

**BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL,	:	
	Petitioner,	: No. 17 DB 2023
		: Attorney ID# 63600
v.	:	
	:	
ROBERT SCOTT CLEWELL	:	(Philadelphia)
	Respondent.	:

Respondent, Robert Scott Clewell, *Pro Se*, files this Response to the Petition for Discipline, and answers as follows:

1. Admitted.
2. Admitted.

CHARGE I – THE TEC ELECTRIC MATTER

3. Admitted.
4. Admitted.
5.
 - a. Admitted.
 - b. Admitted.
 - c. Admitted.
6. Admitted.
7. Admitted.

FILED
05/01/2023
The Disciplinary Board of the
Supreme Court of Pennsylvania

8. Denied. From November of 2012 until December of 2019, my website contained a PDF of my firm's Client Attorney Agreement, which I referred to as the "CAA". This was a standard form utilized in my practice and it was published at www.clewelllawfirm.com for potential clients to review. During my initial conversations with potential clients, I mention that they are welcome to view my CAA at my website. I am fairly certain that the Turners found me via my website or responded to one of my marketing emails that provided a hyperlink to my website. I revamped my website during the Covid shutdowns and removed the PDF of my CAA. I cannot say for certain whether I specifically directed the Turners to my fee agreement, but I certainly would have directed them to view my website which very openly contained my CAA. The CAA contained the following paragraph under Section XII:

Professional Liability Insurance: Pennsylvania Rule of Professional Conduct 1.4(c) requires that you, as the client, be informed in writing if a lawyer does not have professional liability insurance of at least \$100,000 per occurrence and \$300,000 in the aggregate per year and if, at any time, a lawyer's professional liability insurance drops below either of those amounts or a lawyer's professional liability insurance coverage is terminated. You are therefore advised that Clewell Law Firm does not have professional liability insurance coverage of at least \$100,000 per occurrence and \$300,000 in the aggregate per year.

The standard CAA listed at my website is also the standard form that is given to clients upon becoming a client of the firm's "Contractor Program". I offered representation to small-business contractors throughout the Southeastern Pennsylvania area. My practice had a strong focus on representing construction companies for a flat rate fee. This representation model offered small businesses a reasonable fee that also provided certainty regarding the client's overall cost for legal services which are otherwise delivered by way of an hourly billing model at most other firms. I am mentioning all of this to illustrate that my unique service required a fairly long fee agreement of approximately eight (8) pages. Prior to crafting my CAA, I painstakingly reviewed all of the ethics rules that would have been relevant to the legal services I was providing, and the nature of my practice in trying to keep costs low in order to be able to provide services to many companies who would otherwise not be able to access legal services from a traditional hourly

billable firm. In reviewing TEC's (the electrical company owned by Brian and Angie Turner) CAA, it clearly does not contain Paragraph XII that was part of my standard agreement at the time TEC agreed to have me represent it. I have no explanation for this other than to attribute it to a mistake. I would change the wording from time-to-time on different provisions of the CAA. It is unlikely that I would have changed the wording to the Professional Liability paragraph due to the fact that it is specifically set out verbatim in the rules; however the CAA form was always somewhat quirky with the formatting and the movement of text and I revised provisions on TEC's CAA on at least a couple of occasions. I have utilized the standard CAA with my "Contractor Program" clients over the years. I will provide the Court documentary evidence of two (2) actual CAA's for other clients; one prior to representing TEC, and one several years after I entered into the CAA with TEC; WJ Woern, which was retrieved by that client at my website and signed by the client on 2/16/2015, and faxed to my office, and DK Cleaning Contractors LLC, which is dated 3/22/2019. Over a period of about ten years, precisely because I have consistently and as a matter of practice provided this notice, I have been questioned by just a few prospective clients regarding the decision not to carry malpractice insurance and I have explained that it was simply one of many cost-benefit decisions that allowed me to offer flat fee legal services to small construction companies. I have never had a client refuse my representation because I did not carry insurance. The only possible explanation for the omission is a mistake made while copying and pasting in the document, or while changing up some of the wording and re-organizing different sections of the document. This was not an intentional act on my part.

9. Admitted.

10. Admitted.

11. a. Admitted.

b. Admitted

12. Admitted.

13. Admitted.

14. Admitted.

15. Admitted.

16. Admitted.

17. Admitted.

18. Admitted.

19. Admitted that Respondent did not file a new petition to withdraw. By way of further explanation to this paragraph and relevant to many other issues alleged throughout TEC's portion of this Petition as well, based on my CAA with TEC, I was obligated to provide certain legal services that were included in the scope of the agreement. These included non-litigation matters that were fairly routine in nature and did not involve filing or responding to pleadings or motions, conducting discovery, or any other activities that involved litigation. The only two (2) litigation matters that were included in my CAA with TEC were the matters involving Norwood Construction and CRD. The flat fee contemplated representation for those cases, plus other non-litigation matters such as basic review of contracts, mechanic's lien notices of intent, and other basic items. On dozens of occasions, I explained and re-explained the nature of my flat-fee service to Angie Turner (Brian Turner's spouse throughout most of the time that I represented TEC), and, on occasion, to Brian Turner. I had spent hours explaining these issues to Angie, and then Brian would demand further explanation. I would always accommodate all of their requests. I was constantly challenged on what was owed, what the fee included, how much work I completed to "earn" the fees paid, and other issues regarding justification of my fee. When installment payments became due, I worked with the Turners many times on allowing them to delay payment, or permitting them to make partial installment payments. They were struggling in their business and, as in many situations with potential or current clients, I would work with clients so that it would be somewhat more affordable than what other lawyers would charge. In addition to my discounted flat rate fees, I spent countless hours on the phone, and sometimes in-person, advising Angie and/or Brian regarding matters that were not included in our agreement. I

