



FILED
Feb. 13, 2023

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SUPREME COURT OF TEXAS BOARD OF DISCIPLINARY APPEALS

_____)	
In the Matter of)	Docket #65262
)	
PETER J. CRESCI, ESQUIRE)	RESPONDENT CRESCI RESPONSE
Bar ID # 24005767)	& ANSWER TO DOCKET #65262
)	
)	
)	
_____)	

COMES NOW RESPONDENT PETER J. CRESCI (TX Bar # 24005767)
licensed to practice in the State of Texas since 10 July 2009,
and sets forth his Response & Answer as to why **the imposition of
the identical discipline in this state would be unwarranted.**

Background, I am a University of Notre Dame Graduate
(1989); New York Law School (1992); Major, U.S. States Army
Judge Advocate General's Corps., a Licensed Attorney for over
thirty years since 1992 (Texas 10 July 1998). I have served in
various capacities within the United States Department of
Justice (Special Assistant U.S. Attorney), as well as being
approved by the U.S. Senate to be Staff & Faculty at U.S.
Military Academy, West Point. I am Texas born, and have resided
and worked in San Antonio off and on since the 1990s. I am a
married father of four (4) children. My family relies upon me
to support them.

INTRODUCTION

Respondent Cresci makes this responsive Answer to demonstrate and prove that Reciprocal Discipline should not be undertaken by the Board which not only has its basis in fact that a License is a Property Right subject to the Due Process guaranteed by both the United States Constitution, Articles IV, V and XIV but certainly demonstrates that the State of New Jersey erroneously reached their conclusion by DEFAULT when a thorough Answer was filed on April 11, 2018 (eleven months prior to the Order to Show Cause granted based on Default).

It is demonstrably clear that Texas Rule of Disciplinary Procedure 9.04 sets forth the reasons, as affirmed herein, as to why the actions in New Jersey should not be taken by the Board of Disciplinary Appeals, because:

-Respondent Cresci filed an answer, he alleges, and proves, by clear and convincing evidence, to the Board of Disciplinary Appeals one or more of the following defenses to avoid the imposition of identical discipline of the other jurisdiction:

A. That the procedure followed in the other jurisdiction on the disciplinary matter was ***so lacking in notice or opportunity to be heard as to constitute a deprivation of due process.*** No hearing, no discovery, no witnesses. As set forth, the actions were taken by "Default," on March 21, 2019. This despite a 46 page Answer and over 300 paragraphs Answer (Ex. D) filed on April 11, 2018 (Ex. C); one year prior.

B. That there was such an infirmity of proof establishing the misconduct in the other jurisdiction as to give rise to the clear conviction that **the Board of Disciplinary Appeals, consistent with its duty, should not accept as final the conclusion on the evidence reached in the other jurisdiction.** The United States Court of Appeals for the Third Circuit took similar action and refused to take action on Respondent Cresci's License (See Ex. A, Order filed May 20, 2019).

C. That the imposition by the Board of Disciplinary Appeals of discipline identical, to the extent practicable, with that imposed by the other jurisdiction would result in grave injustice. If the Texas Board of Disciplinary Appeals chose to invoke reciprocal discipline, it was be a grave injustice. As Respondent Cresci continues to fight in the State of New Jersey for his property license, and this matter is on-going (See April 10, 2019 Motion for Reconsideration; and USDC NJ 16CV04780 and 18CV16207).

Comment 4 to Part IX stands for the proposition that BODA should not necessarily take action of what occurred in another jurisdiction; BODA certainly is not bound to do so.

D. That the misconduct established in the other jurisdiction warrants substantially different discipline in this state. In this matter, you have no Grievant; just the Defendant McNamara making a paper case without a Hearing, Without Witness; Denying Respondent Cresci's ability to defend the accusations. It is quite disconcerting that they use "Guilty by Default," when a formal 46 page Answer with Jurat was filed on April 11, 2018 (1 year prior to the Default Hearing).

E. That the misconduct for which the attorney was disciplined in the other jurisdiction does not constitute Professional Misconduct in this state. These allegations of 2009 and 2010 were investigated by OAE Investigator and Attorney Jan Richter and dismissed as political and unworthy of discipline; other than bookkeeping maladies for which training was recommended and attended by myself and staff. (See Ex. C)

The Board of Disciplinary Appeals should determine that one or more of the foregoing defenses are established, it shall enter such an orders as it deems necessary and appropriate.

ATTACHED & INCORPORATED BY REFERENCE

The following Exhibits are attached and incorporated by Reference, are verified to be true and correct under penalty of perjury:

Exhibit 1: U.S. Court of Appeals for 3rd Circuit Order dated, May 20, 2019, holding any actions in Abeyance on Crecsi's License; and

Exhibit 2: Motion for Reconsideration filed on April 10, 2019 with New Jersey Court. Sets forth the due process arguments similar to Part IX of Texas Rule of Disciplinary Procedure, 9.04.

Exhibit 3: Proof of Answer being Filed on April 11, 2018 (1 year prior to the Order to Show Cause Hearing and Default).

Exhibit 4: Answer filed on April 11, 2018, which consists of 46 pages, and 347 paragraphs in response. Filed one year prior to the alleged "Default."

ANSWER & ARGUMENTS

As set forth in this document, the incorporated Exhibits, the Board shall

I. *A License is a Property Right Subject to Due Process.*

No hearing was conducted, no witnesses testified, no discovery was exchanged nor provided; no record of the proceedings; and no opportunity for appeal or judicial review of the decision. *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 543 (1985).

Respondent Cresci's Law License is a property interest in continued employment. *Board of Regents v. Roth*, 408 U.S. 564, 576-578, 92 S.Ct. 2701, 2708-2709, 33 L.Ed.2d 548 (1972). The State could not deprive Cresci of this property without affording him due process. *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 538, 105 S.Ct. 1487 1491, 84 L.Ed.2d 494 (1985) citing *Memphis Light, Gas & Water Div. v. Craft*, 436 U.S. 1, 11-12, 98 S.Ct. 1554, 1561-1562, 56 L.Ed.2d 30 (1978)... *Swanson v. Houston Independent School Dist.*, 800 S.W.2d 630 (Tex. App. 1990)

II. Other States' Adjudication are Not Complete

A Motion for Reconsideration was filed on April 9, 2019 with the State of New Jersey. No action has been taken. This matter is not final. That action has not been adjudicated, on purpose no doubt. Under New Jersey R.4:49-2, a Motion for Reconsideration tolls or stays the actions cited in New Jersey Court Rule 2:4-3 (e), including a timely motion for reconsideration filed pursuant to New Jersey Court Rule 4:49-2 within 20 days of the entry of a judgment. (March 21 to April 10)

The matter in New Jersey (and N.Y.) is not final. A Motion for Reconsideration was filed on or about April 10, 2019. Such action filed under New Jersey Rule 4:49-2, a Motion for Reconsideration (attached as Ex. B) makes the action active (and not final) per New Jersey State Rule 2:4-3(e). See also *Alberti v. Civl Serv.Comm.*, 41 U.S. 147, 154 (1963); *Milne v. Goldenberg* (2012) 428 N.J.Super.184,187.

III. Retroactivity is Disfavored

We all understand that the Rules of Disciplinary Procedure was amended by vote. However, the Retroactivity of same would be deleterious to the safe and productive practice of the law. The Retroactive applications of statutes or rules are generally disfavored. That is, an individual will likely not be found liable for violating a statute if that statute was not in effect at the time of the individual's conduct predicated the alleged violation. For example, in *Landgraf v. USI Film Products*, 511 U.S. 244 (1994) and *Lindh v. Murphy*, 521 U.S. 320 (1997) provide

the framework attorneys should use to answer this question. First, look for an "unambiguous directive" as to the temporal reach of a statute. The U.S. Supreme Court denied application of a statute which directly addressed the issues being litigated because it was passed during the litigation, ***emphasizing the presumption against retroactive application of statutes***. The principle of disfavoring retroactive application of the law is rooted in the Fifth Amendment of the U.S. Constitution, i.e. the due process clause. Put another way, it is not considered fair for an individual to be liable for violating a rule or law that did not exist at the time of the alleged violation. In present tense, prior to the recently approved change in enforcement in 2022, Attorney Cresci's Texas License would not be impacted by such a rule. In fact, we have to be very careful in Licensing Jurisdictions, a property right, is not awarded from a different state. Then certainly cannot be removed from a different state. See also, *Brown v. Louisiana*, 447 U.S. 323, 100 S.Ct. 2214, 65 L.Ed.2d 159 (1980); *Johnson v. New Jersey*, 384 U.S. 719, 86 S.Ct. 1772, 16 L.Ed.2d 882 (1966).

IV. Collateral Estoppel

Collateral Estoppel. The doctrine of collateral estoppel and in light of judicial economy insures such a decision be assumed by another court or jurisdiction. *B & B Hardware, Inc. v. Hargis Indus., Inc.*, 135 S. Ct. 1293, 1303-05 (2015) (citing *Astoria as endorsing collateral estoppel from administrative adjudications*). However, the factors to be considered, in which all must be involved is missing including:

Third Collateral Factor, was the issue fully and fairly litigated? A resounding "No." These matters were via "Default," despite the fact an Answer was filed on April 11, 2018 (Ex. C & D).

Fourth Collateral Factor, did the party against whom collateral estoppel is being asserted have the opportunity to contest the issue? No. Respondent Cresci had no opportunity to be heard.

In 2011-2012 each alleged incident of 2005 and 2009 was investigated by an attorney Janice Richer and Ms. Richter determined to be retaliatory and politically motivated; after several in-person meetings and communications with Janice Richter- Defendant OAE took no further action on the allegations which are now five and four years old (see New Jersey R.1:20-8 which requires the grievance to be investigated and resolved in no more than 18 months).

V. Mitigating Factors

As set forth, there are Mitigating Circumstances in addition to those Due Process considerations set forth on Disciplinary Procedure 9.04, they include but not limited to:

1. In his 31st year of the practice of law, Respondent has no prior disciplinary history in the State of Texas (licensed since

10 July 2009), nor any other of myriad of jurisdictions (other than New Jersey- all brought by Defendants (or their attorneys) named as litigants;

2. Any violation of the Rules of Professional Conduct by the Respondent was the product of negligence and/or unintentional mistake and not knowing misconduct (there is no pattern here; even when Jan Richter properly and timely conducted her investigation in 2011, she found no reason to impose discipline);

3. Through the previous representation of the Rotolo Law Firm, Respondent has cooperated with New Jersey ethics authorities throughout these matters in 2011-2016, and then again in 2018-2019. We note for the record the Director of New Jersey Office of Attorney Ethics, the one directing McNamara, was removed for cause from his employment for the exact fraudulent acts Cresci complained.

