasonable requests for information, and

failed to communicate with the client, Respondent violated Rules 1.4(a) and 1.4(b) of the Rules of Professional Conduct, as set forth in the appendix.

395. Because Respondent failed to provide the client file as requested by the client after termination of the representation and failed to provide to refund any unearned fee or expense, Respondent has violated Rule 1.16(d) of the Rules of Professional Conduct, as set forth in the appendix.

396. Because Respondent failed to timely respond to Disciplinary Counsel's lawful requests for information on numerous occasions, he violated Rule 8.1(b) of the Rules of Professional Conduct, as set forth in the appendix.

COUNT XVII
I.D. No. 18-05-343
Complaint of Jonathan M. Haynes

397. On or about July 26, 2018, Complainant Jonathan M. Haynes filed an ethics complaint against Respondent, and asserted Respondent represented him for the past two years when his ex-wife failed to abide by rulings made by the family court. Mr. Haynes stated that he paid Respondent over \$4,000.00 over the past two years, but Respondent has done little to effectively and fully represent him. Mr. Haynes denied seeing any documents relating to a contempt petition that was supposedly filed by Respondent, and denied seeing any itemized statement or court pleadings. Mr. Haynes said communicating with Respondent has been difficult, even before hearings, and after the last hearing on March 13, 2018, he has not heard from Respondent. Further,

- attempts to make contact by four visits to Respondent's office were unsuccessful as it appeared to him that Respondent's office had closed.
398. On or about July 27, 2018, Respondent was sent a copy of the ethics complaint along with a letter informing him to file a verified response to the complaint within twenty days of receipt of the letter.
399. Previously, on or about July 3, 2018, Disciplinary Counsel obtained a subpoena for Respondent to appear for a sworn statement on August 8, 2018, which was served on July 12, 2018. Subsequently, Respondent obtained counsel and the sworn statement was rescheduled to August 27, 2018, and then rescheduled to November 1, 2018. Respondent's counsel agreed to address all complaints at that time.
400. On or about August 6, 2018, Lonnie C. Simmons, Esquire, filed a Notice of Substitution of Counsel indicating that he was representing Respondent in this case.
401. On or about August 20, 2018, Respondent filed a response. Paragraphs 59-61, *supra*, are incorporated herein by reference.
402. Regarding Mr. Haynes, Respondent stated he has Mr. Haynes' client file, and had provided all legal services that were requested; however, the client was not pleased after the facts and the law did not provide him with the resulted he wanted in the case.
403. On or about September 10, 2018, Mr. Haynes filed a reply indicating that he first paid Respondent \$2,500.00 by a check from his parents, and was told that it would cover everything. Mr. Haynes denied signing any fee agreement. About a year and a half after the first payment, Mr. Haynes was asked to pay another \$1,000.00 due to the

matter not being settled. The second payment of \$1,000.00 was also made with his parents' check. The last court date was March 13, 2018, and there had been no contact from Respondent since then. Mr. Haynes denied receiving any statement from Respondent's office, and he had to pay \$300.00 to obtain documents about his case from the court.

404. On or about September 17, 2018, Mr. Haynes sent an additional reply stating that almost all of his communication with Respondent's office had been through Mr. Coles unless he personally went to Respondent's office. At a hearing in January of 2017, Mr. Haynes did not know until just before the hearing that Respondent was out of town, and an associate would be handling the hearing, and Mr. Haynes asserted nothing regarding his contempt issues were addressed. A hearing on March 13, 2018, involved Respondent and opposing counsel working out issues, but nothing was ever put down in writing. When Mr. Haynes contacted Respondent's office about his ex-wife asserting she could have an overnight visitation because the court had ordered it, Mr. Haynes was told there was no Order. Thereafter, he had no communication from Respondent. Mr. Haynes hired new counsel, but he was unable to obtain his client file from Respondent so he had to get the documents from the court.

405. Mr. Haynes provided a copy of a July 17, 2017 check written from his parents' account to Respondent for \$1,000.00 along with two receipts: \$2,500.00 on May 6, 2016, for legal retainer fee and \$50.00 on May 6, 2016, for legal fee. He also provided

a copy of the \$300.00 receipt from where he paid for copies of documents from his court file.