did this for both the business, who I had an agreement with, and personal matters, for which I had no obligation to provide advice or services. As in most attorney-client relationships, the Turners and TEC had needs for legal help beyond the scope of the engagement. I assisted the Turners pro bono with their personal legal problems. Those cases included very serious IRS tax issues, PA Department of Revenue issues, a municipal tax sale involving their residence, and an issue with the Bensalem School District regarding their daughter which required my review of a 40-page Student Handbook. This representation required many hours of legal research, legal work and consultations with the Turners, as well as acquiring voluminous certified records from taxing authorities. I performed all of these functions personally, without the assistance of administrative or secretarial personnel.

In the scope of my CAA agreement with the corporate entity, TEC Electrical, I am providing this list of matters in order to place some context on allegations that fees were “paid” by Mr. Turner:

- a. Defense of multiple collection matters with the Amato debt collection firm.
- b. Donegal insurance matter.
- c. Doylestown confession of judgment defense
- d. Goddard School dispute
- e. New office lease review
- f. Warfel dispute
- g. Passi/Penn Asian Senior lien
- h. Fenningham Stevens v TEC (Bench trial / Bucks Cty)
- i. TEC v CRD (Arbitration & Mechanic’s Lien litigation matters)
- j. TEC v. Norwood/eMoney (Arbitration & Mechanic’s Lien litigation matters)

I represented TEC in two separate arbitrations regarding the CRD and Norwood matters. The initial proposed flat fee for the Norwood matter was included in the original CAA agreement, and the agreement was later amended to include the CRD matter.

The CRD arbitration proceeded forward in spite of the fact that TEC did not have the money to pay its share of the AAA arbitration fee. Since TEC was not able to pay the fee for their claim, we were precluded from asserting their claim during the arbitration. However, the defenses to CRD's claim set forth during the two-day proceeding were identical to the assertions that would have been made by the Turners had they been able to proceed with their claim's case-in-chief. I solicited testimony from both Brian and Angie Turner in an attempt to establish a defense to the assertions made by CRD. If believed, the testimony would have been a compelling reason for denying an award in favor of CRD, and, conversely, if TEC had been able to proceed with their claim, an award in favor of TEC might have been appropriate. Upon consideration of both sides testimony, the experienced arbitrator, Ms. Gilsdorf, found in favor of CRD. In other words, if TEC had submitted a claim, the testimony that they presented in defense of CRD's claim would have been identical to the testimony they would have presented to support an affirmative claim. I spent many dozens of hours preparing my presentation/direct and cross examination, and reviewing both Brian and Angie Turner's testimony with them.

With regard to the Norwood arbitration, I represented TEC in the two-day proceeding. Just as I did for the CRD arbitration, I spent a considerable amount of time preparing for the arbitration and the respective testimony of Brian and Angie Turner. Upon conclusion, the arbitrator found in favor of Norwood. We settled the mechanic's lien.

The Fenningham Stevens matter involved a suit by prior counsel against TEC for the non-payment of approximately \$70,000 in attorney's fees. Although I spent approximately twelve hours or more preparing prior to the bench trial, and reviewed testimony with Angie Turner for several hours both on the phone and in-person, I provided representation to TEC in this matter for a nominal additional fee. I appeared with Angie Turner as my only witness at trial. Her

testimony was empty and not compelling in any way. She basically had a general disagreement with each itemized fee because she alleged it was unfair. It was clear as we reviewed her testimony, and even more clear during her actual testimony, that the whole proceeding was intended to stall for time and delay having to pay. The Court ruled in favor of Fenningham. It was around this time that I became certain that the Turners were intent on manipulating me and exploiting me for representation, and that they would continue to play a cat and mouse game when it involved paying my flat rate fees.

I am providing all of this information so that the Court can understand the nature of my representation of TEC, and the personal representation of both Brian and Angie Turner. I did not track hours as a flat-fee based practice. My clients generally appreciate the certainty involved in the flat-fee model versus the billable hour model, and it allows me to focus on clients as opposed to tracking my hours, managing retainers, and submitting invoices every month. The biggest advantage to clients is that the CAA does not have a separate and distinct fee for each matter. This is something that the Turners failed to understand throughout the entire course of representation. I proposed a flat fee taking into consideration the size of their business, the type of work they were engaged in, the number of employees they had, and whether they had any litigation matters. The Norwood and CRD matters were the only litigation matters included in the CAA. The proposal would take into consideration all of the information and I would come up with an **annual** fee. I would always quote the annual fee as a lump sum payment due up-front before I would commence any work. In cases where there was litigation work in the proposal (TEC's situation) and **if requested by the client**, I would sometimes propose other payment options so that it was more affordable. This was not a pay as you go or a piecemeal approach based on work that had been completed, it was an annual flat rate fee designed to provide certainty to the client regarding costs. Near the very top of Paragraph I, the CAA clearly and unambiguously states that "[P]ayments shall be considered earned when paid. They will not be