4. Respondent enjoys good reputation and character as a U.S. Army Military Officer, Major Judge Advocate General's Corps, a former Special Assistant U.S. Attorney; a State Prosecutor; with a Top Secret Security Clearance; and

5. Respondent is contrite and remorseful; and

6. Respondent admits to poor record keeping and accepted responsibility of record keeping deficiencies. Respondent Cresci took remedial action to bring his attorney books and records in compliance with New Jersey R.1:21-6.

7. Respondent is aware that the majority of the grievances have emanated from the City of Bayonne, its employees, and agents, contractors, who have utilized the attorney ethics

process to reprise and retaliate against the Respondent as depicted by New Jersey OAE Attorneys Jan Richter and Mr. Ziff orally and in writing;

8. There are egregious violations of any reasonable time goals for such New Jersey ethics investigations -- much less the time goals set forth in R.1:20-8. Therefore cases from 2005, 2009, and 2010, 2011 defy the record keeping requirements reek of due process violations under the 4th and 6th Amendments. The timeline is no longer than 18 months. Plus, Jan Richter had already investigated and concluded without action in 2012.

REQUEST FOR A HEARING IS MADE BY RESPONDENT CRESCI, if a decision is made to continue this reciprocal action.

REQUEST FOR DISCOVERY, INCLUDING ALL COMMUNICATIONS, WHICH TOUCH UPON THESE MATTERS, including but not limited to e-mails, texts, communications, et als.

Peter J. Cresci, of full age, certify as follows:

"Verification of Responsive Answer:

I, Peter J. Cresci am the respondent in the within reciprocal action and hereby certify as follows:

(1) I have read every paragraph of the foregoing Answer to the Complaint and verify that the statements therein are true and based on my personal knowledge.

(2) I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment."

Peter J. Cresci, Esq. /s/

Dated: February 13, 2023 Signed:

Attorney for Respondent Cresci
E-Mail: Aduaconsultgroup@gmail.com
Tel. 201.681.1156; Fax: 888.803.9705

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 16-8076

In re: Peter J. Cresci, Esquire
(Supreme Court of New Jersey M-79 September Term 2016 078273)

To: Clerk

- 1) Motion by Respondent, filed April 15, 2019, for Extension of Time to File Formal Response to Show Cause order

The foregoing motion is construed as a motion to stay the case pending disposition of the motion for reconsideration filed in New Jersey state court. So construed, the motion is granted. Respondent is directed to file a report addressing the status of the pending motion for reconsideration within 30 days from the date of this order and every 30 days thereafter until the motion has been decided. Respondent must immediately advise the Court when the New Jersey state court has ruled on the motion for reconsideration.

For the Court,

s/ Patricia S. Dodszuweit
Clerk

Dated: May 20, 2019
MB/cc: Peter J. Cresci, Esq.

INTRODUCTION

COMES NOW RESPONDENT, Peter J. Cresci, and respectfully requests reconsideration of the Order filed March 21, 2019 under Court Rule 4:49-2 Motions to Alter or Amend a Judgment or Order. The motion is filed within 20 days after the March 21, 2019 Order. This motion states with specificity "the basis on which it is made, including a statement of the matters or controlling decision which counsel believes the court has overlooked or as to which it has erred." Id.

The controlling Order adopted the Disciplinary Review Board's decision without the following:

-The requirements under the U.S. Supremacy Clause disallow the State Court, as here, to dissociate itself from the federal law which was expressly cited throughout the process. In this process even the U.S. District Court stayed jurisdiction (USDC 16CV478) pending the review of the constitutional and due process violations alleged therein by the State court. An avenue that was not afforded the Respondent. *See Howlett v. Rose*, 496 U.S. 356 (1990).

-Respondent Cresci was denied a hearing, and the procedural rights, that arises when the government, deprives the individual of a constitutionally protected liberty and property interest (license). *See Cleveland Board of Education v. Loudermill*, 470 U.S. 532, 543 (1985).

-*In re Gavel* has not been amended. A 46 page Verified Answer was filed on April 11, 2018 (R001-046). However, the court disallowed a very specific answer, counterclaim, and response. *In re Gavel*, 22 N.J. 248, 263 (1956), and R. 1:20-4(e). Neither *Gavel* nor the Rule allow a deficient answer to be treated as a default. To the contrary, R. 1:20-4(f) provides for certification of the record as a default only when a respondent either fails to file an answer or files an answer without the required verification.

-The March 11, 2019 court appearance on the *Order to Show Cause why a Default Should Not be Entered* demonstrated Respondent Cresci had indeed cooperated with the officials concerning the 2005 Estate, 2009 Real Estate Closing, and 2011 Employment Discrimination. In addition to a Verified Amended Answer filed on April 11, 2018 (R001-R047), a Motion to Vacate (R098) was filed with the DRB with Leave to File Motions including Constitutional Issues, *See R.1:20-4 (e)*, and leave to

file Interlocutory Appeal, See R.1:20-16(f) (1). The motions were inexplicably denied. Previously, Cresci met with OAE employee Jan Richter on four (4) separate occasions, with Defendant Timothy McNamara on January 30, 2013, and again on May 10-11, 2016. The one time OAE allowed a District VI hearing to move forward locally, their hearing did not go well (all allegations dismissed No.VI-13-14E in January 2017). No witnesses of claimed violations attended.

The essential purpose of our system of attorney discipline is to protect the public, not to punish the attorney. See *In re Rigolosi*, 107 N.J. 192, 206 (1987) See *In re Makowski*, 73 N.J. 265, 271 (1977) ("The ultimate objectives of imposing a disciplinary measure are `the protection of the public, the purification of the bar and the prevention of a re-occurrence.'" (quoting *In re Baron*, 25 N.J. 445, 449 (1957))).

-The standard on *Reconsideration* is a matter that is within the sound discretion of the court. *Cummings v. Bahr*, 295 N.J. Super. 374, 384-85 (App. Div. 1996). The Respondent herein "state[d], with specificity the basis on which it is made, including a statement of the matters or controlling decisions which counsel believes the court has overlooked or to which it has erred." R. 4:49-2. The rule applies when "the court failed

to consider evidence or there is good reason for it to reconsider new information.” Pressler & Verniero, Current N.J. Court Rules, comment on R. 4:49-2 (2010) (citing Cummings, supra, 295 N.J. Super. at 384-85).

LEGAL ARGUMENTS

POINT I

STANDARD FOR RECONSIDERATION

Standard for Reconsideration. Under Rule 4:49-2 the following statement is sufficient to reconsider the Order of March 21, 2019, to wit:

The request for reconsideration falls into three categories: Supremacy Clause; due process violations, and the standard on default. Under the Supremacy Clause, the courts have a concurrent duty to enforce federal law according to their regular modes of procedure; this was not done. The state courts cannot dissociate themselves from federal law because of disagreement with its content. Secondly, the "'The minimum requirements of due process . . . are notice and the opportunity to be heard.'" *Jamgochian v. N.J. State Parole Bd.*, 196 N.J. 222, 240 (2008) (alteration in original). Again, no hearing was conducted, no witnesses testified, no discovery was exchanged

nor provided; no record of the proceedings; and no opportunity for appeal or judicial review of the decision. *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 543 (1985). The Due Process Clause provides that the substantive rights of life, liberty, and property cannot be deprived except pursuant to constitutionally adequate procedures. *Id.*

Third, we avoid an unjust result in any given case. See *Manning Eng'g, Inc. v. Hudson County Park Comm'n*, 74 N.J. 113, 120 (1977); *Hodgson v. Appelgate*, 31 N.J. 29, 43 (1959) (Interest in finality must be balanced with the goal of doing justice in the case); *Nowosleka v. Steele*, 400 N.J. Super.297, 303 (App.Div.2008), stating that courts have liberally exercised power to vacate default judgment "in order that cases may be decided on the merits." With the stakes very high, this was exactly that time. Enforcing the default was unjust, oppressive and inequitable. (See R.4:50-1 (a) and (f) for comparison standard).

POINT II

CONCURRENT DUTIES OF THE STATE COURTS

The Respondent was not attempting to utilize the state system to gain an advantage in the federal lawsuit as indicated on the record by a Justice. In fact the Respondent was before the state court at the behest and direction of Judge Linares, who insisted the state system, had adequate remedies for Constitutional Violations. In the Respondent's response to the *Order to Show Cause* discussion was set forth of the myriad of Constitutional violations of significance, to wit:

- 4th Amendment violation: during discovery pertaining to *Cresci v. Aquino*, U.S.D.C. 13CV4695 (R048), it was discovered that Defendant McNamara conducted an interrogation of Cresci with complicity of the defendants (law enforcement officers and county prosecutors) in that federal lawsuit. On or about January 29, 2013, McNamara and Centinaro violated Cresci's "Brady rights" under the premise that McNamara and Centinaro were required and failed to disclose their criminal investigative activities. *See Giglio: 405 U.S. 150; 92 S.Ct.763; 31 L.Ed.104* See also, *Brady v. Maryland, 373 U.S.83; 83 S.Ct.1194; 10 L.Ed. 215. See, Maness v. Meyers, 419 U.S. 449, 464, 95 S.Ct. 584, 594, 42 L.Ed.2d 574, 587 (1975)*. Employment

may not be explicitly conditioned on a waiver of Fifth Amendment rights. *Gardner v. Broderick*, 392 U.S. 273 (1968).

-On each of the solicited grievances, the named individuals would not testify. OAE never allowed a formal Hearing Panel in District VI (or any nearby conflict District) of these 2005, 2009, and 2011 allegations which defy R.1:20-8.

a). Malicious Prosecution; Abuse of Process. Violations of the First, Fourth & Fourteenth Amendments, 42 U.S.C. §1983 (R048); confirmed by Judge McNulty's decision in USDC 13CV4695; significantly described in the Third Circuit's decision (R.132).

b). Violations of R.1:20-8 requiring no more than eighteen (18) months from initiation to resolution of grievances. 2005, 2009, 2010 are the years from which alleged improprieties took place. "[i]t should be a primary goal of the disciplinary system to provide meaningful and timely assistance to members of the public who have concerns regarding their lawyers' conduct." Michaels Commission 914; 133 N.J.L.J. 905 (March 15, 1993). It is clear that after OAE's Jan Richter investigated and concluded; these files were revived in order to reprise and retaliate.

c). Violations of GLBA, 15 U.S.C. §6821, et seq. OAE investigators and employees claimed to the bank there was a random audit to access Cresci's bank accounts. Neither documentation nor attorney notification exists. BCB and VNB Banks records were subpoenaed in USDC 13CV4695 confirming "pretexting" to gain access to records.

d). RPC 1.7; 1.8; Centinaro and McNamara failed to clearly identify the conflicts and continue to ignore same; probity of their conduct is seriously questioned, and subject to the federal lawsuit.

e). RPC 1.7, 1.8; facilitated a grievance in 2013 for Charles M. D'Amico (a named Individual defendant from a client's lawsuit). This is the one (1) formal hearing case which was dismissed on January 31, 2017.

f). The misuse of filing a disciplinary complaint or report against opposing counsel, to obtain an advantage in a civil case, is constrained by the Rules, NJ R. 3.4(g); DR 7-105. That is exactly what was done and encouraged herein. See also 18 U.S.C. §1505, et seq.

