

**OFFICE OF ATTORNEY ETHICS  
SUPREME COURT OF NEW JERSEY  
P.O. Box 963  
Trenton, New Jersey 08625  
Trial Counsel: Jason D. Saunders  
609-530-5808**

**SUPREME COURT OF NEW JERSEY  
OFFICE OF ATTORNEY ETHICS  
Docket No. XIV-2014-0653E**

**OFFICE OF ATTORNEY ETHICS,  
Complainant**

**v.**

**VINCENT CHIRICO, ESQ.,  
Respondent.**

**COMPLAINT  
Misconduct (Complex)  
R. 1:20-4(b)**

Complainant, Office of Attorney Ethics (“OAE”) of the Supreme Court of New Jersey, P.O. Box 963, Trenton, New Jersey 08625, by way of Complaint against Respondent, says:

**GENERAL ALLEGATIONS**

1. The Respondent, Vincent Chirico, Esq., was admitted to practice law in the State of New Jersey in 1993 and the State of New York in 1994.
2. At the time of the events forming the basis for this Complaint, Respondent’s law office maintained an address at 19 Engle Street, Tenafly, New Jersey 07670 (Bergen County) and Respondent’s New York office was at 8804 4<sup>th</sup> Avenue, Brooklyn, N.Y. 11209
3. Respondent is a solo practitioner at Chirico Law PLLC (“Chirico Law”).
4. On November 21, 2014, the Honorable Craig L. Wellerson P.J. Cv. (“Judge Wellerson”) referred a structured settlement matter involving a client Richard Heckel (“Heckel”) to the OAE. [Exhibit 1]

**COUNT ONE**

**Conflict of Interest in violation of RPC 1.7(a)(2);**

**False statement of material fact or law to a tribunal in violation of RPC 3.3(a)(1) and(5);**

**Engaging in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of RPC 8.4(c)**

**Failure to maintain a New Jersey trust and business account as required by R. 1:21-6 in violation of RPC 1.15(d);**

**Engaging in conduct prejudicial to the administration of Justice in violation of RPC 8.4(d).**

5. The General Allegations are repeated as if set forth fully at length herein.
6. Respondent was listed as Of Counsel on the Mueller Law Group website ("MLG"). [Exhibit 5]
7. Gregory K. Mueller, Esq. ("Mueller") is the sole shareholder and founding partner at MLG. [Exhibit 5]
8. Respondent listed Mueller on firm letterhead as Of Counsel to Chirico Law. [Exhibit 1]
9. Respondent is as Of Counsel in the Mueller law firm. [Exhibit 5]
10. Respondent used MLG's address in pleadings and correspondence. [Exhibit 1, 2]
11. Respondent used MLG's address as his bona fide office in New Jersey. [Exhibit 1, 2]
12. Sclar and Adler, LLP is a New York law firm.
13. Respondent is listed as Of Counsel at Sclar and Adler, LLP. [Exhibit 3]
14. Mueller is listed as a Partner in Sclar and Adler, LLP. [Exhibit 3]
15. Both Respondent and Mueller received payments from Sclar and Adler, LLP.
16. Respondent was counsel for Patriot Settlement Resources LLC ("Patriot") in connection with the sale and transfer of a Structured Settlement involving Heckel. [Exhibit 1, 2]