refunded to the Client”. I viewed this as a tradeoff since I maintained a very low overhead practice but certainly absorbed the risk of having to represent clients on an unlimited number of basic and routine matters, as well as unlimited court appearances and representation for local district court cases. The **entire fee proposed in the CAA** contemplated and took into consideration this unlimited service. In essence, I accepted the risk of going way beyond the time and effort spent and what I believed might have been a reasonable fee initially; and the client, in exchange for a very discounted and certain flat fee, accepted the risk that they would require little involvement with their lawyer over the course of the annual contract period. I did not simply agree to represent TEC for the “Norwood case” or for the “CRD case”. In the context of the CAA and my firm’s Contractor Program, I agreed to represent the business for a given period of time for a set price, due up-front, which in some cases was paid over the course of the annual contract period as a courtesy to the client.

The Turners did everything in their power to obfuscate and avoid the payment of the flat fees required in our agreement. During phone conversations and otherwise, they constantly tried to get out of their obligations and would indicate that they were only going to submit a payment that was overdue or currently due if I did something in return. They constantly violated the terms of the flat fee arrangement. They never truly understood the nature of how they would be responsible for the entire yearly payment in the form of installment payments, in spite of countless arguments and explanations of the same issue over and over again. Most of these conversations occurred over the phone with Angie Turner, but it was clear to me that she was doing it on purpose to delay having to make a payment and that Brian was telling her what to do and what to say to me.

At one point, Angie called me and said that Brian apparently had been having an affair and that they were either separated or getting a divorce. She indicated that she would no longer be

working for TEC and that Brian would be the contact person moving forward. Angie was unreachable from that point forward and her phone number was no longer active. I recall that some time had passed after that call and that Brian had apparently engaged another lawyer for various items, which I recall included the CRD and Passi matters. I recall only that she was a female and he mentioned that she really was very knowledgeable, and that she was advising him.

I went quite a bit outside the scope of this paragraph in explaining our arrangement; however, I think it is important for the Court to understand the totality of my CAA agreement with TEC in order to place in context some of the allegations and responses throughout this Petition.

Suffice it to say that the Turners were, by far, the most difficult, abusive clients I have ever represented. It is my belief they purposely caused confusion and exploited my arrangement with them in order to avoid or delay paying my fees.

20. Admitted.

a. Admitted. I explained verbally that it was contingent upon getting current on their payments.

b. Admitted. I explained verbally that this was contingent upon getting current on their payments.

c. Admitted. I explained verbally that this was contingent upon getting current on their payments.

21. Admitted. By way of further answer, please incorporate contents of Exhibit A which contains an email string and texts that give context to this response.

a. Admitted. By way of further answer, please incorporate contents of Exhibit A which contains an email string and texts that give context to this response.

b. Admitted. By way of further answer, please incorporate contents of Exhibit A which contains an email string and texts that give context to this response.

c. Admitted. By way of further answer, please incorporate contents of Exhibit A which contains an email string and texts that give context to this response.

d. Admitted. By way of further answer, please incorporate contents of Exhibit A which contains an email string and texts that give context to this response.

e. Admitted. By way of further answer, please incorporate contents of Exhibit A which contains an email string and texts that give context to this response.

22. Admitted. By way of further answer, please incorporate contents of Exhibit A which contains an email string and texts that give context to this response.

23. Admitted. By way of further answer, please incorporate contents of Exhibit A which contains an email string and texts that give context to this response.

a. Admitted. According to my records, TEC made a partial payment of \$1,000 on Invoice # 1278 on May 25, 2018

b. Admitted. According to my records, TEC failed to make this payment by June 15, 2018. My records show that TEC made a payment on September 19, 2018 on Invoice # 1314 in the amount of \$1,950.

c. Admitted.

24. I am not able to admit or deny this statement as I am not certain whether there were any verbal statements made by Angie or Brian qualifying their “agreement” to terms. It was never that cut and dry in dealing with them on fee issues.²⁷

25. Admitted. However, further explanation is required. The entire fee was not paid in a timely fashion; however, I noticed deps for both Vince Freeland and Gary Saville for May 24, 2018 and sent them to opposing counsel on April 13, 2018. I sent copies of the notices to Angie Turner on April, 11, 2018. I did not receive a response from opposing counsel and they did not occur on the noticed date. Opposing counsel was battling cancer during the course of the CRD case and he would sometimes not respond for a few weeks at a time. I wanted to be courteous given his

situation and the deps were not rescheduled before I gave notice to TEC that I was terminating representation in late August.

26. Admitted; however this answer requires further explanation which is contained *infra* with my full response to Paragraph 19.