- Civil Rights Violations under 42 USC §1983 & §2000e, et seq. There is little doubt "Cresci" has entered into prior protected activity. The ethics system has been utilized to silence and remove Cresci from representing Plaintiffs who have asserted their U.S. Constitution rights, State of New Jersey Constitutional rights, and Title VII discrimination allegations. The list of civil rights cases were identified against the County of Hudson and City of Bayonne, the exact people bringing the grievances forward; and the former employer of Mr. Centinaro.

Under the Supremacy Clause, state courts have a concurrent duty to enforce federal law according to their regular modes of procedure. *See, e.g., Claflin v. Houseman*, 93 U. S. 130, 93 U. S. 136-137. Such a court may not deny a federal right, when the parties and controversy are properly before it, in the absence of a "valid excuse." *Douglas v. New York, N.H. & H.R. Co.*, 279 U. S. 377, 279 U. S. 387-389. An excuse that is inconsistent with or violates federal law is not a valid excuse: the Supremacy Clause forbids state courts to dissociate themselves from federal law because of disagreement with its content or a refusal to recognize the superior authority of its source. *See, e.g., Mondou v. New York, N.H. & H.R. Co.*, 223 U. S. 1, 223 U. S. 57. A valid excuse may exist when a state court refuses

jurisdiction because of a neutral state rule of judicial administration, see, e.g., Douglas, *supra*, unless that rule is preempted by federal law, see *Felder v. Casey*, 487 U. S. 131. Pp. 496 U. S. 367-375. See *Howlett v. Rose*, 496 U.S. 356 (1990).

Conduct by persons acting under color of state law which is wrongful under § 1983 cannot be immunized by the state, even though the federal cause of action is being asserted in state court. See, e.g., Martinez v. California, 444 U. S. 277, 444 U. S. 284, and n. 8.

As seemingly done here, Section 1983 litigation a state may not create immunity for state officials that is greater than the federal immunity. The Court in *Howlett* pointed out that Section 1983 suits could be brought in state courts and that under the Supremacy Clause, federal substantive law must be applied in such actions. Clearly, this was not the case.

POINT III

**DEFAULT WOULD BE INACCURATE AND UNJUSTIFIED.
THE MATTERS SHOULD BE CONSOLIDATED UNDER ECD.**

Foremost, a Verified Answer was indeed timely filed on these matters (R001). Within such forty-six pages Respondent

Cresci: answered, set forth affirmative defenses (R009-R014), mitigating circumstances (R008), request for a hearing (R045); requested discovery under R.1:20-5(a) (R016). A prehearing statement, dated March 5, 2018 submitted by Respondent Cresci requested leave to file a Motion for Interlocutory Relief citing 42 USC §1983; 4th, 5th, 6th, and 14th amendment violations. That request was ignored. A second request was made to the DRB on August 22, 2018. Under R.1:20-16(f)(1) a motion was made in February, 2019.

The standard herein cannot be obviated.

"[a] court should view 'the opening of default judgments . . . with great liberality,' and should tolerate 'every reasonable ground for indulgence . . . to the end that a just result is reached.'" *Mancini v. EDS ex rel. N.J. Auto. Full Ins. Underwriting Ass'n*, 132 N.J. 330, 334 (1993) (alteration in original) (quoting *Marder v. Realty Constr. Co.*, 84 N.J. Super. 313, 319 (App. Div.), *aff'd*, 43 N.J. 508 (1964)). "All doubts, . . . should be resolved in favor of the parties seeking relief." *Ibid.* (citing *Arrow Mfg. Co. v. Levinson*, 231 N.J. Super. 527, 534 (App. Div. 1989)). That is so because of the importance we attach to securing a decision on the merits. See *Davis*, *supra*, 317 N.J. Super. at 100-01 (stating doubts should be resolved in

favor of the applicant in order to secure a trial upon the merits).

In the instant matter, Respondent would suffer a manifest denial of justice if the current default order remained. See *Tucci v. Tropicana Casino & Resort, Inc.*, 364 N.J. Super. 48, 51-53 (App. Div. 2003) (emphasizing the essential purpose of the Rules of Court to serve the goal of rendering substantial justice).

POINT IV

ENTIRE CONTROVERSY DOCTRINE

The Order of March 21, 2019 seems to overlook the entire controversy doctrine. Respondent Cresci sought to invoke the entire controversy doctrine. Under the entire controversy doctrine the issues relating to the allegations and the constitutional and due process violations should be combined, rather than allow a piecemeal approach wherein the ethics complaints appear to be solicited after previous complainants were dismissed. The Entire Controversy Doctrine requires whenever possible all phases of a legal dispute to be adjudicated in one action." *Prevratil v. Mohr*, 145 N.J. 180, 214 (1996). "At a minimum, all parties to a suit should assert all affirmative claims and defenses arising out of the underlying

controversy." Id. (citing Cogdell v. Hospital Ctr., 116 N.J. 7, 15 (1989)). The Doctrine is expressly incorporated by New Jersey Courts R.4:30A.

Respondent Cresci requested these matters be stayed pending the adjudication of the Constitutional and Due Process challenges set forth in accordance with R.1:20-16(f)(1). These constitutional violations include, but not limited to: 42 U.S.C. §1983; 42 U.S.C. §1981; 42 U.S.C. §1985 (2) and (3); 1st Amendment, as well as 42 U.S.C. §2000e; 18 U.S.C. § 1961, 18 U.S.C. §1505, et al. 18 U.S.C. §1512 (c), whereas Respondent Cresci acted as witness, C.I. for several government agencies from which juries were empaneled resulting in criminal and administrative charges brought.

A contention in the Third Circuit appears within Justice Alito's decision in *Hospital Council v. City of Pittsburgh*, 949 F. 2d 83, 86 (3d Cir.1991) As Justice Alito set forth in *Hospital Council* the onus is on the Defendants to explain how the state [ethics] board can entertain such claims, with a required jury, and damages assessed, as established by 42 USC §1983 actions. Justice Alito stated,

"As previously noted, the complaint also asserts claims concerning discrimination in zoning matters and in the awarding of public contracts, but neither the district court nor the defendants have explained how the state boards of assessments could entertain such claims. Thus abstention was not

proper in this case." *Hospital Council v. City of Pittsburgh*, 949 F.2d 83, 86 (3d Cir. 1991)

Further, prong three was not met

"(3) the state proceedings afford an adequate opportunity to raise federal claims." Schall v. Joyce, 885 F.2d 101, 106 (3d Cir.1989). *In this case, it is apparent that the third requirement is not met, and thus we need not consider the other requirements. Id. at 86" (See R156)*

POINT V

ABUSE OF PROCESS VIOLATIONS & CLEAR CONFLICTS OF INTEREST

Abuse of Process

Presenter/OAE made an improper, illegal and perverted use of the ethics system, and their resort to the legal process was neither warranted nor authorized by law. Moreover, the actors had an ulterior motive in initiating the ethics legal process. In other words, abuse of process is the misuse or misapplication of the legal procedure in a manner not contemplated by law. Whether it was misrepresenting "random audit" to the BCB Community Bank, without notice to the Respondent Cresci, in order to gain access to bank records in violation of 18 U.S.C. 6821, *et seq*, known as *pretexting*. Perhaps it was the allowance of ethics system to be utilized to take advantage of a civil matter in violation of 18 U.S.C. §1505. The claims against Respondent were calculated and contrived, encouraged and solicited in violation of 18 U.S.C. §1512(c), *et seq*.

Respondent Cresci has acted as a witness, confidential informant for several federal and state agencies, including the U.S. HUD-IG as well as the FBI from which juries were empaneled resulting in charges being brought. These actions, once investigated by Janice Richter, miraculously re-appeared after the false arrest (USDC 13CV4695).

Abuse of process is misusing, or misapplying process justified in itself for an end other than that which it was designed to accomplish. *Prosser on Torts, Chap. 22, sec. 121 at 856-857 (4th ed. 1971)*. If the reason for invoking the ethics systems was "as a shield, and not a sword," these matters would have been resolved several years ago, in 2010 and 2011.¹ Several avenues were offered, all were rejected.

Pyramiding is likewise an abuse of process. This is the act of plying multiple grievances or complaints in order to overcharge the target. The abuser of process is interested only in accomplishing some improper purpose similar to the proper object of the process; in this instant disbarment. Actual malice is often not required in an abuse of process claim. The improper purpose element of an abuse of process can, as here, take the form of coercion to obtain a collateral advantage, not properly

involved in the proceeding itself. As set forth throughout this submission: the use of the ethics system to gain an advantage of civil lawsuits, by the very people (or their agents) who are Defendants.

Conflicts of Interest

As Respondent previously requested, these matter should be transferred out of District VI, and assigned away from individuals Timothy McNamara and Charles Centinaro who are named individual defendants in the aforementioned sealed and docketed 16CV0480 U.S.D.C. NJ due to apparent and actual conflicts of interest-and violations of 42 U.S.C. §1983, §1985, §1988; see also N.J.S.A. 52:13D-12, et seq. State of New Jersey Conflicts of Law.

The absence of an impartial and disinterested prosecutor has been held to violate a defendant's due process right to a fundamentally fair trial." *State of N.J. v. Imperiale*, 773 F. Supp. 747, 750 (D.N.J. 1991) (citing *Ganger v. Peyton*, 379 F.2d 709, 714 (4th Cir.1967)). The Supreme Court has observed that a situation that injects "a personal interest, financial or otherwise, into the enforcement process may bring irrelevant or impermissible factors into the prosecutorial decision and in

some contexts raise serious constitutional questions." *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 249 (1980) (emphasis added). "Prosecution by someone with conflicting loyalties calls into question the objectivity of those charged with bringing a defendant to judgment." *Young v. Vuitton*, 481 U.S. 787, 810 (1987) (quoting *Vasquez v. Hillery*, 474 U.S. 254, 263-64 (1986)) (internal quotation marks omitted). USDC 13CV4695 (R048) and 16CV4780 (R106) made this personal for McNamara and Centinaro.