406. At his sworn statement on November 1, 2018, Respondent said Mr. Haynes and his father were never happy with the case. Respondent said that he would have filed a contempt petition if he had known the mother had not attended the parenting class, but he has discovered that he was not told everything about the case. Respondent said any payment to him should have been put in the IOLTA. Respondent stated the communication issues occurred when he was having medical issues. Respondent said he was unaware of Mr. Haynes' request for his client file, and that he does not have an accounting in the case.
407. In the client file that Respondent brought to the sworn statement, there was a client intake sheet dated May 6, 2016, which indicated \$2,500.00 was paid along with another \$50.00. On or about August 30, 2017, Respondent filed a petition for contempt for Mr. Haynes regarding his ex-wife's failure to pay one-half of the monthly debt and his ex-wife having more than one person with her at the custody exchange. A retainer agreement was signed by Mr. Haynes on May 6, 2016, for a contempt/custody matter for a flat fee of \$2,500.00.
408. Bank records from City National Bank for the account entitled "The West Virginia State Bar E. Lavoyd Morgan Jr & Associates LC," do not show a deposit of \$2,500.00, or \$50.00, and the only deposit was on May 26, 2016, for \$1,200.00. Also, there were no deposits in July of 2017, and the IOLTA account was in a negative

balance of -\$153.57 by July of 2017, and only reflected a balance of \$35.43 in August of 2017.

409. On or about January 29, 2019, Mr. Haynes sent in correspondence indicating that he was unaware of any results being communicated by Respondent, as there had been no communication. Mr. Haynes indicated he hired new counsel in June of 2018, and he was told about a new Order in November of 2018 concerning his case, but he had not been aware of it.
410. On or about March 1, 2019, Respondent provided additional correspondence wherein he denied that he had ignore Mr. Haynes' attempts to contact him. Respondent said the court Order entered on August 20, 2018, was prepared by opposing counsel, and occurred after Mr. Haynes had hired new counsel.
411. On or about March 8, 2019, Mr. Haynes asserted that Respondent told him when he paid the \$2,500.00 that this was all that would be needed to be paid. Mr. Haynes noted that he had difficulty communicating with Respondent since he first hired him. Also, a court Order was entered in November of 2018 concerning the March 2018 hearing, and Mr. Haynes did not know about the new Order and his new counsel could not find a recording of the March 2018 hearing either. Further, on or about March 20, 2019, Mr. Hayes said in an additional letter that he was unable to speak with Respondent because his office was closed, and no information had been provided on how to contact him.

412. Because Respondent failed to act competently and diligently in handling the client's case, Respondent has violated Rules 1.1 and 1.3 of the Rules of Professional Conduct, as set forth in the appendix.
413. Because Respondent failed to keep the client reasonably informed about the status of the case, failed to promptly comply with reasonable requests for information, and failed to communicate with the client, Respondent violated Rules 1.4(a) and 1.4(b) of the Rules of Professional Conduct, as set forth in the appendix.
414. Because Respondent failed to hold client funds in an account designated as a "client's trust account" and failed to keep complete records of the funds paid to him, Respondent has violated Rule 1.15(a) of the Rules of Professional Conduct, as set forth in the appendix.
415. Because Respondent failed to place unearned fees into a client trust account and left earned fees in his client trust account, Respondent has violated Rule 1.15(c) of the Rules of Professional Conduct, as set forth in the appendix.
416. Because Respondent engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, Respondent violated Rules 8.4(c) of the Rules of Professional Conduct, as set forth in the appendix.

COUNT XVIII
I.D. No. 18-05-370
Complaint of Elizabeth Ann Good

417. On or about August 20, 2018, Complainant Elizabeth Ann Good filed this ethics complaint against Respondent. Ms. Good stated on June 21, 2018, she started

employment with Respondent, which continued through July 27, 2018. Ms. Good said she terminated her employment with Respondent when he failed to pay her wages owed to her. Ms. Good asserted she was owed \$2,342.00. Ms. Good noted that while working for Respondent, she received a high volume of calls from clients and clients coming into the office demanding their money back and their client files. Ms. Good stated she was told by Respondent to write down any payment by clients in cash or check, and to not deposit the same into the client trust account. Ms. Good said Respondent would instead take the cash or check payments, and put it into his pocket.

418. On or about August 21, 2018, Respondent's counsel was sent a copy of the ethics complaint along with a letter informing him to file a verified response to the complaint within twenty days of receipt of the letter.