17. The matter was captioned Patriot Settlement Resources LLC v. Richard Heckel under docket No.: OCN-L-1925-14. [Exhibit 1, 2]
18. Respondent referred Heckel to MLG for legal representation in connection with docket No.: OCN-L-1925-14. [Exhibit 1, 2]
19. Richard Heckel was in fact represented by MLG. [Exhibit 4, 6]
20. Heckel sought to transfer future monthly settlement payments in exchange for an upfront payment. [Exhibit 7]
21. Pursuant to the Structured Settlement Protection Act N.J.S.A. 2A:16-63 (“act”) the Court is charged with reviewing and approving structured settlement transactions.
22. Heckel sought to sell his structured settlement payments as follows in exchange for a lump sum payment of \$300,000.00:
- a. Thirty Six (36) monthly life contingent payments in the amount of \$1,000.00 each commencing on 11/01/2014 through and including 10/01/2017 with a 6% increase every November;
  - b. Seventy Two (72) monthly life contingent payments in the amount of Three Thousand Dollars and 00/100 (\$3,000.00) each commencing on 11/01/2017 through and including 10/01/2023 with a 6% increase every November;
  - c. One Hundred Fifty (150) monthly life contingent payments in the amount of Ten Thousand Two Hundred Seventy Two Dollars and 00/100 (\$10,272.00) each commencing on 11/01/2023 through and including 04/01/2036 with a 6% increase every November.
  - d. The aggregate amount of the structured settlement payments to be transferred: \$2,492,786.88.
  - e. The purchase price of the aforementioned transfer is \$300,000.00.
  - f. The discounted present value of the payments to be transferred was \$1,744,501.17
- [Exhibit 7]
23. Chirico filed the complaint and order to show cause. [Exhibit 2]

24. Paul Egert ("Egert") was an attorney at MLG and was assigned by his supervisor Mueller to represent Heckel in connection with the sale of the structured settlement payments.
25. Chirico prepared a draft of Egert's certification. [Exhibit 6, 8]
26. Egert's certification was submitted to the Court by Respondent. [Exhibit 9]
27. Chirico assisted and coached Egert in advance of the hearing date and provided him with a "cheat sheet" in preparation for and in advance of the September 19, 2015 hearing. [Exhibit 10]
28. Respondent created a conflict of interest by referring the matter to Mueller with whom he was directly associated.
29. There was no conflicts waiver in this matter advising Patriot or Heckel of the existing relationships between Respondent and Mueller.
30. The matter was heard before Judge Wellerson on September 19, 2014. [Exhibit 11]
31. Judge Wellerson asked Respondent about business relationships with MLG. [Exhibit 11]
32. Respondent failed to disclose the Of Counsel relationships with MLG. [Exhibit 11]
33. Judge Wellerson inquired why Respondent and MLG share the same address. [Exhibit 11]
34. Respondent again failed to disclose the Of Counsel relationship with MLG. [Exhibit 11]
35. Respondent concealed the existing conflict of interest from Judge Wellerson.
36. Judge Wellerson directly asked Respondent if he had referred the matter to MLG. [Exhibit 11]

37. Respondent denied referring the matter to MLG:

Q. The Court: Did you refer Mr. Heckel to Mr. Mueller?

A. Mr. Chirico: I did not.

Q. The Court: Just a coincidence that the two of you have worked on all of these dealings together and Mr. Heckel calls Mr. Mueller and then somehow we get to you? That's just out of the blue?

A. Mr. Chirico: That's my understanding, Your Honor.

[Exhibit 11]

38. Respondent did in fact refer the matter to MLG and admitted this fact directly to the OAE.

[Exhibit 4]

39. Respondent misrepresented the referral and the relationship with MLG and was dishonest with the Court's direct and pointed inquiries.

40. Pursuant to the act, Judge Wellerson rejected the deal outright describing the terms of the deal in his opinion as "not a close call", "shocking to the conscious", "extraordinary sharp discount", "unfair", "unreasonable", "abhorrent" and "certainly not in the best interest of Mr. Heckel. [Exhibit 11]

41. Judge Wellerson, further stated, "this is one of the most egregious applications that has ever come before this Court." [Exhibit 11]

42. Judge Wellerson denied the sale.

43. Respondent engaged in conduct involving conflict of interest and engaged in misrepresentation in an attempt to obtain court approval for the sale.