27. I do not have enough information to admit or deny this statement, however, I'll admit it with further explanation. According to my records, TEC was in arrears as of the June 30 deadline in the amount of \$950. To the extent that it applies to this situation, Paragraph I of my CAA states the following:

“Failure of Client to make any required payment shall result in the stoppage of all work on any legal matters where CLF has been providing representation and/or services. CLF shall not be legally or ethically responsible for missed deadline and/or statute of limitations violations during the time period between the missed payment and the date when all arrearages have been paid. Furthermore, with regard to matters that have been delayed due to Client's non-payment, CLF shall not be required to prioritize Client's matters immediately upon payment of arrearages in order to avoid a missed deadline and/or statute of limitations violation. Client is on notice that if CLF ceases work on any matter, Client may lose important rights that may be gone or lost forever.

28. I do not have enough information to either admit or deny this statement. However, as I indicated above, Mr. Turner proceeded with the claim on his own.

- a. I do not have enough information to either admit or deny this statement. Mr. Turner proceeded on his own in this instance.
- b. I do not have enough information to either admit or deny this statement. Mr. Turner proceeded on his own in this instance.

29. Admitted.

- a. Admitted.
- b. Admitted.

30. Admitted.

31. Admitted; however this answer requires further explanation which is contained *infra* with my full response to Paragraph 19.

a. Admitted; however this answer requires further explanation which is contained *infra* with my full response to Paragraph 19.

b. Admitted; however this answer requires further explanation which is contained *infra* with my full response to Paragraph 19.

32. Admitted.

33. Admitted.

a. Admitted.

b. Admitted

34. Neither admitted or denied as I do not recall being informed of this. Based upon information and belief at that time, Mr. Turner had undertaken legal action on his own and with the possible assistance of other counsel.

35. Admitted.

a. Admitted.

b. Admitted.

c. Admitted.

36. Admitted.

37. Admitted.

38. Admitted.

39. Admitted.

40. Admitted.

41 through 50. Admitted. Further explanation is required. I would refer to the response I provided *infra* in Paragraph No. 19 where I explained in detail the terms of the flat fee agreement. It is a misnomer to say that the flat fee was just for certain cases. It is a fee that relates to a period of time together with certain inclusions and exclusions, and it is due as part of the annual contract.

Although I referred to the CRD and Passi cases specifically in communications and on invoices, it was because we had strayed so far from the terms of our initial CAA that it was the only way to convey the message to the Turners that they owed the fee as part of their overall obligation under the annual CAA. As I mentioned earlier in my response, I had to constantly redirect them and explain how flat fees were different from the typical hourly fees most lawyers charged. They wanted the benefit of a capped, flat fee, but they exploited the situation by always demanding that I do certain things in exchange for a payment that was due. This was a messy situation for me from an ethics perspective, but I was abused and exploited by the Turners long enough and I did not know what else to do to be paid for so many hours of work over the course of representation. In essence, I did work for them, and worked with them, while they were in arrears throughout the course of the annual contracts, and I also did work for them on a number of cases pro bono that I certainly could not afford to do, but did anyway in order to help them out of their financial troubles. I acknowledge and admit that I should have done things differently in this situation, but all I can say is that Mr. Turner got to a point where I truly believed he was sending me correspondence on the advice of counsel he was working with for the sole purpose of building a case against me. I base this gut instinct on the entire history of my dealings with him, and to a lesser extent, his spouse at the time, Angie Turner. It is not an excuse for some of my actions, but given my personal situation I needed to terminate my representation with TEC and Mr. Turner as of the August 28, 2018 communication.

51. Admitted. In spite of all of the history with Mr. Turner, I sporadically had feelings of regret for how I may have dealt with all of turmoil, and so I prepared and filed the Petition for Reconsideration in order to resist my instincts and take what I believed to be the moral high ground out of a sense of moral obligation. It is difficult to convey my state of mind at the time, but for lack of a better way of explaining it, I feel like I had been raked over the coals by Mr. Turner and that I did not owe him another ounce of work. Ethically, this was the wrong position for me to take, and in retrospect I should have handled everything much better than I did.

a. Admitted.

b. Admitted.

c. Admitted

d. Admitted

e. Admitted

f. Admitted.

g. Admitted.

h. Admitted

i. Admitted, however further explanation is required. The argument made by opposing counsel at the prior hearing was that the arbitration clause in the subcontract between CRD and TEC precluded TEC from filing a mechanic's lien foreclosure action. The prior hearing did not address the issue of whether TEC would prevail on the merits of their case, but rather a contract issue relating to the arbitration clause. Whether TEC would prevail on the merits of their case was a much different issue and the best evidence for the likelihood that their case would fail on the merits was the disposition of the arbitration matter where the arbitrator found in favor of CRD.

j. Admitted.