419. Respondent failed to respond.

420. Previously, on or about July 3, 2018, Disciplinary Counsel obtained a subpoena for Respondent to appear for a sworn statement on August 8, 2018, which was served on July 12, 2018. Subsequently, Respondent obtained counsel and the sworn statement was rescheduled to August 27, 2018, and then rescheduled to November 1, 2018. Respondent's counsel agreed to address all complaints at that time.

421. On or about September 6, 2018, Ms. Good appeared for a sworn statement. She reiterated the allegations in her ethics complaint, but indicated she wanted to be paid in cash in order to avoid a check not being cashed.

422. On or about September 26, 2018, by certified and regular mail, a letter was sent to Respondent's counsel asking him to respond to Ms. Good's complaint by October 9, 2018. The green card was returned without any signature.
423. On or about October 9, 2018, Respondent filed a response, and Respondent's counsel accepted responsibility for the late filing of the response. Respondent stated Ms. Good was an employee, not a client, and that he had previously explained the issue with his cash flow when Ms. Good expressed interest in wanting to work for him. Nevertheless, Ms. Good agreed to work under those conditions. Respondent said he told Ms. Good about possible angry calls from clients concerning money and/or lack of representation, along with the possibility of unknown clients who had given money to Mr. Coles. Respondent denied telling Ms. Good not to deposit client funds into the client trust account, but acknowledged she is likely owed money for wages.
424. At his sworn statement on November 1, 2018, Respondent said he owed Ms. Good wages, but denied it was \$2,342.0 as his records did not reflect the same.
425. Because Respondent failed to timely respond to Disciplinary Counsel's lawful requests for information on numerous occasions, he violated Rule 8.1(b) of the Rules of Professional Conduct, as set forth in the appendix.
426. Because Respondent failed to timely pay wages, all in violation of law, Respondent violated Rule 8.4(b) of the Rules of Professional Conduct, as set forth in the appendix.

COUNT XIX
I.D. No. 18-05-418
Complaint of Kelsea Hower & Lisa Stansell

427. Complainants Kelsea Hower and Lisa Stansell filed their ethics complaint against Respondent on or about September 6, 2018. Ms. Hower and Ms. Stansell stated they retained Respondent in November of 2013 to represent them in an auto accident case. Ms. Hower, a minor at that time, was involved in the accident in October of 2013, and Ms. Stansell is her mother. Ms. Hower and Ms. Stansell stated there had been long stretches of time without any communication from Respondent over the last five years.
428. On or about April 10, 2017, Ms. Hower settled the lawsuit and signed the settlement paperwork, but did not receive her settlement money. Further, there had been no contact from Respondent's office since the settlement except for three instances when Ms. Stansell contacted the office herself. Attached to the complaint were copies of emails sent to Respondent, including a December 20, 2017 email from Ms. Stansell to Respondent about his office no longer handling the case. Ms. Stansell related in the email that she had called on three occasions and was told twice that subrogation claims were stalling the distribution of the settlement monies, and that she was informed during her last contact with Respondent's office that Respondent's ex-wife, who is not an attorney, took the case with her when she left the office.
429. On or about September 6, 2018, Ms. Hower gave a sworn statement. Ms. Hower reiterated she was involved in an accident in October of 2013, and because she was

a minor at that time, her mother, Ms. Stansell, went with her to Respondent's office. In 2016, a lawsuit was filed on her behalf, and a settlement was reached on April 10, 2017. Ms. Hower denied receiving a settlement sheet, but did remember signing the back of a check. Ms. Hower denied receiving any money from the settlement, and said she had planned to use the money to pay back student loans.

430. On or about September 6, 2018, Ms. Stansell gave a sworn statement. Ms. Stansell reiterated the facts that a case was filed, a settlement was reached, and that her daughter, Ms. Hower, never received any funds from the settlement. Ms. Stansell believed that there should be no medical bills, as Ms. Hower had a medical card. Ms. Stansell said she never saw a settlement sheet.

431. At the September 7, 2018 sworn statement, Ms. Flora said she was fired by Respondent because she asked questions about Ms. Hower's case. Ms. Flora was told by Respondent's ex-wife to tell Ms. Hower and Ms. Stansell that the delay in receiving funds was due to subrogation. At first, Ms. Flora believed that to be true, but later learned the money was gone. Respondent also told her to not inform the clients that the funds were gone. Ms. Flora said Respondent was aware that his ex-wife took client files with her, but his ex-wife returned them when she became tired of fielding calls about them. Ms. Flora stated Ms. Hower's client file was returned by the ex-wife.