44. In so doing Respondent engaged in conduct prejudicial to the administration of justice.
45. During the investigation the OAE requested that Respondent produce his New Jersey trust and business accounts as required by R. 1:21-6. [Exhibit 12]
46. Respondent did not have a New Jersey trust and business account as required by R. 1:21-6.
47. In so doing, Respondent violated the following *Rules of Professional Conduct*:
- (a) RPC 1.7(a)(2) – In that Respondent undertook the representation of a client when there existed a significant risk that the representation of the client would be materially limited by the lawyer's responsibilities to, a third person or by a personal interest of the lawyer.
  - (b) RPC 3.3(a)(1) and (5) – In that Respondent made false statements of material fact or law to a tribunal and failed to disclose to the tribunal material facts knowing that the omission is reasonable certain to mislead the tribunal.
  - (c) RPC 8.4(c) – In that Respondent engaged in conduct involving dishonesty, fraud, deceit or misrepresentation.
  - (d) RPC 1.15(d) – In that Respondent failed to maintain a New Jersey trust and business account as required by R. 1:21-6.
  - (e) RPC 8.4(d) – In that Respondent engaged in conduct prejudicial to the administration of justice.

WHEREFORE, Respondent should be disciplined.

DATE: December 17, 2015

OFFICE OF ATTORNEY ETHICS

By:   
Charles Centinaro, Director



6. The allegations of Paragraph 6 thereof are admitted.

7. Answering the allegations of Paragraph 7 thereof, insofar as same are not directed to or against Respondent, Respondent makes no response thereto and leaves Complainant to its proofs.

8. The allegations of Paragraph 8 thereof are admitted.

9. The allegations of Paragraph 9 thereof are admitted.

10. The allegations of Paragraph 10 thereof are admitted.

11. The allegations of Paragraph 11 thereof are admitted.

12. Answering the allegations of Paragraph 12 thereof, insofar as same are not directed to or against Respondent, Respondent makes no response thereto and leaves Complainant to its proofs.

13. The allegations of Paragraph 13 thereof are admitted.

14. The allegations of Paragraph 14 thereof are admitted.

15. Answering the allegations of Paragraph 15 thereof, Respondent admits that he received payments from Sclar and Adler, LLP, prior to and including 2013. He has not been paid anything by Sclar and Adler since 2013. Insofar as the allegations thereof are not directed to or against Respondent, Respondent makes no response thereto and leaves Complainant to its proofs.

16. The allegations of Paragraph 16 thereof are admitted.

17. The allegations of Paragraph 17 thereof are admitted.



18. The allegations of Paragraph 18 thereof are admitted.

19. The allegations of Paragraph 19 thereof are admitted.

20. The allegations of Paragraph 20 thereof are admitted.

21. Answering the allegations of Paragraph 21 thereof, insofar as same constitute conclusions of law rather than statements of fact no response thereto is required by Respondent.

22. The allegations of Paragraph 22 thereof are admitted.

23. The allegations of Paragraph 23 thereof are admitted.

24. The allegations of Paragraph 24 thereof are admitted.

25. The allegations of Paragraph 25 thereof are admitted.

26. The allegations of Paragraph 26 thereof are admitted.

27. Answering the allegations of Paragraph 27 thereof, Respondent admits that he e-mailed Egert a copy of Respondent's document entitled "RICHARD HECKEL - NOTES" on September 18, 2014. This was nothing other than ordinary cooperation amongst counsel and the extension of professional courtesy.

28. The allegations of Paragraph 28 thereof are denied. Respondent's conduct did not create a conflict of interest.

29. Answering the allegations of Paragraph 29 thereof, Respondent admits that there was no conflicts waiver but denies that such a waiver was required.

30. The allegations of Paragraph 30 thereof are admitted.

31. The allegations of Paragraph 31 thereof are admitted.

32. The allegations of Paragraph 32 thereof are admitted.

33. The allegations of Paragraph 33 thereof are admitted.

34. The allegations of Paragraph 34 thereof are admitted.

35. The allegations of Paragraph 35 thereof are denied.

Respondent's conduct did not create a conflict of interest insofar as there was no ongoing business between Respondent and Mueller.