Further, under Rule of Professional Conduct, RPC 1.11(d)(2)(i), the New Jersey Supreme Court has ruled that in certain cases involving "the service of an attorney in areas where the public interest is involved," the stricter "appearance of impropriety" standard is still applicable, despite no longer being applicable to conflicts involving attorneys in private matters. *Kane Properties, LLC v. City of Hoboken*, 214 N.J. 199, 221 (2013) (citing *Twp. of Lafayette v. Bd. of Chosen Freeholders*, 208 N.J. Super. 468, 473 (App. Div. 1986)). The analysis from *Kane* is "Would a reasonable, fully informed person have doubts about the judge's impartiality." 214 N.J. at 221. That analysis is not, however, limited to judges. "[I]t remains applicable to [i.e., government] officials acting in a quasi-judicial capacity." *Id.* at 220 (citation omitted).

Mr. Charles Centinaro declined to disclose his previous relationships and communications to Mssrs. Charles M. D'Amico (an individual who worked previously with Charles Centinaro and engineered and solicited these complaints), Mr. Gaetano Gregory (previous acting Hudson County Prosecutor), Mr. Ralph Lamparello (an adversary to Respondent on multiple litigation cases) or even DRB's Mr. Maurice Gallipoli (who failed to recuse himself until Respondent filed a motion for clear conflicts, including being compensated by the City of Bayonne acting as a mediator). Mr. McNamara failed to disclose his communications with the Prosecutor's Office prior to the charges as previously alleged and dismissed; yet Mr. McNamara easily admits the "Nuremburg Defense," that he is just following the direction of the Director Charles Centinaro.

The underlying matter of *Cresci v. Aquino, Signorile, and County of Hudson* (USDC No. 13CV04695) is currently in discovery schedule (R086) and Mr. McNamara and Mr. Centinaro are identified witnesses under Fed.R.Civ.P.26 and will be testifying in these matters, in deposition and at trial. Their conflicts are apparent.

CONCLUSION

Respondent Cresci's Motion for Reconsideration under 4:49-2 should be considered. Respondent Cresci filed a Verified Amended Answer (R001), while struggling with the contentions of U.S. District Court lawsuits (R048, USDC 13CV4695; and sealed R106, USDC 16CV4780), which describe and allege the civil rights violations, abuse of process, and due process violations.

WHEREFORE Respondent Cresci respectfully requests the Motion for Reconsideration be Granted; the default be vacated. Respondent Cresci should not be disbarred. Further, the motion made under R.1:20-16(f)(1) be considered and granted. The matters either be remanded to District VI (or a conflict interest); and Respondent allowed a hearing, being able to confront the witnesses, and/or under the entire controversy doctrine, stay the proceedings and allow 16CV4780 to proceed under federal rules of civil procedure.

This 9th day of April 2019

Respectfully submitted,

Peter J. Cresci, Esq. /s/

PETER J. CRESCI, ESQ.
RESPONDENT



Michael's Father Corleone <1crescilegal@gmail.com>

OEA v. Cresci Docket Nos. XIV-2017-0586E-0589E

Timothy McNamara <timothy.mcnamara@njcourts.gov>

Mon, Apr 16, 2018 at 3:39 PM

To: MichaelCorleone <1crescilegal@gmail.com>

Cc: Harold Fullilove <harold.fullilove@njcourts.gov>

Judge Fullilove—

I am in receipt of Respondent's Amended Answer. I will be submitting a letter to Your Honor about Respondent's Amended Answer this Wednesday when my secretary is back in The OAE's office. Thank you for your attention to this matter.

Respectfully yours,

Tim McNamara

OAE, Assistant Ethics Counsel

From: MichaelCorleone [mailto:1crescilegal@gmail.com]

Sent: Wednesday, April 11, 2018 11:34 PM

To: Timothy McNamara

Cc: Harold Fullilove

Subject: Re: OEA v. Cresci Docket Nos. XIV-2017-0586E-0589E

Judge Fullilove:

Please find the Respondent's Amended Answer.

Regards,

Pete Cresci

[Quoted text hidden]

PETER J. CRESCI, ESQ.
838 Avenue A
Bayonne, New Jersey 07002
(201) 215-7780 Tel
(888) 803-9705 Fax
1Crescilegal@gmail.com
Respondent (#025281992)

OFFICE OF ATTORNEY ETHICS

v.

PETER J. CRESCI, ESQ., RESPONDENT;

**No. XIV-2011-0131E
No. XIV-2013-0007E
No. XIV-2013-0700E
No. XIV-2015-0539E**

**VERIFIED AMENDED
ANSWER
R. 1:20-4(e) WITH
AFFIRMATIVE
DEFENSES SUBJECT TO
MOTIONS FILED**

Peter J. Cresci, Esq., Respondent hereby states, per the Disciplinary Review Board's (DRB) June 21, 2017 directive, the following in an Amended responsive pleading to the complaint alleged to have been submitted by Timothy McNamara and Charles Centinaro, Office of Attorney Ethics. This Amended Answer says as follows¹:

GENERAL ALLEGATIONS

1. Respondent submits an Amended Answer for the following grievances:

¹ Respondent avers that jurisdiction of the underlying complaint is held with Third Circuit Court of Appeals (docket no. 16-4394 and U.S.D.C. 16-CV-0480), filed August 5, 2016 prior to any OAE complaint being evident or filed, which we understand was done in March 2017.

No. XIV-2011-0131E

No. XIV-2013-0007E

No. XIV-2013-0700E

No. XIV-2015-0539E

ANSWER

1. Respondent hereby denies the following allegations by the following grievant(s):
 - a. Allegations related to Boch No. XIV-2011-0131E-denies;
 - b. Allegations related to O’Keefe-Figueroa No. XIV-2013-0007E -denies;
 - c. Allegations related to O’Keefe-Figueroa No. XIV-2013-0700E-denies
 - d. Allegations related to Bartosiewicz No. XIV-2015-0539E
 - e. Counts 1 thru XX (all counts), Respondent denies all allegations as alleged.

2. Any Counts of Knowing Misappropriation of Client or Trust Funds Via Documented or Undocumented Withdrawals:
 - a. Respondent incorporates by reference his answer to General Allegations, Mitigating Circumstances, and Affirmative Defenses;
 - b. Denied. Respondent believed that any transfer represented fees earned related to client matters earned from retainer, 42 U.S.C. §1988(b), or other such contractual or statutory earning of fees;
 - c. Denied. At all relevant times Respondent believed the funds related to any transfer represented expenses expended relating to client matters;
 - d. To the extent the allegations contains general factual allegations, Respondent denies those allegations. These allegations fail to sufficiently provide Respondent notice of how and in what factual manner in which the allegations are based.

- e. Any invasion of client and/or third party funds resulting from Respondent's good faith disbursement of earned fees was the product of negligence and/or unintentional mistake and not knowing misconduct.
 - f. At all times relevant when Respondent initiated each transfer or payment, he held a good faith belief that he did so utilizing earned fees relating to client matters earned from retainer or other funds maintained by the Respondent's law firm's accounts.
 - g. Denied. To the extent that this paragraph/charge asserts legal conclusions or principals of law, Respondent leaves complainant to its proof.
3. Knowing Misappropriation of Trust Funds and Misrepresentation to the OAE
- a. Respondent incorporates by reference his answer to General Allegations, Mitigating Circumstances, Affirmative Defenses, as well as the responses in #1, and #2
 - b. Respondent denies all allegations hereto under the aforesaid claims described under 3.
 - c. Respondent denies he knowingly invaded any client or third party funds. At time relevant, Respondent had good faith belief that the money represented earned legal fees maintained by Respondent;
 - d. Any invasion of client and/or third party funds resulting from Respondent's good faith disbursements of earned fees was a product of negligence and/or unintentional mistake and not knowing misconduct;
 - e. Respondent denies he made misrepresentations to the OAE. In order to prove such allegations, OAE has burden of proving that any internet/eft was intended by Respondent. Any invasion of client and/or third party funds resulted from Respondent's good faith belief and good faith disbursement of earned fees was a product of negligence and/or unintentional mistake and not knowing misconduct.

- f. To the extent the complaint covering the topics listed at #3 above asserts legal conclusions or principals of law, Respondents leaves complainant to his proofs.
- 4. Knowing Misappropriation or other actions as to Nuala O'Keefe-Figueroa
 - a. Respondent incorporates by reference his answer to General Allegations, Mitigating Circumstances, Affirmative Defenses, as well as the responses in #1,#2,#3
 - b. Subject to the foregoing and future review of the complaint as alleged, the grievant O'Keefe-Figueroa's grievance stated that grievant was unaware of the resolution of her matter filed in U.S.D.C. Respondent avers this is not truthful, as grievant O'Keefe-Figueroa was apprised of her case throughout the year from which it was filed until its conclusion;
 - c. Under 42 U.S.C. 1988(b) Respondent's was entitled to earned fees for which the defendant's insurance carrier paid. Respondent was under the good faith belief that the fees were earned and that any allegation of invasion of client and/or third party funds resulted from Respondent's good faith belief that the sum represented a portion of the fee earned. Moreover, the endorsement received by the financial institution was payable to either Respondent's law firm or the grievant.
 - d. Respondent avers that grievant O'Keefe-Figueroa abandoned the file, only answered three interrogatories, failed to attend court scheduled discovery, and directed Respondent to end the case through resolution, subject to grievant's noninvolvement and without liability as could have occurred in the federal case. The complaints concerning this grievant fails to sufficiently provide Respondent notice of at which point in time Respondent should have been safeguarding assets on the grievant's behalf.

- e. Respondent avers that grievant O'Keefe-Figueroa filed the at the direction of Charles D'Amico, a named individual defendant and witness in a few federal district court civil rights cases; and
- f. Respondent avers the actions of grievant O'Keefe-Figueroa were initiated in part because her brothers, O'Keefe's, employed by the County of Hudson were subject of a criminal investigation initiated by Respondent through James P. Scott, Division of Criminal Justice, Department of Law and Public Safety, Whippany, NJ for their actions concerning Imre Balla, a subordinate who worked with and for the O'Keefe brothers-grievant O'Keefe-Figueroa's brothers.
- g. To the extent the complaint covering the topics listed at #4 above asserts legal conclusions or principals of law, Respondents leaves complainant to his proofs.

5. Knowing Misappropriation or other actions as to Thomas Boch

- a. Respondent incorporates by reference his answer to General Allegations, Mitigating Circumstances, Affirmative Defenses, as well as the responses in #1,#2,#3, and #4
- b. Grievant Thomas Boch, as late as Spring 2016 constructively withdrew his grievance, by stating to the employees and agents of OAE that he was not interested in pursuing this matter, and wished the Respondent luck in all future endeavors.
- c. Respondent maintains that Boch was a third party for which Respondent owed a duty, not to Boch but the law firm's client;
- d. Respondent maintains laches as to counts concerning Boch. These matters were investigated from May 2011 through December 2012;
- e. At all relevant times, Respondent held a good faith belief that he fully disbursed the funds collected in this matter, and to the proper party. Respondent held a good faith that the obligation was appropriately satisfied.