432. On or about September 19, 2018, Respondent's counsel was sent a copy of the ethics complaint along with a letter informing him to file a verified response to the complaint within twenty days of receipt of the letter.
433. Respondent failed to respond.
434. Previously, on or about July 3, 2018, Disciplinary Counsel obtained a subpoena for Respondent to appear for a sworn statement on August 8, 2018, which was served on July 12, 2018. Subsequently, Respondent obtained counsel and the sworn statement was rescheduled to August 27, 2018, and then rescheduled to November 1, 2018. Respondent's counsel agreed to address all complaints at that time.
435. On or about October 23, 2018, by certified and regular mail, a letter was sent to Respondent's counsel asking him to respond to the complaint by November 1, 2018. The green card was signed and returned.
436. On or about October 26, 2018, Respondent filed a response. Respondent stated he met with his ex-wife, and was told Ms. Hower's case was settled in April of 2017. His ex-wife then began to negotiate the subrogation claims. Respondent asserted his former employee, Ms. Flora, gave misinformation to Ms. Hower and lied about his ex-wife's involvement. Ms. Flora was then terminated from her employment with Respondent. Respondent denied being aware of the communications between Ms. Hower and Ms. Flora or his ex-wife. Respondent stated Ms. Hower's case is still open, as he is trying to resolve the insurance/subrogation issues, but acknowledged that he had not had any communication with Ms. Hower since February of 2018.

437. On or about October 29, 2018, a copy of the Order of Dismissal in Ms. Hower's case against Greenbrier Valley Solid Waste, et al., in Greenbrier County Circuit Court Case No. 16-C-72, was obtained. The Order of Dismissal was entered on April 13, 2017, after the parties asserted all matters were settled and compromised.
438. At his sworn statement on November 1, 2018, Respondent said that messages from Ms. Hower and Ms. Stansell were not relayed to him, and had he known about the attempts to contact him, he would have contacted them. Respondent stated a settlement sheet was in the client file, and he was the one now working on the subrogation issue since his ex-wife left his employ, and any letters he sent to the insurance companies would be in the file. The settlement would have been placed into the City National IOLTA account. Respondent was unaware if the case was settled for an amount that would not cover the bills associated with her treatment. Respondent did not know how much of the settlement is remaining, but estimated it to be around \$9,000.00. Respondent said the December 2017 email was sent to his email address, but he did not check it back then and relied on his staff to deal with emails. Respondent denied that his ex-wife took Ms. Hower's case when she left his employ.
439. After being confronted that there were two deposits in April of 2017 of \$15,000.00 each and, within three months, the account was in a negative balance, Respondent said he did not realize that had happened and stated he did not check his bank statements. Respondent said he never looked at his accounts even after the issues with

Mr. Coles, and with only him having the ability to write checks from the IOLTA account, he indicated that there may have been a forgery done to change who could write checks. Respondent said he never checked the bank account to make sure Ms. Hower's money was still in the IOLTA account. Respondent said he was not even aware that there were electronic transfers being made in his IOLTA account.

440. Respondent did not provide a copy of Ms. Hower's client file at the sworn statement.

441. On or about November 30, 2018, Ms. Hower filed a reply. Ms. Hower said her case settled in April of 2017, and she was told by Respondent that his office would send her a small check within the week and the rest would come a few weeks later, after subrogation, and the remaining funds would be in an escrow account. Ms. Hower said that was the last time she spoke with Respondent, and his assertion that he was not aware of her latest email communications was shocking, as it was sent to his email address.

442. On or about December 12, 2018, Respondent's counsel was sent Ms. Hower's reply, and he was asked to file a response within twenty days of receiving the letter.

443. Respondent failed to respond.

444. On or about January 11, 2019, by certified and regular mail, a letter was sent to Respondent's counsel asking him to respond to the reply by January 22, 2019. The green card was signed and returned.

445. On or about January 22, 2019, Respondent filed a response and indicated that his response did not change after reading her reply. Respondent stated that once the audit

of his bank records was complete, that he would have a better understanding of what happened to her claim.