52. Admitted.

53. Admitted.

54. Admitted.

55. I do not recall this and can neither Admit or Deny.

56 through 60. Admitted but further explanation is required. These allegations refer to Mr. Turner contacting me by text and email. I do not deny that he did so. The first of these communications was on November 20, 2018, according to the Complaint. The next communication did not occur until three (3) months later on February 20, 2019. As of this communication, there is no doubt that Mr. Turner had come to the conclusion that I finally had

had enough of his tactics, and that I had certainly terminated my representation of TEC for the last time. Based on prior separate verbal communications with Mr. Turner and Mrs. Turner, it was apparent to me they were at the very least estranged from each other or that they were headed for a divorce, and that Mr. Turner had developed an apparent personal and professional relationship with a female lawyer who was providing him counsel for his legal issues. I recall at least one conversation (and possibly one more) with Mr. Turner where he had told me that he was consulting with another lawyer, and referred to her as “really sharp” and that she knew her stuff. I do not recall the exact date that I had the conversation with Mr. Turner about this other lawyer, but, based on my best recollection, I believe that it was late in the Summer or early Fall of 2018. I also specifically remember that Mr. Turner told me that she was advising him on the CRD matter. I can only assume that she was advising Mr. Turner on Passi and other matters as well.

When the texts and emails resumed again from late February of 2019 to April 22, 2019, it had to have been absolutely clear to Mr. Turner that I had finally terminated representation of TEC. He continued to inquire about things that had been communicated to him over and over again during the last couple years, and that had been addressed many times. He had to have known that CRD was over based on his alleged review of the docket and consultation with his lawyer. He knew that depositions were not going to be taken at that point. Given what he believed about my failure to provide representation, it would seem highly likely and reasonable to expect that Mr. Turner would have asked for the return of fees. To my knowledge, he never once asked for a return of any fees associated with my representation.

According to the initial complaint filed by Mr. Turner, the emails/texts stop after April 22, 2019. Mr. Turner apparently did not contact me again until March of 2020, which is almost a whole year. As I have mentioned previously, the scope of representation clearly explained in the CAA not only involves covered areas, but, most importantly, a time-period. I recall that TEC breached

the CAA at multiple points during the time-period covered by our agreement. As I explained in *infra*, the CAA covers these times when payments have not been made. Although I acknowledge that the ethics rules trump the contractual terms, I still believe the Court should consider the predicament TEC put me in on a consistent basis and the fact that I had some legitimate and rational basis for relying on terms that TEC had agreed to.

Having dealt with Mr. Turner for several years, although I did not realize it at the time, I am confident in my representations to the Court that these communications were a pretense in order to build a case against me. I want to be very clear, I am not representing to the Court that I am without fault or accountability in this entire situation. I have made some ethical errors in judgment for sure, but I was constantly and uniquely challenged on many fronts in my representation of TEC and in my dealings with the Turners. In a nutshell, they wore me down.

61. Admitted.

62. Admitted.

a. Admitted

b. Admitted.

63. Admitted.

64. Admitted.

a. Admitted

b. Admitted.

65. Admitted.

a. Admitted.

b. Admitted.

c. Admitted.

66. Denied as to the allegation that my termination notice was false or misleading.

- a. Denied in that TEC paid me in full specifically for the CRD case. As I mentioned earlier in my response, TEC did not pay me for a specific case. Although it may have been referred to in communications or invoices in that manner, it was stated in that fashion to acquiesce to TEC's flawed way of thinking about our CAA and it really was the only way that they seemed to comprehend the nuances of our CAA agreement. There were many other items where I counseled TEC and the Turners on their legal matters. Those are all included in the flat fee even though it may have been adjusted based on the fact that I would work with TEC on their overdue payments. The dozens upon dozens of hours on the phone with TEC for many different legal matters over the time period covered by the original CAA, and subsequent renewals, are included as part of the fee. Any other work that I performed for TEC, for any other matters or issues, during the course of the annual contract were part of the flat fee. I viewed the renegotiation of any fees as an adjustment to the fee structure as a whole and not a piecemeal apportionment. This was a major challenge with TEC from the beginning, and the only way to convince them to fulfill their payment obligations was to give in sometimes to the way they wanted to categorize and label the services I was providing.

I would like to refer the Court to my email of May 15, 2018 at 5:38 PM. This illustrates the explanation I have provided above in great detail and it is evidence of the fact that TEC was in arrears as of the time that the malpractice lawsuit was filed, and that I had validly terminated representation of TEC as of the August 28, 2018 letter.

TEC failed to meet the conditions set forth in this email for continued representation since they paid less than the amount of \$1,925 due on May 16, 2018 and failed to pay the second \$1,925 payment until September 19, 2018. Continued representation

beyond the August 28, 2018 termination letter, was contingent upon payment having been made by TEC on June 15, 2018.

Angie--

Thanks for getting back to me. We can certainly discuss this by phone, but I wanted to explain the fees and payments in an email so that you have the info.

I have pulled the payment and invoice records from the very beginning of my representation. On November 1, 2016, I sent you the original Client Attorney Agreement. (CAA). The CAA contained the terms of our arrangement which included representation for the normal areas that I cover under my contractor program and just one litigation matter. The only litigation matter as of the original contract was the Norwood case. The first payment that was due and paid in November was in the amount of \$825.

Within a month after I began representation in Norwood, TEC had decided to add the CRD matter as part of our CAA. On December 17, 2016, I sent you an email explaining the upgraded agreement between us and informing you that the new monthly payment for adding CRD and continuing with representation in all the other matters was \$1,350.