- f. To the extent the Complaint XIV-2011-0131E contains any general factual allegations, Respondent denies such general factual allegations. It appears there is a lack of clear and convincing proof that the obligation to Thomas Boch was not appropriately satisfied.
- g. At all relevant times, Respondent held a good faith belief in 2009 that the broker fee claimed by grievant Thomas Boch was owed by the Mortgage Company owned by the brother of Ralph Lamparello. It may be noted Ralph Lamparello was an adversarial law firm to the Respondent's law firm;
- h. The complainant has failed to provide sufficient clear and convincing proof that Respondent did not fully disburse the funds directed to Thomas Boch, as OAE's Jan Richter directed in 2012. The complaints concerning this grievant fails to sufficiently provide Respondent notice of at which point in time Respondent should have been safeguarding assets on the grievant's behalf.
- i. To the extent the complaint covering the topics listed at #5 above asserts legal conclusions or principals of law, Respondents leaves complainant to his proofs.

6. Knowing Misappropriation or other actions as to Grievant John Bartosiewicz

- a. Respondent incorporates by reference his answer to General Allegations, Mitigating Circumstances, Affirmative Defenses, as well as the responses in #1, #2, #3, #4, #5
- b. Respondent maintains laches as to counts concerning Bartowiewicz. These matters were investigated from May 2011 through 2013;
- c. At all relevant times, Respondent held a good faith belief that he fully disbursed the funds collected in this matter, and to the proper party. Respondent held a good faith that the obligation was appropriately satisfied.

- d. Respondent avers that allegations of “missing stock” emanates from a lack of understanding of the stocks held by the decedent mother who died in 2005. For instance, LU stock was purchased by Avaya, yet grievant kept thinking that Lucent stock was somehow sold without his knowledge;
- e. Grievant John Bartosiewicz stated apologetically on at least 2 occasions that he was being coerced into filing the grievance;
- f. On three occasions Grievant John Bartosiewicz certified that he was satisfied with the work performed by the Respondent law firm. Respondent held a reasonable belief that the law firm was holding no funds in his account on behalf of grievant Bartosiewicz;
- g. Grievant Bartosiewicz abandoned the use of the Respondent’s law firm when he and his brother James utilized a third party to recover stocks which may have been held in book form by the decedent. No documentation was ever provided, and grievant came back to Respondent’s law firm for advice on a 1099 issued by the third party stock locator. Thereafter, Grievant Bartosiewicz utilized the Respondent’s firm to locate funds which had escheat to the state of New Jersey; the same of which were provided directly to Grievant Bartosiewicz.
- h. To the extent the complaint covering the topics listed at #5 above asserts legal conclusions or principals of law, Respondents leaves complainant to his proofs. The complaints concerning this grievant fails to sufficiently provide Respondent notice of at which point in time Respondent should have been safeguarding assets on the grievant’s behalf.
- i. Grievant Bartosiewicz indicated he was being solicited and coerced into filing a grievance. Grievant Bartosiewicz showed Respondent a letter in which complainant sought him to file a grievance.

MITIGATING CIRCUMSTANCES

1. In his 25th year of the practice of law, Respondent has no prior disciplinary history;
2. Any violation of the Rules of Professional Conduct by the Respondent was the product of negligence and/or unintentional mistake and not knowing misconduct;
3. Through the previous representation of the Rotolo Law Firm, Respondent has cooperated with ethics authorities throughout these matters in 2011-2016;
4. Respondent enjoys good reputation and character as a U.S. Army Military Officer, Major Judge Advocate General's Corps, and former Special Assistant U.S. Attorney; and
5. Respondent is contrite and remorseful; and
6. Respondent admits to poor record keeping and accepts responsibility of record keeping deficiencies. All parties have received their appropriate resources; and
7. Respondent took remedial action to bring his attorney books and records in compliance with R.1:21-6.
8. Respondent is aware that the majority of the grievances have emanated from the City of Bayonne, its employees, and agents, contractors, who have utilized the attorney ethics process to reprise and retaliate against the Respondent as depicted by Jan Richter and Mr. Ziff orally and in writing;
9. There are egregious violations of any reasonable time goals for such investigations -- much less the time goals set forth in R.1:20-8. Therefore cases from 2005, 2009, and 2010 defy the record keeping requirements reek of due process violations under the 4th and 6th Amendments;

AFFIRMATIVE DEFENSES

1. OAE lacks jurisdiction to bring this action. Jurisdiction is retained in the United States Federal Courts; and
2. OAE's complaint fails to state an action upon which relief may be granted;
3. OAE lacks standing to bring the instant action which emanate and are active in Third Circuit Court of Appeals, which retains jurisdiction;
4. OAE's complaint is barred by the doctrine of unclean hands;
5. OAE's claims/complaints are barred, in whole or in part, by the doctrine(s) of waiver and estoppel;
6. OAE's infirmities, if any, were caused by its own conduct, or by conduct of third parties over which Respondent has no control;
7. OAE's complaint should be barred, or their allegations reduced, by their failure to provide documentation and evidence requested by the Respondent;
8. OAE's complaint fails to specify with particularity all of the claims Respondent named herein may have defenses. Accordingly, Respondent named herein reserves the right to assert additional claims and defenses that they may have after they have engaged in discovery and inspection;
9. OAE fails to recognize the case law regarding the formation of an attorney-client relationship and thereto retainer of same;
10. OAE's should be sanctioned for their misuse of the attorneys' ethics system to not only gain an advantage in civil actions, but for political gain, reprisal and retaliation in Civil Rights violations committed by Timothy McNamara and Charles Centinaro. Federal investigation has revealed the misuse of various systems and agencies in order to reprise against those individuals exercising their rights and representing the rights of others;

11. OAE's allegations fail to abide by the OAE system and rules, which require formal complaint and notification of the targeted party of the failure of the investigator to make a finding on issues complained of by the complainant. This did not occur.
12. OAE's actions fail to adhere to their own rules and regulations in terms of timeliness of complaint and investigation, i.e. the statute of limitations have been violated;
13. OAE's actions are sanctionable as OAE, and employees and agents, solicited the subject complaints from the grievant(s);
14. OAE lacks standing to bring the instant action regarding Nuala O'Keefe-Figueroa which emanate and are active in Appellate Division, State of New Jersey, which retains jurisdiction;
15. OAE actions lack authority as Thomas Boch, in writing, stated he no longer wished to pursue this matter and withdrew his grievance; and
16. OAE actions lack authority as to John Bartosiewicz who certified on two occasions he was satisfied with the work of the law firm and Respondent, has advised he is being coerced to filing the grievance by uninterested family members;
17. OAE is barred in whole or in part from bringing these actions for failing to advise grievant(s) of the correct avenue to seek fees under the Fee Arbitration system; and
18. Respondent violated no duty owed to the grievants or any other party interested in these matters;
19. The complaint fails to state a claim for which relief may be granted.

20. Negligence or other wrongful conduct, if any, on the part of the Respondent was not the proximate cause of any loss or damage which may have been sustained by the grievants and accordingly no liability may be imposed by the Respondent;
21. The matters herein were previously investigated by OAE and determined not to be of violation;
22. Respondent had the righty and duty to act as he did under the circumstances alluded to in the grievances filed and the subsequent complaint;
23. The conduct of the Respondent was reasonable, proper, without malice, and with good faith;
24. Respondent acted reasonably under the then existing circumstances; and
25. Respondent acted with the acquiescence or consent of the grievants; and
26. There is a lack of *in personam* jurisdiction over the Respondent because there is insufficiency of process and insufficiency of service of process. The exercise of jurisdiction over the Respondent is therefore in violation of the Respondent's rights under the Constitution of the State of New Jersey and the United States of America and this party reserves the right to move for the dismissal of the pleading;
27. Recovery and adverse action is barred in this action by reason of negligence imputable to grievants and OAE agents and employees due to joint and common enterprise engaged between grievants and OAE agents and employees;
28. The claims asserted against the Respondent are the result of actions and inactions of other parties over whom the Respondent has no control;

29. The Respondent reserves the right, at or before hearing, to move to dismiss the complaint and/or for summary judgment, on the ground the complaint fails to state a claim upon which relief can be granted and/or Respondent is entitled to judgment as a matter of law, based on the aforementioned affirmative defenses;

30. Any liability or finding which otherwise may be imposed upon the Respondent must be reduced by the application of comparative fault/negligence provided under the law;

31. The claims asserted against Respondent are barred by the applicable statute of limitations, equity, and OAE's own rules and regulations set forth;

32. Claims asserted against Respondent are barred in whole or in part by application of the Doctrine of Laches;

33. At relevant times, Respondent's law practice management may have suffered from poor record keeping in the maintenance of his attorney books and records;

34. The claims asserted against the Respondent are barred by reason of the course of conduct of OAE's agents and employees, grievants, and application of the doctrines of estoppel and waiver;

35. At all times relevant as set forth in the complaint, Respondent held a good faith belief that the funds disbursed to the law firm represented fees earned or expenses to be reimbursed related to client matters from work performed on behalf of the client.

36. The Respondent hereby adopts by reference all separate defenses heretofore and hereafter pleaded by any other party, except to the extent that such separate defense of other party may make allegations against the Respondent. The Respondent reserves the right to amend This Answer to assert additional defenses and make further admissions upon completion of further investigation and discovery.

37. The claims against the Respondent are barred by reason of the course of conduct by OAE's agents and employees who failed to comply with audit and random audit procedures, notifications, and processes in 2011 and thereafter;

38. There are egregious violations of any reasonable time goals for such investigations -- much less the time goals set forth in R.1:20-8;

39. The claims against Respondent were calculated and contrived, encouraged and solicited in violation of 18 U.S.C. §1512(c), *et seq.* Respondent has acted as a witness, confidential informant for several federal and state agencies, including the HUD-IG as well as the FBI from which juries were empaneled resulting in charges being brought.

40. 15 U.S.C. §6821, *et seq.* (GLBA) was violated when the banking institutions were coerced into providing records for which the reasons provided were pretext.

41. The standard of proof "clear and convincing standard" cannot be met;

42. The claims against the Respondent were utilized as a "tool" by which the Respondent's adversaries, particularly City of Bayonne, County of Hudson, Charles M. D'Amico, Kathleen Walrod, Susan Gyess, Gaetano Gregory (all attorney, and married co-workers of Charles Centinaro) utilized the ethics system to reprise, retaliate, and attempt to curtail civil and criminal complaints for which Respondent was responsible, either as an attorney or a party to an action.

43. Office of Attorney Ethics has ventured on a path of civil rights violations in allowing the ethics process to be utilized in retaliation and reprisal in violation under 42 U.S.C. 1983; 42 U.S.C. §1981; 42 U.S.C. §1985 (2) and (3); 1st Amendment, as well as 42 U.S.C. 2000e; 18 U.S.C. § 1961, *et al.*

44. In violation of 18 U.S.C. §1505, the office of attorney ethics has allowed the system to be utilized to gain an advantage in civil matters, to stop investigations, and to insert their authority wherein federal and state level investigations were negatively affected by the actions brought herein.