446. On or about September 11, 2019, Respondent submitted correspondence providing a copy of the release signed by Ms. Hower and a deposit slip of her settlement of \$15,000.00 on April 10, 2017. Respondent stated he is still resolving her subrogation claims, but would be sending her a check for \$7,000.00 the next day. Any additional money owed after the subrogation issues are resolved would be forwarded to her.
447. A review of Respondent's bank account records from City National Bank regarding his IOLTA account showed the deposit on April 10, 2017 for \$15,000.00. The IOLTA account was in a negative balance by the end of July of 2017, and only reflected a balance of \$35.43 in August of 2017. The account did receive some deposits thereafter, but after November of 2017, the remaining balance was \$188.06. There were no checks written out to Ms. Hower from the account.
448. On or about September 12, 2019, Respondent sent Ms. Hower a letter with a check enclosed for \$7,000.00 dated September 12, 2019 from his IOLTA account.
449. Because Respondent failed to act competently and diligently in handling the client's case, Respondent has violated Rules 1.1 and 1.3 of the Rules of Professional Conduct, as set forth in the appendix.
450. Because Respondent failed to keep the client reasonably informed about the status of the case, failed to promptly comply with reasonable requests for information, and

failed to communicate with the client, Respondent violated Rules 1.4(a) and 1.4(b) of the Rules of Professional Conduct, as set forth in the appendix.

451. Because Respondent failed to hold client funds in an account designated as a “client’s trust account” and failed to keep complete records of the funds paid to him, Respondent has violated Rule 1.15(a) of the Rules of Professional Conduct, as set forth in the appendix.

452. Because Respondent failed to ensure his staff’s conduct was compatible with his professional obligations under the Rules of Professional Conduct, Respondent violated Rule 5.3 of the Rules of Professional Conduct, as set forth in the appendix.

453. Because Respondent made a false statement during the investigation of the ethics complaint, Respondent has violated Rule 8.1(a) of the Rules of Professional Conduct, as set forth in the appendix.

454. Because Respondent wrongfully misappropriated and converted funds belonging to his client or third party, Respondent violated Rules 8.4(c) and 8.4(d) of the Rules of Professional Conduct, as set forth in the appendix.

COUNT XX
I.D. No. 18-05-490
Complaint of ODC

455. On or about October 3, 2018, a letter was sent from the West Virginia State Bar notifying Respondent that Piyush Bareria had filed an application with the Lawyers Fund for Client Protection Committee of the West Virginia State Bar seeking an amount of \$3,500.00. The application stated Mr. Bareria paid an initial retainer of

\$3,500.00 to Respondent on December 11, 2017 for a divorce case. Then an additional retainer of \$1,500.00 was paid by Mr. Bareria on December 28, 2017 for a domestic violence protective order case. Mr. Bareria indicated that by February 8, 2018, the outstanding balance for both the divorce and domestic protective order case was \$1,540.05, and that he had a substitution of counsel filed on May 16, 2018. Mr. Bareria provided emails sent to Respondent asking for a refund of \$3,500.00 from May of 2018 to July of 2018. Respondent then sent an email dated September 19, 2018, telling Mr. Bareria that Respondent would refund an amount between \$3,000.00 and \$3,500.00 within six to eight weeks. Mr. Bareria provided bank records that showed Mr. Bareria paid the \$1,540.05 to Respondent, along with the two retainer payments.

456. On or about October 23, 2018, a complaint was opened in the name of the ODC against Respondent, pursuant to the authority as set forth in Rule 2.4(a) of the Rules of Lawyer Disciplinary Procedure. Also, by letter dated October 23, 2018, Respondent was sent a copy of the information provided to ODC and was directed to file a response within twenty days of receipt of the letter.
457. Previously, on or about July 3, 2018, Disciplinary Counsel obtained a subpoena for Respondent to appear for a sworn statement on August 8, 2018, which was served on July 12, 2018. Subsequently, Respondent obtained counsel and the sworn statement was rescheduled to August 27, 2018, and then rescheduled to November 1, 2018. Respondent's counsel agreed to address all complaints at that time.

458. At his sworn statement on November 1, 2018, Respondent said the \$3,500.00 paid by Mr. Bareria was paid to Mr. Coles, and the account it was paid into was not an account Respondent used. Respondent remembered a \$1,500.00 payment by Mr. Bareria, but not the \$3,500.00 payment. Respondent acknowledged that he did not file the divorce, and said Mr. Bareria hired attorney Christine Stump, Esquire, to represent him. Respondent stated he probably earned some of the \$3,500.00, but he was not in a position to show what he earned. He said a fee contract should be in the client file. Respondent agreed to refund \$3,500.00, as he did not believe there was an accounting for the matter.
459. In the client file Respondent provided at the sworn statement, there were two client intake sheets, one dated December 6, 2017, for a divorce matter, and one dated December 28, 2017, for a domestic violence protective order. The December 28, 2017 intake sheet indicated an initial retainer of \$1,500.00.
460. A review of Respondent's bank account records from City National Bank regarding his IOLTA account showed no deposits in December of 2017, and the balance of the account was \$188.06. That amount remained the same from January to July of 2018.
461. On or about September 11, 2019, Respondent submitted correspondence indicating that the accountant's review of his bank accounts did not show any payment by Mr. Bareria being placed in any of Respondent's bank accounts.