36. The allegations of Paragraph 36 thereof are admitted.

37. The allegations of Paragraph 37 thereof are admitted.

38. The allegations of Paragraph 38 thereof are admitted.

39. The allegations of Paragraph 39 thereof are denied.

During the hearing in In re Patriot Settlement Resources, LLC, Docket No. L-1925-14 ("Underlying Action"), on September 19, 2014, Mr. Heckel testified, under oath, that he met his counsel, the Mueller Law Group through a "Yellow Pages" search. This was one answer in a rather lengthy questioning of Mr. Heckel conducted by the trial court. While Respondent originally referred the matter to the Mueller Law Group, Mr. Heckel's testimony regarding the "Yellow Pages" search threw into question for Respondent the likelihood that he in fact had obtained information on the Mueller Law Group independently and, since Respondent never discussed representation directly with Mr. Heckel (or ever even had a direct discussion with him at any time), and since Respondent had been advised that Mr. Heckel was

considerably computer savvy and had performed his own investigation and preparation for all of his prior deals (at least five in which neither Respondent's law firm nor the Mueller Law Group were involved in), Respondent did not have a basis to challenge Mr. Heckel's testimony that the Mueller Law Group had been selected by Mr. Heckel independent of Respondent's referral. There was no intention at any time to misrepresent the basis of the selection of the Mueller Law Group as counsel, or to be in any way dishonest with the trial court.

40. Answering the allegations of Paragraph 40 thereof, Respondent admits that the trial court rejected the deal and made several comments on the record about the terms of the proposed deal. However, Respondent respectfully disagrees with the court's characterization of the proposed deal for multiple reasons.

First, Mr. Heckel was the victim of medical malpractice at birth. A lawsuit commenced on his behalf resulted in a settlement involving a structured settlement agreement designed to provide monthly payments to him for the balance of his life. Prior to the proposed transaction in this matter, multiple New Jersey courts approved several transactions for portions of Mr. Heckel's structured settlement, at Mr. Heckel's request, in 1997, 2010, 2011 and 2012. Mr. Heckel wished to enter into the subject transaction so that he could pay off the mortgage on his

existing home and purchase a home in Delray Beach, Florida. Mr. Heckel wished to move to Florida because he could no longer tolerate the winters in New Jersey in light of his physical limitations, as well as the fact that he was facing imminent foreclosure of his home. Mr. Heckel acknowledged that he understood the terms of the proposed transaction. He desired and in fact insisted that the transaction be consummated. The denial of the application denied Mr. Heckel the ability to make the needed life changes he desperately desired.

Second, contrary to the trial court's description, the nominal annual discount rate of 16.38% being charged in the proposed transfer before the court was consistent with what a sensible willing buyer was prepared to pay a willing annuitant such as Mr. Heckel and was fair and reasonable given the various costs, complexities, and realities of financing these types of assets. Consequently the purchase price (\$300,000) that the plaintiff was willing to pay for future payments was equal to or exceeded the fair market value for such payments in comparison with both (a) average life-contingent structured settlement transfers of this nature generally, as well as (b) his own prior transactions which other New Jersey courts found both fair and reasonable and in Mr. Heckel's own best interests. This finding is (a) consistent with the letter and spirit of the New Jersey Structured Settlement Act, (b) consistent with a study published

by the California State Legislature in 2004, which found that the median effective interest rate for approved structured settlement transactions in the prior two years was 19.8% and 19.2%, respectively (compared with 16.38% for Mr. Heckel's transaction), and (c) a more generous option to Mr. Heckel than some of the current credit card interest rates offered in the open market.

