DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY

In the Matter of	)	
	)	
JAMES M. LOOTS, ESQ.	)	Disciplinary Docket No. 2021-D196
	)	
Respondent,	)	
	)	
A Member of the Bar of the District of Columbia Court of Appeals	)	
Bar No. 384763	)	
Date of Admission: December 7, 1984	)	

ANSWER OF RESPONDENT TO SPECIFICATION OF CHARGES

James M. Loots, Esquire, by and through undersigned counsel, hereby respectfully submits the following Answer to the Specification of Charges.

I. Preliminary Statement

James M. Loots is a highly-respected attorney who has been a member of the D.C. Bar for nearly forty years, with no prior disciplinary history throughout his successful practice of law. His practice has focused on the representation of small businesses and individuals in litigation and transactional matters in the fields of employment law, development and leasing, business organizations, and general business matters, with an emphasis in restaurants and hospitality,

A native of Milwaukee, Wisconsin, Loots obtained his undergraduate degree in journalism from Northwestern University. After taking a year off to work as a VISTA Volunteer in AmeriCorps' VISTA program in Baton Rouge, Louisiana, he earned his law degree *cum laude* from the University of Michigan in 1984, where he served on the editorial board for the Michigan Law Review.

Attorney Loots began his legal career as an associate attorney in the Washington, D.C. office of Skadden, Arps, Slate, Meagher & Flom, later practicing with Jones Day before leaving

with other Jones Day associates to establish a small firm practice that evolved over the years and included up to a dozen subordinate attorneys. Most recently, he has practiced as a sole practitioner based in the Capitol Hill neighborhood where most of his clients are located.

In addition to almost 40 years of advocacy for his clients, Attorney Loots has been continually active in civic and legal community affairs. He was named the D.C. Bar's *Pro Bono* Lawyer of the Year in 1984, in part as a result of his groundbreaking work in advocacy for institutionalized and intellectually impaired District of Columbia citizens. He has also served on a variety of Boards of Directors focused on improving the legal and business communities in the District of Columbia, including the Washington Legal Counsel for the Elderly, the Capitol Hill Association of Merchants and Professionals, the Public Affairs Committee of the Washington Board of Trade, Washington Lawyers for the Arts, as well as community service as a board member of and legal advisor to the Capitol Hill Community Foundation, and as a former Board of Directors member of the Capitol Hill Arts Workshop and past Trustee of the Capitol Hill United Methodist Church. Attorney Loots helped establish and was a founding board member of Restaurant Recovery, a not-for-profit organization dedicated to addressing substance abuse and addiction in the hospitality industry. He received the 2001 District of Columbia Distinguished Public Service Award from Mayor Anthony Williams, and served as a two-term elected Advisory Neighborhood Commissioner for Ward 6B03.

Attorney Loots has further served the advancement of the legal community as a former adjunct instructor of law at the American University's Washington College of Law, as a volunteer Continuing Legal Education instructor and Moot Court judge for various local law schools, and as two-term Chair of the District of Columbia Commission on Human Rights.

Throughout his career, Attorney Loots has taken and continues to take pride in his adherence to both the spirit and letter of the Rules of Professional Conduct, and his oath as an attorney, as evidenced in part by his unblemished record of service and achievement in the field and his peer-reviewed status as "A-V Preeminent" rated by Martindale Hubbel ("given to attorneys who are ranked at the highest level of professional excellence for their legal expertise, communication skills, and ethical standards by their peers").

II. Responses to Specifically Enumerated Charges

1. Respondent admits that he is a member of the Bar of the District of Columbia Court of Appeals, having been admitted on December 7, 1984, and that the bar number listed is correct. Respondent further admits that he is an active member in good standing of the State Bar of Maryland.

2. Admitted, except Respondent avers that prior to 2021 the Professional Corporation of which he is the sole owner employed associate attorneys and that it engaged attorneys as independent contractors and co-counsel for certain pending litigation matters during the relevant period.

3. Respondent is without personal knowledge of the factual allegations set forth in this Paragraph of the Specification, but avers that his understanding is consistent with the statements therein.

4. Respondent is without personal knowledge of the factual allegations set forth in this Paragraph of the Specifications, but avers that his understanding is consistent with the statements therein.

