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July 10, 2017

Beverly Sharpe, Esq.
Board of Professional Responsibility
Consumer Assistance Program
10 Cadillac Dr.
Brentwood, TN 37027

RE: Complainant: Roy Cook
Complaint No.: 48894c-2

Dear Ms. Sharpe:

I hope this letter finds you well. I write at your request in relation to your letter of July 7, 2017. As requested, I have forwarded a copy of this letter to Mr. Cook. In your letter you ask for a brief written statement concerning this complaint. The letter I received included a number of copies of various documents, and I will endeavor to address each of the issues raised within these documents. In the event that I miss an issue, please let me know and I will update my response.

It is helpful, I believe, to begin with a summary of my representation of Mr. Cook. I was appointed to represent Mr. Cook in Roane County Criminal Court on a charge of extortion. The facts of the case are somewhat convoluted, but the heart of the matter is that Mr. Cook was accused, along with his brother, of attempting to extort money from a second brother (the alleged victim). The alleged victim owed a debt to the brother that was charged with extortion along with Mr. Cook. This debt was evidenced by a judgment against the alleged victim in favor of this brother. It was apparent to me that the appropriate strategy for this case was to assert the affirmative defense that Mr. Cook and his brother were attempting to enforce a valid debt, and therefore could not have extorted anyone.

As the representation wore on, it became apparent to me that Mr. Cook had less interest in litigating his case than in finding ways to inconvenience and embarrass the prosecution and the alleged victim. Though I was perfectly happy to defend the charge against Mr. Cook, I had no interest in assisting him in harassing these individuals, nor did I have any interest in serving as his investigator in his attempts to have the alleged victim indicted.

Turning to your letter, in the interest of organization, I will attempt to address each of the enclosed documents in turn, in the order I received them. The first of these documents is an email from Mr. Cook dated June 26, 2017. It relates three complaints. The first I believe deals with the issue regarding the subpoena to Vonage.

I originally agreed to obtain a subpoena for the alleged victim's Vonage records. I did change my mind about the necessity of that subpoena. I do not recall when I changed my mind about the necessity of that subpoena. As you may imagine, I think about my cases in a somewhat irregular fashion, and many of my decisions are made while turning matters over in my head as I go about my day, such as while eating lunch or driving in the car. In any event, I recall that I had become convinced that this subpoena was an effort to obtain information that was not useful to the case, but rather that was merely for the purpose of allowing Mr. Cook to harass or annoy his brother.

As a result, and being mindful of the trial strategy of an affirmative defense of enforcing a valid debt, I determined that these records were not necessary. Mr. Cook was of the belief that he controlled the strategic decisions, and I was never during my time as his attorney able to disabuse him of that belief. Mr. Cook asserts in this email that I wanted to go to trial without all the evidence needed. I suppose we will never know if the evidence I intended to present would be sufficient to reach a verdict of not guilty, but it is my professional opinion that it was. On this point I image that we will have to remain at a disagreement.

Mr. Cook next claims that I violated attorney-client privilege twice. I deny that in the most vehement fashion. I take my obligations to my client very seriously, and have never disclosed confidential client information. From the documents provided, it appears that this claim arises from Mr. Cook's insistence that I told the prosecutor that Mr. Cook believed the name redacted from the Vittetoe emails was that of an FBI agent (I am unable to locate in these documents the second allegation of violation of attorney-client privilege).

As an initial matter, Mr. Cook cannot claim that his belief that the redacted name was that of an FBI agent was privileged, given his discussion of this belief with the news media. I enclose with this letter a copy of a new article which quotes Mr. Cook as saying, "[Hedrick] withdrew because I refused to go to trial without the FBI agents' records...I can't seem to get an answer from him...as to why they won't help me obtain the FBI's records".