462. Because Respondent failed to act diligently and failed to expedite litigation in handling the client's case, Respondent has violated Rules 1.3 and 3.2 of the Rules of Professional Conduct, as set forth in the appendix.
463. Because Respondent represented a client in a case for which Respondent did not obtain a written fee agreement, Respondent has violated Rule 1.5(b) of the Rules of Professional Conduct, as set forth in the appendix.
464. Because Respondent failed to hold client funds in an account designated as a "client's trust account" and failed to keep complete records of the funds paid to him, Respondent has violated Rule 1.15(a) of the Rules of Professional Conduct, as set forth in the appendix.
465. Because Respondent failed to place unearned fees into a client trust account, Respondent has violated Rule 1.15(c) of the Rules of Professional Conduct, as set forth in the appendix.
466. Because Respondent failed to provide to refund any unearned fee or expense, Respondent has violated Rule 1.16(d) of the Rules of Professional Conduct, as set forth in the appendix.
467. Because Respondent failed to ensure his staff's conduct was compatible with his professional obligations under the Rules of Professional Conduct, Respondent violated Rule 5.3 of the Rules of Professional Conduct, as set forth in the appendix.

COUNT XXI
I.D. No. 19-03-135
Complaint of Brandon E. Perdue

468. On or about March 29, 2019, Complainant Brandon E. Perdue filed an ethics complaint against Respondent, who was appointed to represent him in a criminal case. Mr. Perdue was indicted in October of 2018, and Respondent failed to appear for a hearing. In January of 2019, Mr. Perdue sent Respondent a copy of his indictment and that was when Respondent answered the indictment. Mr. Perdue stated he had communication issues with Respondent, and even his father could not communicate with Respondent. Mr. Perdue said he had been in jail for a year, and did not have a trial date or a plea offer.
469. On or about March 29, 2019, Respondent was sent a copy of the ethics complaint with a letter directing him to file a verified response to the complaint within twenty days of receipt of the letter.
470. Respondent failed to file a response.
471. On or about April 25, 2019, by certified and regular mail, a letter was sent to Respondent asking him to respond to Mr. Perdue's complaint by May 6, 2019.
472. On or about June 21, 2019, the certified mail sent to Respondent on April 25, 2019, was return to sender as unclaimed, unable to forward. The regular mail letter was never returned to ODC.
473. On or about July 5, 2019, Respondent filed a response. Respondent said he initially appeared with Mr. Perdue at his preliminary hearing on August 23, 2018, and Mr.

Perdue waived the preliminary hearing in exchange for a bond reduction. Mr. Perdue's arraignment was initially scheduled for October 3, 2018, but it was moved to November 28, 2018. Respondent denied being informed of the October 3, 2018 arraignment, and only had a travel slip in the file that showed a date in November of 2018. On January 9, 2019, Respondent appeared at a hearing for Mr. Perdue. Respondent denied receiving telephone messages from Mr. Perdue, and noted that his jail telephone account may not have been activated at that time. Respondent admitted there were several handwritten letters from Mr. Perdue in the client file, but none of the letters had dates on them. Nevertheless, Respondent did not recall seeing the letters until he reviewed the client file prior to filing his response, and also noted that the client file was incomplete. Respondent believed the communication issues were a result of having sporadic staff coverage in his office, and his ongoing health issues, but said he attended all hearings for Mr. Perdue wherein he had been provided notice.

474. On or about July 30, 2019, Respondent's counsel was asked to provide a complete copy of Mr. Perdue's client file within twenty days of receipt of the letter.

475. On or about August 9, 2019, Respondent provided the client file. It included an Order entered on March 11, 2019, noting that neither Respondent nor Mr. Perdue appeared or notified the Court about a reason for nonappearance. On March 18, 2019, the Judge sent Respondent a copy of a letter received that same date from Mr. Perdue discussing Respondent's failure to communicate. Again on March 21, 2019, the Judge sent Respondent a copy of a letter received on March 18, 2019, from Mr. Perdue about

Respondent's failure to communicate. On March 25, 2019, the prosecutor sent Respondent a plea offer for Mr. Perdue. Finally, on May 2, 2019, the court entered an Order Appointing New Counsel, which relieved Respondent as counsel and appointed new counsel for Mr. Perdue.