5. Respondent is without personal knowledge of the factual allegations set forth in this Paragraph of the Specifications, but avers that his understanding is consistent with the statements therein.

6. Respondent is without personal knowledge of the factual allegations set forth in this Paragraph of the Specifications, but avers that his understanding is consistent with the statements therein.

7. Admitted, except Respondent defers to the scope of representation and disclosures set forth in the engagement letter of August 26, 2020, for the terms, scope, and nature of services to be provided.

8. Respondent admits to the factual allegations set forth in Paragraph 8. The remaining allegations set forth therein constitute legal conclusions to which no averment is required. Respondent further avers that the documents identified in this Paragraph speak for themselves, and denies any allegations inconsistent therewith.

9. Admitted, except Respondent avers that the document identified in Paragraph 8 speaks for itself and denies any allegations inconsistent therewith.

10. Admitted.

11. Paragraph 11 sets forth legal conclusions, to which no averment is required. Notwithstanding the foregoing, Respondent avers that Paragraph 11 appears to be a generally accurate (although cursory and incomplete) recitation of the law on bankruptcy as it relates to certain debtor discharges from liabilities.

12. Admitted.

13. Admitted.

14. Admitted.

15. Admitted.

16. Respondent admits that on May 16, 2021, he filed the motion identified in Paragraph 16 of the Specification of Charges, and that the motion was deemed untimely by the bankruptcy court. Respondent did not believe the motion was untimely at the time of filing. Respondent admits that he sent an email to the Cunninghams the following day, and neither disclosed the motion would be deemed untimely, nor had he previously discussed with the Cunninghams whether filing out of time would be appropriate.

17. Respondent admits the first sentence of Paragraph 17, but denies that he "did not inform Cunninghams of" the filing, as the Cunninghams were advised of the filing at a later date.

18. Respondent admits the first sentence of Paragraph 18, but denies that he "did not inform Cunninghams of" the filing, as the Cunninghams were advised of the filing at a later date.

19. Paragraph 19 sets forth legal conclusions to which no averment is required. Respondent further avers that the document identified therein speaks for itself, and denies any allegations inconsistent therewith.

20. Respondent admits that a June 17, 2021, hearing took place and defers to the transcript of those proceedings for the content and ruling therein. Respondent admits that Respondent did not give the Cunninghams prior notice of the hearing. Respondent denies that he did not inform the Cunninghams of the decision or its implications. Respondent avers that the remaining allegations set forth in Paragraph 20 are legal conclusions, to which no averment is required, but denies that the Cunninghams "lost their ability to object to discharge" and denies the remaining factual allegations set forth in Paragraph 20.

21. Respondent admits meeting with Mr. Cunningham on June 22, 2021, but denies the remaining allegations. To the contrary, Respondent brought with him and shared with Mr.

Cunningham a current docket sheet for the Bankruptcy Court matter, and discussed the June 17, 2021, hearing, motions, rulings, timeline, events, and potential future activities in the case and the Cunninghams' options going forward in extensive detail.

22. Respondent denies the allegations set forth in Paragraph 22. Respondent further avers that there was no activity or pending legal tasks or actions related to the Skhor bankruptcy during this period of time.

23. Respondent admits that the Cunninghams formally communicated their agreement to terminate his representation of them on or about August 19, 2021. The subject of withdrawing representation had been raised and discussed through emails between Cunninghams and Respondent over the previous weeks, including but not limited to an email on July 28, 2021, in which Cunninghams informed Respondent they had selected replacement counsel. Respondent further admits that the motion to withdraw from the bankruptcy matter was submitted on or about January 25, 2022, and that the court granted his motion on January 31, 2022. Respondent sent Cunninghams detailed written notice and information as to withdrawal from the bankruptcy matter by confirmed delivery on January 21, 2022.

24. Respondent admits that a hearing—specifically, an Initial Scheduling Conference—was scheduled for March 19, 2021.

25. Admitted.

26. Respondent admits that the order described was entered on March 18, 2021, setting a remote status hearing for July 16, 2021, that the order served by CaseFileXpress via electronic mail only, and that the Cunninghams were not informed of the status hearing. Respondent avers that he was unaware at the time that the order had been electronically served via email.

27. Denied. Respondent discussed the matter in detail during the June 22, 2021, meeting, including but not limited to extensive discussion of the effect and procedural status of the Superior Court action arising from the pending bankruptcy.