On July 7 of 2017, I agreed to represent TEC in the FSD matter for a flat-fee of \$875, and agreed that the fee could be added to your monthly amount and spread over two monthly payments.

The original CAA began in November of 2016 and was to run thru October 21st of 2017. The total amount of payments due during the first 12 months of our CAA, including the add-ons for CRD and FSD, was \$16,550. The total payments made by TEC during that time-period total \$14,768.25. There is an arrears of \$1,781.75 as of the would-be date of termination of our CAA. TEC paid 2 additional payments in the amounts of \$1,600 on January 7, 2018 and \$750 on March 27, 2018. That brings the total of TEC's payments to \$17,118.25.

The CAA signed in November of 2016 (and also relating to the add-on litigation matters of CRD and FSD) clearly indicates that our agreement is one that provides unlimited representation for TEC on non-litigation matters like Fromm, Billows, Donegal, Warfel, Passi, and at least another half-dozen or so matters that I have handled for TEC since the onset of my representation; and the Norwood litigation. The CAA specifically excludes personal legal matters; however, I assisted in several of those matters as well. The CAA clearly states that the contract between us will be renewed unless I am notified at least 10 days prior to the natural termination date of the original 12-month time-period. That date was October 21, 2017. I have continued to represent TEC on the CRD matter, FSD matter, and, to some extent, on the Norwood matter (although I will give you the benefit of the doubt on the Norwood case since, as a result of not getting paid, I did not engage in much proactive activity on that case). In essence, the original CAA was renewed for another 12-months beginning October 22, 2017.

As you are well-aware, TEC and I were in a dispute over multiple issues throughout that time-frame. As a result, I made several attempts to propose fair and reasonable flat fees to continue representation on just the pending litigation matters. When TEC refused to accept my proposal, I still continued to handle hearings and motions filed by CRD, appeared on behalf of TEC in the FSD matter, and assisted TEC in other legal matters that you would contact me about. I prepared and filed Petitions to Withdraw on both CRD and FSD; however, in an effort to continue to try to work with you, I have pulled back on both of those Petitions for now. I really think the misunderstanding here is with the nature of my CAA. It is not a situation where you are "paid in full" on a particular case (the exception to this is FSD because I had agreed to a flat fee). My practice specializes in making litigation and non-litigation cases affordable for small to medium-sized contractors by allowing clients to make pre-determined monthly payments for the amount of time that I am involved in representing them in cases that are still being litigated; and for unlimited services (ie. phone calls, letters, etc...) involving any and all covered legal issues the client has during the time-period covered by the CAA. In other words, the monthly payments

do not just cover cases that are in litigation like CRD and Norwood; they cover any other cases that arise during the period of time covered by the CAA. It is sort of like a legal services insurance policy where premiums are paid for a certain period of time in exchange for the ability to submit unlimited claims. The tradeoff for TEC is that you are not paying by the hour with endless exposure to large legal bills, and you have a certainty about what litigation and general legal services will cost you on a monthly basis.

If you consider the terms of the CAA, TEC would have owed a monthly fee of \$825 (again, only counting the CRD matter as a continuing litigation matter) beginning on October 22, 2017 up until May 21, 2018. That is a period covering 7 months at \$825 per month for a total of \$5,775. As of today's date, TEC owes legal fees in the amount of \$22,325, and has submitted payments since the inception of our CAA in the amount of \$17,118.25. That leaves a balance due for arrears in the amount of \$5,206.75, and a continued obligation under our current CAA in the amount of \$825 per month until October of 2018. The amount owed on the remaining CAA obligation totals \$4,125. In offering a flat-rate fee of \$3,200 to continue representation in the CRD matter and a small flat fee for PASSI, I have basically offered to allow TEC to pay one-third of the total amount of what is currently owed and what would be due over the next 5 months.

I believe I am being more than fair with this scenario. However; in yet another effort to work with you, I would be willing to cut the initial amount due up front for the CRD flat fee in half. (\$1,600) This would be due immediately. The remaining \$1,600 will be invoiced on June 15th, 2018 and will be due upon receipt of the invoice. That would cover you for the remaining representation on CRD. If you only want legal representation on the PASSI matter and not CRD moving forward, I would prepare, file and serve a legally compliant mechanic's lien notice of intent, and file and serve the actual lien claim for a reduced total amount due in that matter of \$650.00. As soon as it is paid, I will file and serve the notice of intent. If you want me to handle both matters as a flat-fee package, the total amount due would be required in two installment payments of

\$1,925. The first payment is due immediately. The second payment of \$1,925 will be due upon receipt of invoice sent on June 15, 2018. I am not going to be any more flexible than that. If you are interested in moving forward in this manner, please let me know by close of business tomorrow, Wednesday, May 16th, 2018. If I don't hear back from you by then, I will assume that you will be finding other representation for CRD, PASSI, and all other legal matters that I would have covered under the CAA. If there is no response, I will re-submit the Petition to Withdraw in CRD and cease communications and representation on all other matters except for FSD. Keep in mind that your agreement with this flat-fee arrangement results in the cancellation of our CAA with regard to all other matters other than CRD and PASSI (If you choose to have me continue representation in either one or both).