45. The complaints were previously investigated by OAE. The files are from 2005, 2009, and 2010. "[i]t should be a primary goal of the disciplinary system to provide meaningful and timely assistance to members of the public who have concerns regarding their lawyers' conduct." *Michaels Commission* 914; 133 N.J.L.J. 905 (March 15, 1993). It is clear that after Jan Richter investigated and concluded; these files were revived in order to reprise and retaliate.

WHEREFORE, Respondent prays:

1. The instant matters should be “stayed” pending the adjudication of federal court cases (docketed as 13- CV04695 and 16-4394 3rd Circuit; 16CV0480 U.S.D.C.) which demonstrate the actions complainants’ took in pursuing matters against Respondent, for which Mr. McNamara and Mr. Centinaro are disclosed under Fed.R.Civ.P. 26 in the former, and named Defendants in the latter;
2. The United States District Court (U.S.D.C.) and federal cases have preemption rights over a local hearing. Conflict preemption occurs when a state conflicts with a valid federal case so that it is physically impossible to comply with both or when the state case stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress, i.e. Title 28 U.S.C. §1331. *Gade v. Nat’l Solid Waste Mgmt. Ass’n*, 505 U.S. 88, 98 (1992) (citing *Florida Lime & Avocado Growers, Inc. v. Paul*, 373 U.S. 132, 142-143 (1963) and *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941)).

3. The instant matters should be dismissed for lack of jurisdiction and standing;
4. The instant matters should be dismissed as “fruit of the poisonous tree” and violations of the 4th, 5th, 6th, and 14th Amendments of the Constitution.
5. In the alternative, this matter should be transferred out of District, or assigned away from individual McNamara and Centinaro who are named individual defendants in the aforementioned docketed as 16-4394 3rd Circuit; 16CV0480 U.S.D.C. due to apparent and actual conflicts of interest-and violations of 42 U.S.1983, 1985, 1988;
6. Respondent denies the matters asserted by Thomas Boch, Nualla O’Keefe-Figueroa, and John Bartosiewicz as effectuated and solicited;
7. Respondent asserts the Affirmative defenses stated herein.

Respectfully Submitted,

Dated: April 11, 2018

CRESCI
838 AVENUE A
BAYONNE, NJ 07002
201.215.7780; FAX 201.436.9220

for Respondent

Peter J. Cresci, Esq. /s/

By: _____
Peter J. Cresci, Esq.

HEARING DEMAND

Respondent hereby demands a hearing on all issues and on all charges.

Respondent

Peter J. Cresci, Esq. /s/
By: _____
Peter J. Cresci, Esq.

April 11, 2018

DISCOVERY REQUEST

Pursuant to R.1:20-5(a), Respondent requests discovery on all information specified therein. In the event that any class of information specified in that rule is not available, a written representation to that effect is required.

Respondent

Peter J. Cresci, Esq.
By: _____
Peter J. Cresci, Esq.

April 11, 2018

AMENDED ANSWER FOR SPECIFIED COUNTS

GENERAL ALLEGATIONS

1. Admit
2. Admit that Defendant McNamara filed a motion with the New Jersey Supreme Court to temporarily suspend the plenary license from the practice of law, effective immediately and until further notice/Order of the Court. The location address is correct for Respondent office.
3. Admit Valley National and Bayonne Community Bank possessed AND maintained accounts listed.

COUNT 1

Docket No. XIV-2013-0007E and Docket No. XIV-2013-0700E

1. Subject to the foregoing objections, Respondent incorporates by reference his answers to the General Allegations, Affirmative Defenses and Mitigating Circumstances as if set forth herein at length.
2. Denied. OAE was neither conducting an audit nor a Random Audit of the Respondent's business records. Further, the allegations do not state a date the records were taken from the lending institutions BCB or Valley National Bank nor when the "alleged" review took place. Respondent denies that OAE discovered a check from Scibel Associates. Respondent agrees the identified check was a negotiable instrument under UCC 3-104(a).
3. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. Respondent knows nothing of third party conversations between Kulinich and O'Keefe-Figueroa.
4. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation that Jan Richter provided O'Keefe-Figueroa with a grievance form. Respondent does not know the date O'Keefe-Figueroa completed such form, who provided assistance, how it was filed.
5. Denied. O'Keefe-Figueroa was fully aware of the settlement of her case, as she directed it to be as she could not mentally and emotionally continue to complete the requirements of the case due to death of a parent, and was provided notice, billing, etc.

6. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. While Respondent agrees to some of the language, i.e. the hourly rates, the movant certainly does not comprehend the \$1,500 was to conduct the departmental hearing within the Bayonne Housing Authority, for which Kathleen Walrod, aka Mrs. Charles M. D'Amico was/is an employee or contractor attorney. Further, the Respondent denies this was the terms of the retainer agreement in that once O'Keefe-Figueroa decided to move into the next phase, i.e. litigation the statutory language for 42 U.S.C. 1988(b) includes attorney's fees, costs, and expenses 42 U.S.C. 1988 provides in pertinent part: In any action or proceeding to enforce a provision of sections 1981, 1982, 1983, 1985, and 1986 of this title, title IX of Public Law 92-318 (20 U.S.C. 1681 et seq.), or title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.
7. Respondent admits that on or about March 28, 2010 the matter was settled. However, the stipulation of dismissal and 60 day Order were on different dates.
8. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation that a check was issued that date. However the negotiable instrument was indeed issued in the amount of \$25,000.00 payable to O'Keefe-Figueroa and the Respondent.

9. Admit.

ALLEGED SETTLEMENT OF CASE WITHOUT KNOWLEDGE

10. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording.
11. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording.
12. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording.
13. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording. O'Keefe-Figueroa had firmly stated that she could not continue with the case. O'Keefe-Figueroa never appeared for her deposition, an IME, nor federal court appearances such as a settlement conference.
14. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation as Respondent does not know what story O'Keefe-Figueroa told.
15. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation as Respondent does not know what story O'Keefe-Figueroa told.

16. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation as Respondent does not know what statements O'Keefe-Figueroa made.
17. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation as Respondent does not know what statements O'Keefe-Figueroa made.
18. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation as Respondent does not know what statements O'Keefe-Figueroa made.
19. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation as Respondent does not know what statements O'Keefe-Figueroa made. However, it is clear to anyone who reviews that at least one e-mail was never sent.
20. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation as Respondent does not know what statements O'Keefe-Figueroa made.
21. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording.
22. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation as Respondent did not meet O'Keefe-Figueroa at a funeral. Further, Respondent does not recall O'Keefe-Figueroa being told Respondent was busy or even if O'Keefe-Figueroa showed up at the office.
23. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording. O'Keefe-Figueroa had firmly stated that she could not continue with the case and directed Respondent's firm to settle the case. O'Keefe-Figueroa never appeared for her deposition, an IME, nor federal court appearances such as a settlement conference.
24. Admit letter was sent to Judge Cox-Arleo.
25. Respondent Admits that the terminated O'Keefe-Figueroa on March 22, 2010 had lost her position for gross misconduct and that the initial denial and then receipt of unemployment benefits were calculated in the equation. See 42 U.S.C. 2000e-5(g).
26. Admit. This is what Victor Rotolo's letter read, in part.
27. Deny.

28. Admit. O'Keefe-Figueroa was/is required to apply for unemployment benefits by herself online.
29. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. Teleconference was likely held as this is the normal course of process for gaining unemployment benefits if the employer contests the matter of filing for unemployment.
30. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. However, Figueroa was terminated March 22, 2010.
31. Admit.
32. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording.
33. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording. This would be a set off of backpay per 42 U.S.C. 2000e-5(g) and similar provisions.
34. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording. Unemployment benefits are not compensatory benefits, however at that time they are considered offset per 42 U.S.C. 2000e-5(g) and similar provisions.
35. Admit there is a letter under FRE 408 for that settlement amount.
36. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording.
37. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording and the affidavit of January 28, 2013.
38. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording.
39. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording.
40. Deny the "Meanwhile." However, the admit the complaint does request typical compensatory damages.
41. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording.
42. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording. There would be no reason to have anyone present during a telephone conversation.
43. Admit.

44. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording.
45. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording.
46. Deny the use of the word “allow” and the guidance does suggest that employers are not to negotiate gaining unemployment benefits (and whether to defend an application for benefits). However, due to offsets this is often done, especially when there is question of “gross misconduct.” Admit as to what was stated by Respondent on January 30, 2013 per the tape recording.
47. Deny use of the word “contradicted,” Admit as to what was stated by Respondent on January 30, 2013 per the tape recording.
48. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
49. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
50. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
51. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
52. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. Unemployment benefits would not come up a departmental hearing; we were attempting to salvage her employment.
53. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording.
54. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording.
55. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording.
56. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording.
57. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording.
58. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording. There was a mail drop at the office for which people would often drop documents off.
59. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording. However, Duffy may have gone to same school as O’Keefe-Figueroa’s daughter(s).
60. Deny. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
61. Admit as to the actions taken by Gaetano Gregory’s Hudson County Prosecutors Office. Admit pleading guilty to the 2C:21-4 subject to the offer of PTI.
62. Admit that is what occurred on September 22, 2015.
63. Admit I was under oath.
64. Admit the PTI was an offer subject to taking the action and that there was a payment of the fees received under 42 U.S.C. 1988(b)

65. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording.
66. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording. According to her signed agreement, the payment of attorneys fees, costs, and expenses were O'Keefe-Figueroa's responsibility.
67. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording. O'Keefe-Figueroa was responsible for the payment of attorneys fees, costs, and expenses.
68. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording. The BHA attorney requested and received a completed W-9 and the proceeds were payable. Further, the 1099 issued thereafter was processed to Respondent's law firm and not O'Keefe-Figueroa.
69. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording.
70. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording.
71. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording.
72. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. Zabarsky did not work for BHA (Bayonne Housing Authority) or Scibel. The W-9 and the 1099 issued were in the name of the law firm for the entire payment.
73. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
74. Denied. O'Keefe-Figueroa signed a Retainer Agreement with the law firm.
75. Denied.
76. Denied. The date of April 4, 2011 is curious. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
77. Denied. See Retainer Agreement, paragraphs V and VII (your Ex. 23)
78. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording.
79. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording. O'Keefe-Figueroa also received a benefit for the departmental hearing for which the law firm represented her before, during and after.
80. Denied. The \$1,500 was for the departmental hearing. Moreover, there are expenses such as filing fees, etc.
81. Denied. What was stated by Respondent on January 30, 2013 per the tape recording was that O'Keefe-Figueroa was not being billed an hourly rate. This is the lodestar method which apparently is clearly not understood.
82. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording. Clearly, there is a lack of understanding how employment discrimination and termination cases work.
83. Denied. \$1,500 for the departmental hearing; 1/3rd of recovery, and the hourly rate under 42 U.S.C. 1988(b). O'Keefe-Figueroa quit after running up a year worth of work, fees, costs, expenses, and directed the law firm to settle the case, as she wanted nothing to do with it. O'Keefe-Figueroa answered but 3 of her 25