Additionally, and more importantly, the basic sequence of events regarding this email are as follows. Mr. Cook brought the redacted email to my attention, and I asked the prosecutor to provide a non-redacted copy. The prosecutor, Robert Edwards, Esq., responded that he did not have a redacted copy. I have known Mr. Edwards my entire career, and know him to be a scrupulously honest man. His answer was sufficient for me to believe that the files of the prosecution did not contain an unredacted copy. I then approached Mr. Vittetoe (the recipient of the email), and asked him about it. He had no memory of the email at all, and I attempted to prompt his memory by asking if he remembered if it was a civilian or law enforcement, or perhaps someone from another agency. When this proved fruitless, I questioned directly whether this person was an FBI agent. The entirety of these discussions were meant to further Mr. Cook's case by attempting to identify a potential witness, and any disclosures were intended to further that

goal. There was at no time any disclosure of any information that I believed was intended to remain secret or that could harm Mr. Cook. Any disclosure that was made was made in order to carry out the goals of this representation (that is, the identification of potential defense witnesses) and was impliedly authorized as a necessary part of carrying out that representation.

The second document is a paragraph numbered "5", which appears to be part of a larger document. This document repeats the complaint that I do not recall when I made the decision regarding the value of the Vonage subpoenas, addressed *supra*, and complains that I believed the prosecution was refusing to dismiss the case because of Mr. Cook's criticism of the prosecution in the media but did not bring this to the attention of Mr. Edwards' superiors. I did tell Mr. Cook that his statements in the media have made the District Attorney unwilling to dismiss the case, but I meant the *elected* District Attorney Russell Johnson, not Mr. Edwards. I suppose I did not draw a clear enough distinction between the District Attorney and the Assistant District Attorneys. In any event, I did not complain to Mr. Edwards' superiors because the resistance to the dismissal originated above Mr. Edwards.

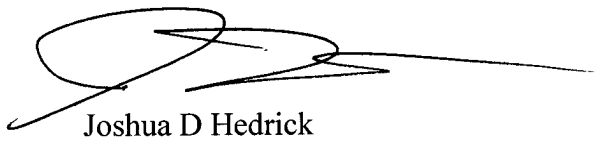
The third document is an undated letter from Mr. Cook to the Board of Professional Responsibility. This document complains that I told Mr. Cook that his computers were never searched or analyzed by law enforcement (he uses the term "hacked"). As in every case, I obtained discovery in Mr. Cook's case. The discovery did not include any information relative to forensic analysis of Mr. Cook's computers. As I have discussed before, I had, and do have, every confidence in Mr. Edwards' honesty and thoroughness, and relied upon that in my conclusion that the lack of evidence from a forensic examination of the computer in discovery meant that no examination had been done.

The fourth document is a letter to Jedidiah McKeehan, Esq., from Mr. Edwards. This letter was sent after my representation of Mr. Cook was concluded, and appears to stand for the proposition that Mr. Edwards was told by law enforcement "until recently" (which I imagine was after my representation of Mr. Cook had ended) that there was no review of the computers done or alternatively, nothing found. This is as I would expect, given that it was represented to me that there was no review done. I cannot be faulted for not having information that the prosecutor himself did not have at the time of my representation, particularly since there was (apparently) never any information there at all. The next several documents appear to be related to the forensic evaluation of the computer, but I do not find any indication that either exculpatory or inculpatory information was found.

The final document is a portion of what appears to be a letter from Mr. Cook. In it he relates his conversations with agent Clay Anderson of the FBI, whom I think he believes is the individual whose name is redacted from the emails. As you know, the agent's belief that no crime was committed is not admissible in Mr. Cook's trial. Even if we assume that it is, it is extremely unlikely that the Department of Justice would permit the agent to be subpoenaed for the trial. Ultimately, the appropriate defense for Mr. Cook was not that some other agency did not have an interest in investigating the case, but that his actions were not criminal. I dispute that there was any violation of the rules of professional conduct in the strategic decision to not pursue this particular angle.

In sum, I believe that I represented Mr. Cook to the best of my professional ability, and that, had we gone to trial, we would have been successful. I am glad to see that Mr. Cook's case is finally dismissed, as I hold no ill will toward him. I hope that this letter has adequately addressed the concerns you may have. In the event that you require any further information from me, please do not hesitate to contact me. Wishing you all the best, I am and shall remain, as ever,

At your service,



Joshua D Hedrick

CC: Roy Cook