If you need further clarification on any of this, please let me know and I will try to explain it some other way. Thanks.

Robert S. Clewell

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[Quoted text hidden]**Brian Turner** <bturner@tecelectrical.com>Tue, May 15, 2018 at 6:41 PM

b. Denied for the reasons I mentioned in subsection (a) above and my response *infra*.
67 through 71. Admitted.

72.

a. Denied. Please see responses *infra* at Paragraphs 19, 24, 25, 27, 41 through 50, 51 and 51(i), 56 through 60, and 66(a).

b. Denied. Please see responses *infra* at Paragraphs 19, 24, 25, 27, 41 through 50, 51 and 51(i), 56 through 60, and 66(a).

c. Admitted.

d. Admitted.

e. Denied. Please see response *infra* to Paragraph 8.

f. Admitted.

g. Denied. Please see responses *infra* at Paragraphs 19, 24, 25, 27, 41 through 50, 51 and 51(i), 56 through 60, and 66(a).

h. Denied. Please see responses *infra* at Paragraphs 19, 24, 25, 27, 41 through 50, 51 and 51(i), 56 through 60, and 66(a).

i. Admitted but further explanation is provided *infra* at Paragraphs 19, 24, 25, 27, 41 through 50, 51 and 51(i), 56 through 60, and 66(a).

CHARGE II: THE MICHAEL CIFONE MATTER

73. Admitted.

74. Admitted.

a. Admitted.

b. Admitted.

c. Admitted

d. Admitted

75. Admitted.

76. Admitted.

a. Admitted.

b. Admitted.

c. Admitted.

77. Admitted.

78. Admitted.

a. Admitted.

b. Admitted.

c. Admitted.

79. Admitted.

a. Admitted.

b. Admitted.

80. Admitted.

81. Admitted.

82. Admitted.

83. Admitted.

84. Admitted.

85. Admitted.

86. Admitted. By way of further explanation, I was allowing mail to pile up and was neglecting to even open up mail during this time-period. Much of the mail, including the mail from the Fund, remains unopened even as of this date as it has been neglected for such a long period that I assume deadlines have passed and there is very little I can do to cure any problems. This is particularly the case with any mail that appeared from the envelope to be related to a problem or issue that I was avoiding.

These actions and inaction are directly linked to spiraling into major depression which I address in New Matter more thoroughly.

a. Admitted.

b. Admitted.

c. Admitted.

87. Admitted

88. Admitted. By way of further explanation, I was allowing mail to pile up and was neglecting to even open up mail during this time-period. Much of the mail, including the mail from the Fund, remains unopened even as of this date as it has been neglected for such a long period that I assume deadlines have passed and there is very little I can do to cure any problems. This is particularly the case with any mail that appeared from the envelope to be related to a problem or issue that I was avoiding.

These actions and inaction are directly linked to spiraling into major depression which I address in New Matter more thoroughly.

89. Admitted.

90. Admitted.

91. Admitted.

92. Admitted.

93.

a. Admitted

b. Admitted.

c. Admitted. By way of further explanation, I had an initial consult with Mr. Cifone where we discussed objectives and strategy.

d. Admitted.

e. Admitted.

f. Admitted. By way of further explanation, I believe the fee in itself was not excessive; however, in the context of my failure to provide service it would be considered

so.

g. Admitted.

h. Admitted.

CHARGE III: PAUL KOLLHOFF MATTER

94 through 212. Admitted. By way of further explanation, I admit that my behavior was reprehensible and I am very remorseful for how I treated Mr. Kolloff. He was going through some issues of his own, and I was insensitive to those issues. Although, I know that I would not have treated Mr. Kolloff the way I did without being severely depressed myself, it still doesn't ease the guilt and shame I feel with how I treated him. He did not deserve this. Please refer to New Matter for further explanation.

NEW MATTER AND REQUEST TO BE HEARD IN MITIGATION

1. As a result of my life spiraling out of control on several levels; including my personal relationships with my wife and children (I have two boys, one just finishing up his freshman year in college, and a 12-year old), my financial situation, my professional life, and the agony of daily suffering and despair from severe depression, I reached out to Lawyers Concerned for Lawyers (LCL) during the Summer of 2022.

2. LCL is an organization that assists lawyers with addiction and mental issues.

3. I instinctively have known that I have been suffering from depression and anxiety for at least ten (10) years or so, but the situation had become progressively and significantly worse over the last several years after suffering a heart attack and being diagnosed with type-2 diabetes simultaneously on November 3, 2019.

3. On July 19, 2022, I was evaluated by a therapist from LifeStance, which is a provider referred by LCL. At the conclusion of that session, I was diagnosed with Major Depressive Disorder and Generalized Anxiety Disorder.

4. As a result of the diagnosis and validation of what I had been experiencing, I attempted to seek professional help.

5. I opened up to a colleague who had previously told me that he had been seeing a therapist to deal with some similar issues, and he referred me to his therapist who he thought very highly of. Unfortunately, the therapist did not accept insurance and only accepted out-of-pocket payments. His per session fee was \$225, which was prohibitive for me.

6. I began to search for in-network providers but quickly realized that these providers were either not accepting new patients or had not availability for months in the future.