- interrogatories. Never showed up for her deposition, conference; she was done and wanted it done.
84. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording. Clearly, there is a lack of understanding how employment discrimination and termination cases work.
85. Admit that is the language of the law firm's attorney fee contract.
86. Admit that is the language of the law firm's attorney fee contract.
87. Admit as to what was stated by Respondent on January 30, 2013 per the tape recording. Clearly, there is a lack of understanding how employment discrimination and termination cases work.
88. Deny that Respondent knew it was a "demand audit" on May 10, 2016. Further, as stated previously in this document, a plea was subject to an offer of PTI in #61 above. "Wrongdoing" is not defined and Respondent's counsel requested documents from Defendant McNamara who stated, "there is no complaint, we don't have to provide you anything." Admit as to what was stated by Respondent on the tape on May 10, 2016. Defendant McNamara stated on April 19, 2016 as conveyed by Respondent's attorney that he was "going for disbarment" and offered resignation to Respondent. This was prior to an investigation, interviews, request for even more documentation, etc.
89. Denied. This paragraph makes general and broad but vague allegations. To the extent this paragraph contains any factual allegations, Respondent denies those general allegations.

COUNT TWO – Docket No. XIV-2011-0131E (Bock)

90. Subject to the foregoing objections, Respondent incorporates by reference his answers to the General Allegations, Affirmative Defenses and Mitigating Circumstances as if set forth herein at length. We note there several nuances to this revived nine (9) year old allegations (from a 2009 real estate closing):
- a). Jan Richter of the OAE investigated and closed this grievance in 2012;
 - b). These actions by Thomas Bock of Mortgage Plus, Inc. are and were subject to: violation of several Predatory Practices, as set forth in 24 C.F.R. §3500, 24 C.F.R. 3400.14, and 12 U.S.C. 2607; Under 15 U.S.C. §1692, et seq., the manner which this alleged debt was attempted to be collected would be violative of this federal statute; Mr. Boch was indicated in federal complaints under 18 U.S.C. §241, 18 U.S.C. §242, 18 U.S.C. §245, and 18 U.S.C. §14141.
 - c). OAE apparently never bothered to provide Mr. Bock with Respondent's May 26, 2011 responsive submission until the spring of 2016 -- nearly five (5) years after Bock filed his grievance.
 - d). Bock's recent "reply," stated he has no present interest in his grievance. (See Bock's April 14, 2016 correspondence).
91. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.

92. Admit.
93. Denied. Respondent was the attorney representing Carreno.
94. Denied. Though Respondent will admit that that appears to be the correct purchase proceeds.
95. Denied. The amount indicated was POC (payable outside closing).
96. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
97. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. Carreno entered into an agreement with Ralph Lamparello's brother's mortgage company Security Atlantic to purchase the property. The loan agreement was not promulgated by Mortgage Plus, Inc.
98. Denied. As previously discussed with Jan Richter of OAE in 2011.
99. Admit.
100. Admit that is what is stated in June 26, 2009 response.
101. Admit that was written, denied as to what was written being facts.
102. Admit that is what is written in July 23, 2009 response.
103. Admit that is what is written dated August 6, 2009. Deny the statements made therein.
104. Admit to letter. Deny as to the general allegation that "Respondent failed to resolve the matter." Grievant claimed he was represented by an attorney at one point.
105. Admit.
106. Denied. At all relevant times Respondent believe that these funds at the end of December 2009 represented fees related to client matters.
107. Respondent can neither admit nor deny. However, shortly thereafter Respondent changed banks because Respondent was advised that BCB Bank personnel were casually accessing Respondents accounts without Authorization and no reason other than to gain information for which they were no entitled nor authorized.
108. Deny. BCB changed the accounts and renumbered same because they were going to a new system.

109. Denied. At all relevant times Respondent believe that these funds at the end of December 2009 represented fees related to client matters.
110. Denied. There was no “demand audit” on September 22, 2011. OAE made an appointment to discuss the real estate matter. Respondent was not provided any notice of such alleged “demand audit.” Nor was this a random audit. In fact, Respondent questioned where the written notification was; it was not provided. Further, we later determined that Respondent’s May 26, 2011 responsive submission to Bock’s grievance was not even provided to Bock until the spring of 2016 -- nearly five (5) years after Bock filed his grievance.
111. Denied.
112. Admit.
113. Admit to some unintentional failure to formally reconcile ATA accounts in accordance with the requirements. Jan Richter stated, “it happens.” Respondent went to the CLE for trust accounting and record keeping.
114. Respondent denies to the extent this paragraph asserts legal conclusions or principals of law. Respondent leaves Complainant to its proof.
115. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
116. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law. Respondent leaves Complainant to its proof.
117. Denied as set forth.
118. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation from over eight years ago.
119. Denied. To the extent this paragraph asserts a legal conclusion or principals of law, Respondent leaves Complainant to it proof.
120. Denied. Any invasion claimed of client and/or third party funds resulting from Respondent’s good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake amnd not knowing misconduct.
121. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation from over eight years ago.
122. Denied. Any invasion claimed of client and/or third party funds resulting from Respondent’s good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake amnd not knowing misconduct.
123. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law. Respondent leaves Complainant to its proof.
124. Denied. Any invasion claimed of client and/or third party funds resulting from Respondent’s good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake amnd not knowing misconduct.

125. Denied. Any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct.
126. Denied. Any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct.
127. Denied. Respondent was not subject to a Random Audit nor a Demand Audit. Over a seven (7) year period Respondent cooperated and provided the information requested.
128. Admit it appears to be the figure as provided by Complainant.
129. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law. Respondent leaves Complainant to its proof.
130. Denied. Any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct.
131. Denied. Any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct.
132. Denied. There was no "demand audit." Complainant never provided any notice of such on September 22, 2011. However, Respondent was told by Jan Richter that, "these guys [in town] really hate you, have you thought about moving?"
133. Denied there was a March 22, 2012 "demand interview."
134. Denied.
135. Denied. Any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct.
136. Denied. Any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct.
137. Admit the September 21, 2012 letter stated in part what is written.
138. Denied. May 10, 2016 was not a "demand audit." This was not provided the required notice to Respondent. Complainant refused to provide any documents to Respondent as requested. Respondent concurs what was stated on the tape- if unchanged.
139. Admit. Respondent concurs what was stated on the tape- if unchanged.

140. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law. Respondent leaves Complainant to its proof. However, that appears what the letter from Jan Richter states.
141. Admit.
142. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. However, we do know the incorrect address had been provided.
143. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law. Respondent leaves Complainant to its proof.
144. Admit the money was in dispute; it was a fee to be paid by Security Atlantic. To the extent this paragraph asserts legal conclusions or principals of law. Respondent leaves Complainant to its proof.
145. Admit the money was in dispute; it was a fee to be paid by Security Atlantic. To the extent this paragraph asserts legal conclusions or principals of law. Respondent leaves Complainant to its proof.
146. Denied. To the extent this paragraph asserts legal conclusions or principals of law. Respondent leaves Complainant to its proof.
147. Admit to the law firm account.
148. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law. Any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct.
149. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law. Any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct.
150. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
151. Admit as to Respondent concurs what was stated on the tape- if unchanged.

COMMINGLING & FAILURE TO SAFEGUARD

152. Denied. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct. Respondent's books and records suffered from poor record keeping practices, as a result of Respondent's inexperience.
153. Denied. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct. Denied to the extent that this paragraph asserts a legal conclusion or principals of law. Respondent leaves Complainant to its proof.
154. Denied. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct.
155. Denied. Denied to the extent that this paragraph asserts a legal conclusion or principals of law. Respondent leaves Complainant to its proof.
156. Denied. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct. Denied to the extent that this paragraph asserts a legal conclusion or principals of law. Respondent leaves Complainant to its proof
157. Denied. Denied to the extent that this paragraph asserts a legal conclusion or principals of law. Respondent leaves Complainant to its proof.
158. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct.
159. Denied to the extent that this paragraph asserts a legal conclusion or principals of law. Respondent leaves Complainant to its proof.

160. Denied to the extent that this paragraph asserts a legal conclusion or principals of law. Respondent leaves Complainant to its proof.
161. Denied. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct.
162. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct.
163. Denied to the extent that this paragraph asserts a legal conclusion or principals of law. Respondent leaves Complainant to its proof.
164. Denied to the extent that this paragraph asserts a legal conclusion or principals of law. Respondent leaves Complainant to its proof.
165. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct.
166. Admit that is what the attorney wrote to the DRB. Denied to the extent that this paragraph asserts a legal conclusion or principals of law. Respondent leaves Complainant to its proof.

RECORD KEEPING

167. Denied. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct. Denied to the extent that this paragraph (and subparagraphs) asserts a legal conclusion or principals of law. Respondent leaves Complainant to its proof.
168. Denied. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct. Denied to the extent

that this paragraph (and subparagraphs) asserts a legal conclusion or principals of law. Respondent leaves Complainant to its proof.

COUNT THREE- Docket No. XIV-2011-0131E (Bock)

169. Subject to the foregoing objections, Respondent incorporates by reference his answers to the General Allegations, Affirmative Defenses and Mitigating Circumstances as if set forth herein at length. Respondent also notes the allegations are factually incorrect and appear to make it seem OAE did not receive client-ledger cards which they did in 2012 (as requested). Certainly if that was not the case, OAE would not have waited 4 years to pursue additional information.
170. Admit that is what the letter appears to state. However, Respondent had requested additional time. Denies all other allegations.
171. Admit that is what the letter appears to state. However, Respondent had requested additional time. Denies all other allegations.
172. Admit that is what the letter appears to state. However, Respondent had requested additional time. Denies all other allegations. Records reflect there were other communications during this time.
173. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
174. Denied. Mr. Kulinich, the former Union County employee, requested and received such items.
175. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
176. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied. However, it was clear OAE was requesting items it had already received, reviewed, and did not pursue in 2012.
177. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
178. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
179. Admit to the extent the former attorney provided same on that date.

180. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
181. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
182. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
183. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
184. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
185. Admit
186. Admit.
187. Admit
188. Admit
189. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
190. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
191. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
192. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
193. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
194. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
195. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
196. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
197. Admit. In retaliation and reprisal for pursuing violations of 42 U.S.C. 1983

198. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.