28. Admitted.

29. Respondent admits that he filed the motion to reinstate. Respondent further avers that the document identified in Paragraph 29 speaks for itself, and denies any allegations inconsistent therewith. Respondent avers that representations made to the Court in that filing were accurate, including but not limited to the exhibits thereto demonstrating that neither Respondent nor opposing counsel had ever accessed or viewed the e-filed order of March 18, 2021, and the representation that neither Respondent nor opposing counsel appeared at the July 16, 2021, hearing. Respondent admits that his office's email archives included a copy of the CaseFileXpress electronic service email of March 18, 2021, and avers that such notification email was first discovered in a subsidiary backup file that includes "junk mail" and automatically-archived deleted messages not maintained in the active email folders, and that Respondent became aware of this notification email only when the archive files were searched in response to a request for files received from Disciplinary Counsel.

30. Admitted. Respondent reasonably considered the Court's interim dismissal to be a procedural matter easily and quickly resolved under the precedent of *Starling v. Jephunneh Lawrence & Associates*, 495 A.2d 1157 (D.C. 1985), knew that pursuant to Court rules and explicit language in the Order the dismissal would not take effect for 14 days (July 30, 2021), and would be vacated if a motion showing good cause was filed during that time period (which it was).

31. Admitted. Respondent further avers that as a case stayed due to bankruptcy Respondent considered it unlikely that the October 21, 2021, hearing would occur as scheduled (which was, in fact, proved correct when the Court continued that hearing *sua sponte* until February 4, 2022), and even if it did proceed, Respondent knew that no actions could take place other than another continuance; Respondent reasonably considered the status dates to be purely procedural and not relevant to any potential client decisions or actions. Respondent did inform the Cunninghams in writing of the February 4, 2022 hearing date.

32. Respondent admits the allegations set forth in the first four sentences of Paragraph 32. Respondent denies the fifth sentence, that "Respondent did not inform the Cunninghams of what happened at this status hearing." On January 21, 2022, Respondent sent the Cunninghams by confirmed delivery a detailed letter informing them, *inter alia,* of (1) the current procedural status of the Superior Court action, (2) the fact and timing of his motion for leave to withdraw, (3) their right to oppose Respondent's motion to withdraw and the urgency of doing so if they so chose, (4) instructions for how to appear at the upcoming hearing should they so desire, (5) a current complete docket printout, (6) notification of all then-scheduled future events, (7) a restatement of his previous offer to assist in transition to new counsel, and (8) next steps required of the Cunninghams in order to proceed with the case following withdrawal of Respondent as counsel. On February 8, 2022, Respondent sent the Cunninghams an additional letter informing them of (1) a change in judicial assignment for the case, (2) the new judge's biography; (3) a new court date[1] (4) information as to how to participate remotely in future court proceedings; and (5) the current procedural status of the matter and the related bankruptcy.

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[1] In the interest of full disclosure, Respondent notes that the court date listed in the February 8, 2022 letter to the Cunninghams was incorrect, but that this error was subsequently rendered moot by notice provided by the Court Order of February 19, 2022, informing the Cunninghams of the upcoming May 13, 2022 status hearing.

33. Admitted. Respondent further avers that the order of February 18, 2022, was directed to and served by the Court upon the Cunninghams, and included clear notification that a further status conference would occur on May 13, 2022. The February 18, 2022, Order further instructed the Cunninghams to either file the appearance of new counsel or file a notice indicating they would proceed *pro se*. The Cunninghams clearly received this Court Order and notice, as they responded to that Order on March 7, 2022, stating in a filing with the Court that they would be henceforth be representing themselves. As such, Respondent reasonably concluded that the Cunninghams were aware of the May 13, 2022, status conference referenced in that same Court notice and that no further action was required with respect to his properly terminated representation.

34. Respondent is without personal knowledge as to the factual allegations of this Paragraph, but acknowledges that the docket of the Superior Court reflects that disposition.

The Charges

35. Respondent denies violating any of the identified Rules of Professional Conduct.

WHEREFORE, having fully answered the Specification of Charges, Respondent James M. Loots respectfully requests that the hearing panel recommend that the charges be dismissed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 10, 2024, true and correct copies of the foregoing were served via mail and electronic mail upon:

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