7. As a result, I turned to a friend of mine, who is a Psychologist, on an informal basis to discuss my issues, and also researched potential medications.

8. I discussed my personal situation with my brother, who I knew had been dealing with depression, and he informed me that he was having a positive experience with 10mg of Lexapro daily.

9. On September 18, 2022, I joined an online therapy site called Cerebral, which offered a cost-effective prescription service on a monthly basis.

10. On October 5, 2022, I had an appointment with a Care Counselor at Cerebral, where I was prescribed Lexapro, 10mg daily.

11. I began taking 10mg of Lexapro as of that point for a period of a couple months. The experience was terrible in that I suffered from many of the potential side-effects including brain fog, nausea, disorientation, tiredness, and constipation to name just a few. As a result, I reduced the does of Lexapro by cutting the 10mg in half for a 5mg daily dose. This did not alleviate the issues. The only positive effect of the medication was a slight improvement of the anxiety I had been experiencing , but it came at the expense of feeling more depressed. I eventually stopped taking the medication.

12. As a result of my worsening and ongoing depression for the last several years, I had been sporadically managing my diabetes. My doctor had prescribed insulin injections before each meal and one injection prior to bedtime, as well as a diet that called for low carbohydrate intake. Except for the first couple months or so after my initial diagnosis on November 3, 2019, I have been very sporadic with my adherence to my doctor's instructions and my sugar levels/ A1C are very problematic. My overall health has been degrading as I now have numbness in my feet from my failure to manage my condition.

13. Based on my personal experiences over the last four (4) years or so, depression is characterized by extreme mental and physical fatigue; unexplained sadness and despair; physical pain even from small simple movements or the sensation of water hitting my body in the shower; severe approach-avoidance of anything confrontational or unpleasant; lack of mental focus and sharpness; task-avoidance; consistent fear of dying and leaving loved ones behind; overly emotional responses/crying over things that would make me sad; the inability to find joy or happiness in things that would normally make a person feel joy or happiness; failure to find joy or happiness in milestones achieved by my children; constant worry about many life issues but a mental paralysis in doing the things necessary to avoid the things causing the worry

and anxiety; internalized guilt; shame and embarrassment to admit any of the things I was feeling; hiding and covering up my depression because I did not want to appear weak; neglecting to take action to address my depression thinking that I was strong enough to make it go away, going sometimes a week or more without showering and tending to personal hygiene, becoming easily overwhelmed; insomnia; inability to even get out of bed in the morning; feeling like I am letting people down because of my depression; and that no matter where you are or who you are with, you are always mentally somewhere else and never living in the moment.

14. I was paralyzed by all of these things mentioned in Paragraph 13 to the point where I avoided seeking help for my condition for a long time. Admittedly, this is irrational; but in spite of a logical understanding that it does not make sense to avoid getting help, I continued to try to get by on my own figuring that I was smart enough to fix it.

15. Although I am ashamed and feel guilt that it had to come to this, these complaints from clients and the threat it poses to my livelihood prompted me to do what I had thought about doing off and on for several years. I am truly sorry that it had to get to this point where clients have been hurt for me to seek help.

16. I am on the path to changing my life and feel encouraged about the future for the first time in years. I am no longer seeking out new clients for my practice, but will continue to serve the few clients that I have remaining. I have taken a position as an Associate with a firm where I have very little client contact and perform behind-the-scenes legal tasks. This will provide much needed financial support which will help me begin to meet and take care of financial obligations, including gradually refunding Mr. Kolloff and Mr. Cifone. Also, I have begun counseling with an in-network provider, Dr. Robin J. Charleston, and plan to continue to

do so on a weekly basis. I have also learned that a big factor in addressing my depression is the management of my diabetes and overall physical health. I am committed to treating my condition on a daily basis, and sticking to a low carb diet. As a result of these life changes, I am feeling better than I have in several years. I realize that it will require a daily commitment on my part to adhere to my diet, and a weekly commitment to attend counseling, but I am motivated by the turn my life has taken just over a short period of time, and I will continue the momentum forward to solidifying these life changes.

WHEREFORE, the Respondent prays that your Honorable Board appoint, Pursuant to Rule 205, Pa.R.D.E., a Hearing Committee to hear testimony and receive mitigation evidence in support of the foregoing New Matter, and upon the completion of said hearing to make such findings of fact, conclusions of law, and recommendations as it may deem appropriate.

RESPECTUFULLY SUBMITTED:



ROBERT S. CLEWELL

PRO SE RESPONDENT

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215-287-9606

**BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL,	:	
	:	
Petitioner,	:	No. 17 DB 2023
	:	
	:	Attorney ID# 63600
	:	
v.	:	
	:	
	:	
ROBERT SCOTT CLEWELL	:	(Philadelphia)
	:	
Respondent.	:	

VERIFICATION

I, Robert Scott Clewell, *Pro Se Respondent*, verify that the statements contained in the foregoing Answer to the Petition for Discipline are true and correct to the best of my knowledge, information and belief and are made subject to the penalties of 18 Pa.C.S. Section 4904, relating to unsworn falsification to authorities.

May 1, 2023



Robert S. Clewell
Pro Se