COUNT IV- Docket No. XIV-2015-0539E Bartosiwicz

199. Subject to the foregoing objections, Respondent incorporates by reference his answers to the General Allegations, Affirmative Defenses and Mitigating Circumstances as if set forth herein at length. Respondent also notes the allegations are factually incorrect. As aforementioned in previous responses, the Executor John Bartosiewicz executed several documents which confirmed the Estate and the assets were correctly safeguarded and distributed; moreover the Federal Estate Tax Return was reviewed executed and submitted by the Executor Bartosiewicz- again agreeing with the manner in which the estate business was conducted and wound down.
200. Admit.
201. Admit.
202. Admit.
203. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied. The law firm was retained.
204. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
205. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
206. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied. Further, Bartosiewicz and his brother James Bartosiewicz decided to use a third party to uncover and sell stock; Respondent believes the company is in Tuxedo Park, NY. Stocks were sold, proceeds remitted to the beneficiaries, and the commission was taken in an amount unknown to Respondent. This questionable transaction was done outside the auspices of the formal estate and Respondent had no knowledge of it.

207. Denied. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct. Denied to the extent that this paragraph (and subparagraphs) asserts a legal conclusion or principals of law. Respondent leaves Complainant to its proof.
208. Denied. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct. Denied to the extent that this paragraph (and subparagraphs) asserts a legal conclusion or principals of law. Respondent leaves Complainant to its proof.
209. Denied. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct. Denied to the extent that this paragraph (and subparagraphs) asserts a legal conclusion or principals of law. Respondent leaves Complainant to its proof.
210. Denied. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct. Denied to the extent that this paragraph (and subparagraphs) asserts a legal conclusion or principals of law. Respondent leaves Complainant to its proof.
211. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
212. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
213. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
214. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.

215. Denied. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct.
216. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
217. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
218. Denied. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct.
219. Denied. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct.
220. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
221. Admit an explanation was provided. However, it is denied to the extent Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
222. Denied. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct.
223. Denied. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct.

224. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
225. Denied. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct.
226. Denied. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct.
227. Admit as to what was stated by Respondent on the tape on May 10, 2016. However, denied as to Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
228. Denied. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct. Admit as to what was stated on tape in May 2016, eleven (11) years after the decedent passed.
229. Denied. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct.
230. Admit as to what was stated on tape in May 2016, eleven (11) years after the decedent passed. However, Denied. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct.
231. Admit as to what was stated on tape in May 2016, eleven (11) years after the decedent passed.

232. Denied as to Respondent's retainer agreement; it was the law firm's retainer agreement. Admit if that is what was presented by Complainant as to Ex. 70).
233. Admit as to what was stated on tape in May 2016, eleven (11) years after the decedent passed.
234. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
235. Admit as to lodestar method. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
236. Admit as to lodestar method. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
237. Admit that is what the letter states. 2005 to 2016 computer technology certainly had changed several generations.
238. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
239. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
240. Denied. At all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct.
241. Denied. Further, at all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct. Bartosiewicz executed several documents declaring the money had been properly distributed.
242. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
243. Denied. Further, at all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client

and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct. Bartosiewicz executed several documents declaring the money had been properly distributed.

244. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.

245. Denied. Further, at all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct. Bartosiewicz executed several documents declaring the money had been properly distributed.

246. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.

247. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.

248. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.

249. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.

250. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied. Bartosiewicz executed several documents declaring the proceeds had been properly distributed.

251-257 Denied. It is clear Complainant does not understand stocks, buybacks, and reverse splits. The Complainant did not understand it on May 11, 2016. Alcatel shares were the Lucent shares within the buy. The Estate received the proceeds from the sale of the shares. To the extent this paragraph asserts legal conclusions or principals of law, it is denied. Bartosiewicz executed several documents declaring the proceeds had been properly distributed.

258. Denied. Further, at all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of

- earned fees was the product of negligence and or unintentional mistake and not knowing misconduct. Bartosiewicz executed several documents declaring the money had been properly distributed., including the Federal Estate Tax Return which was reviewed and signed by Executor John Bartosiewicz.
259. Denied. Further, at all relevant times when Respondent initiated each of the transfers and payments, any invasion or transfer claimed of client and/or third party funds resulting from Respondent's good faith belief disbursement of earned fees was the product of negligence and or unintentional mistake and not knowing misconduct. Bartosiewicz executed several documents declaring the money had been properly distributed.
260. Admit.
261. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
262. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
263. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied. Admit that this document was required for the estate tax return.
264. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied. Admit that this document was required for the estate tax return
265. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. Deny this is inconsistent; there were defunct stock certificates, which may have been viable but not worth the cost to recover. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
266. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied. Bartosiewicz read, reviewed, and executed several documents declaring the proceeds had been properly distributed.
267. Denied. Those notifications came later there were several notices in the newspaper appeared as decedent's had no address.

268. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied. Fungible assets of the estate, retrievable were unknown, however passive assets can sometimes arise.
269. Denied. Respondent did not “had” Bartowiewicz sign a second certification. John Bartosiewicz did so on his own accord and volition. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
270. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
271. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
272. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
273. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
274. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
275. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. On information and belief, this grievance was solicited.
276. Admit.
277. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
278. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied. Admit as to what was stated on the tape on May 10-11, 2016 concerning these issues.
279. Admit. This is because John and James had previously decided to use a third party to sell Stock to keep outside of the estate; they ended up getting ripped off by a fly-by-night stock trader. They paid a substantial commission and never heard from the guy again. They also could not understand LU stock had been transferred to Alcatel stock. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.

- 280. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
- 281. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
- 282. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
- 283. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
- 284. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
- 285. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.

Estate Bank Accounts

- 286. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
- 287. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. Respondent does not know what John Bartosiewicz believed 10 years after the death of his mother.
- 288. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. Respondent does not know what John Bartosiewicz believed 10 years after the death of his mother.
- 289. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
- 290. Denied. To the extent that this paragraph asserts legal conclusions or principals of law, Respondent leaves the Complainant to his proofs.
- 291. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied. Admit as to what was stated on the tape on May 10-11, 2016 concerning these issues.

292. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied.
293. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied. Admit as to what was stated on the tape on May 10-11, 2016 concerning these issues.
294. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent this paragraph asserts legal conclusions or principals of law, it is denied. Admit as to what was stated on the tape on May 10-11, 2016 concerning these issues.
295. Denied. Respondent has no knowledge of what grievant knew or possessed. To the extent that this paragraph asserts legal conclusions or principals of law, Respondent leaves the Complainant to his proofs.
296. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
297. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
298. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent that this paragraph asserts legal conclusions or principals of law, Respondent leaves the Complainant to his proofs.
299. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent that this paragraph asserts legal conclusions or principals of law, Respondent leaves the Complainant to his proofs.
300. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
301. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
302. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
303. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.

304. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
305. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent that this paragraph asserts legal conclusions or principals of law, Respondent leaves the Complainant to his proofs.
306. Denied. To the extent that this paragraph asserts legal conclusions or principals of law, Respondent leaves the Complainant to his proofs.
307. Denied. To the extent that this paragraph asserts legal conclusions or principals of law, Respondent leaves the Complainant to his proofs.
308. Denied. To the extent that this paragraph asserts legal conclusions or principals of law, Respondent leaves the Complainant to his proofs.
309. Denied. To the extent that this paragraph asserts legal conclusions or principals of law, Respondent leaves the Complainant to his proofs.
310. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent that this paragraph asserts legal conclusions or principals of law, Respondent leaves the Complainant to his proofs. However, Respondent avers to the statements made on tape on May 11, 2016 of the alleged issues.
311. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent that this paragraph asserts legal conclusions or principals of law, Respondent leaves the Complainant to his proofs.
312. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. To the extent that this paragraph asserts legal conclusions or principals of law, Respondent leaves the Complainant to his proofs.
313. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
- 314-322. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. However, at relevant times when Respondent initiated the transfers and payments, Respondent held a good faith belief that he did so utilizing assets related to client matters whether fees earned, costs, and expenses, or the disbursements. Respondent avers his attorneys books and records suffered from poor record keeping practices.

323. Denied.

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COUNT V- Docket No. 2015-0539E (Bartosiewicz)

324. Subject to the foregoing objections, Respondent incorporates by reference his answers to the General Allegations, Affirmative Defenses and Mitigating Circumstances as if set forth herein at length. Respondent also notes the allegations are factually incorrect.

325. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.

326. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. However, it appears an extension was granted.

327. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.

328. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.

329. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. However, it appears the extension was granted.

330. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.

331. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.

332. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. The document speaks for itself. To the extent that this paragraph asserts legal conclusions or principals of law, Respondent leaves the Complainant to its proofs.

333. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.

334. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. Although it appears that is what the document is seeking.

- 335. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
- 336. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
- 337. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
- 338. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
- 339. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. This appears to be after Defendant McNamara was sued individually in Federal District Court for due process violations and reprisal and retaliation for protected activities.
- 340. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
- 341. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
- 342. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation. Although it appears an extension was granted.
- 343. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
- 344. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
- 345. Denied. Respondent lacks sufficient knowledge or information to form a belief about the truth of the allegation.
- 346. Admit.
- 347. Denied.

WHEREFORE, Based on the foregoing Respondent requests that the complaint be dismissed.

REQUEST FOR A PREHEARING CONFERENCE

1. Respondent hereby requests a prehearing conference in accordance with the provisions contained in R.1:20-5(b). Respondent anticipates filing several motions, after obtaining discovery;
2. Respondent requests that IAW R.1:20-5(b)(1), the trier of fact hold a teleconference with the parties, to further schedule a prehearing conference to address those objectives contained in R.1:20-5(b)(3).
3. Respondent requests that, in aid of the orderly processing of the matter, the trier of fact require the parties to submit, at least 10 days prior to the date scheduled for the prehearing conference and on notice to their adversary, a written Prehearing Memorandum addressing those objectives contained in R.1:20-5(b)(3).

Respondent

Peter J. Cresci, Esq. /s/

By: _____

Peter J. Cresci, Esq.

April 11, 2018

CERTIFICATION OF VERIFICATION

Peter J. Cresci, of full age, certify as follows:

"Verification of Answer per R. 1:20-4(e):

I, Peter J. Cresci am the respondent in the within disciplinary action
and hereby certify as follows:

(1) I have read every paragraph of the foregoing Answer to the Complaint and verify
that the statements therein are true and based on my personal knowledge.

(2) I am aware that if any of the foregoing statements made by me are willfully false,
I am subject to punishment."

Peter J. Cresci, Esq. /s/

Dated: April 11, 2018

Peter J. Cresci, Esq.