476. A copy of the court file was obtained in Mr. Perdue's case. On or about October 3, 2018, a memorandum was sent to Respondent about the arraignment scheduled for October 3, 2018, being rescheduled to November 28, 2018. An Order was entered on May 2, 2019, appointing Christopher Davis, Esquire, to represent Mr. Perdue. On or about May 13, 2019, Mr. Davis filed an Omnibus Discovery Motion, Supplemental Discovery Request, and Standard Pretrial Motions. On or about June 3, 2019, the State filed a response to the Motion for Discovery, and filed its own Motion for Discovery. On or about August 12, 2019, a Notice was filed by the State indicating that a Plea & Sentencing Hearing was scheduled for August 22, 2019, just three and a half months after Mr. Davis was appointed to represent Mr. Perdue.
477. Because Respondent failed to act competently and diligently in handling the client's case, Respondent has violated Rules 1.1 and 1.3 of the Rules of Professional Conduct, as set forth in the appendix.
478. Because Respondent failed to keep the client reasonably informed about the status of the case, failed to promptly comply with reasonable requests for information, and failed to communicate with the client, Respondent violated Rules 1.4(a) and 1.4(b) of the Rules of Professional Conduct, as set forth in the appendix.

479. Because Respondent failed to expedite litigation in handling the client's case, Respondent has violated Rule 3.2 of the Rules of Professional Conduct, as set forth in the appendix.

COUNT XXII
I.D. No. 19-05-152
Complaint of Zana G. Osborne

480. On or about April 10, 2019, Complainant Zana G. Osborne filed an ethics complaint against Respondent. Ms. Osborne stated that she was in a car accident in April of 2017, and had complications from injuries that required her to go to the hospital twice. In early 2018, Ms. Osborne, her sister, and her niece took paperwork to Respondent's paralegal at an information center located below Respondent's office. Ms. Osborne was not told that the paralegal was not an attorney, but the paralegal nonetheless told her that she had a case. Ms. Osborne had attempted to contact Respondent, but her telephone calls were not returned. Ms. Osborne has been told that the paralegal was fired, and that Respondent's office does not have any record of her paperwork. Further, she has also been told the paralegal took the paperwork with him.
481. On or about April 22, 2019, Respondent's counsel was sent a copy of the ethics complaint along with a letter informing him to file a verified response to the complaint within twenty days of receipt of the letter.
482. On or about May 1, 2019, Respondent filed a response and indicated that he could not find any document or file opening the case for Ms. Osborne, or any fee agreement.

Respondent does not believe Ms. Osborne was wrong about speaking with his paralegal or employees, but he has no information regarding Ms. Osborne or her case.

483. On or about June 5, 2019, Respondent's counsel was sent a letter asking if Respondent ever told Ms. Osborne that the former paralegal took her paperwork, and to respond within twenty days of receipt of the letter.

484. On or about July 5, 2019, after receiving an extension, Respondent filed a response stating he never sent a letter to Ms. Osborne about the paralegal. Respondent noted that Ms. Osborne was free to contact him or another lawyer to resolve the underlying civil case.

485. Because Respondent failed to ensure his staff's conduct was compatible with his professional obligations under the Rules of Professional Conduct, Respondent violated Rule 5.3 of the Rules of Professional Conduct, as set forth in the appendix.

* * *

Pursuant to Rule 2.9(d) of the Rules of Lawyer Disciplinary Procedure, the Investigative Panel has found that probable cause exists to formally charge you with a violation of the Rules of Professional Conduct and has issued this Statement of Charges. As provided by Rules 2.10 through 2.13 of the Rules of Lawyer Disciplinary Procedure, you have the right to file a verified written response to the foregoing charges within 30 days of service of this Statement of Charges by the Supreme Court of Appeals of West Virginia. Failure to file a response shall be deemed an admission of the factual allegations contained herein.

STATEMENT OF CHARGES ORDERED on the 21st day of September, 2019, and
ISSUED this 25th day of September, 2019.



Amy C. Crossan, Chairperson
Investigative Panel
Lawyer Disciplinary Board