Third, as noted above, this was not the first time Mr. Heckel transferred portions of his structured settlement payments. In fact, in a 2013 transaction approved by another judge, the Honorable Nelson Johnson, J.S.C., Heckel was approved for a lump sum payment equal to 15.2% of the present value of the payments sold. The present value of the payments was \$707,569.01; Heckel received \$107,906.64. In the proposed transfer at issue here, Heckel would have received a more generous lump sum payment of 17.2% of the present value of the payments sold. The present value of the payments was \$1,744,501.17. Thus, the deal rejected by the trial court in this matter was more generous than the court-approved transfer that occurred only one year earlier, which Judge Johnson found satisfied both the "fair and reasonable" and the "best interests of the payee" standards under the New Jersey Structured Settlement Act.

41. The allegations of Paragraph 41 thereof are admitted.

42. The allegations of Paragraph 42 thereof are admitted.

43. The allegations of Paragraph 43 thereof are denied.

44. The allegations of Paragraph 44 thereof are denied.

45. The allegations of Paragraph 45 thereof are admitted.

46. The allegations of Paragraph 46 thereof are admitted.

Respondent misunderstood his obligation under Rule 1:21-6 but upon learning of his obligation, immediately rectified this situation and opened New Jersey trust and business accounts.

47. The allegations of Paragraph 47 thereof are denied.

#### **SEPARATE DEFENSES**

##### **FIRST SEPARATE DEFENSE TO ALL COUNTS**

The Complaint fails to state a cause of action for relief under the Rules of Court or Rules of Professional Conduct ("RPC") against Respondent and Respondent reserves the right to move at or before the hearing in this matter to dismiss same.

##### **SECOND SEPARATE DEFENSE TO ALL COUNTS**

Respondent's conduct did not violate RPC 1.7(a)(2), 3.3(a)(1) or (5), 8.4(c), 1.15(d), or 8.4(d).

##### **THIRD SEPARATE DEFENSE TO ALL COUNTS**

The conduct of Respondent did not rise to the level of grossly negligent conduct.

**FOURTH SEPARATE DEFENSE TO ALL COUNTS**

There is not clear and convincing evidence of grossly negligent conduct.

**FIFTH SEPARATE DEFENSE TO ALL COUNTS**

Any misconduct that may be found is only minor misconduct.

**SIXTH SEPARATE DEFENSE TO ALL COUNTS**

There was no conflict of interest.

**SEVENTH SEPARATE DEFENSE TO ALL COUNTS**

There was no ongoing business relationship with opposing counsel.

**EIGHTH SEPARATE DEFENSE TO ALL COUNTS**

Respondent reserves the right to amend his Verified Answer to assert additional separate defenses prior to or at the hearing of this matter.

**WHEREFORE**, Vincent Chirico asserts that discipline in this instance is inappropriate and demands that this Complaint be dismissed.

**MITIGATING FACTORS**

**FIRST MITIGATING FACTOR**

Respondent has fully cooperated with the investigation of this matter.

**SECOND MITIGATING FACTOR**

Respondent has engaged counsel to assist him in this matter.

**THIRD MITIGATING FACTOR**

Respondent has a good reputation and character.

**FOURTH MITIGATING FACTOR**

Respondent has no prior disciplinary history in any jurisdiction.

**FIFTH MITIGATING FACTOR**

Respondent has readily admitted his conduct.

**SIXTH MITIGATING FACTOR**

Respondent has shown contrition and remorse.

**SEVENTH MITIGATING FACTOR**

Respondent gives extensive service to the community, including but not limited to serving on multiple non-profit boards and charitable endeavors, including serving as Chairperson of the Board of Opportunities for a Better Tomorrow, Inc. ([www.obtjobs.org](http://www.obtjobs.org)), President of the Board of American-Italian Coalition of Organizations, Inc. ([www.amicoinc.org](http://www.amicoinc.org)), and Vice President of the Dyker Heights Athletic Association ([www.knightsaa.org](http://www.knightsaa.org)). Mr. Chirico is also a member of Brooklyn's Community Board #11, and is an active member of the Tort Litigation Committee of the New York City Bar Association, the Brooklyn Bar Association, the Bay Ridge Lawyers Association, and



the Columbian Lawyers Associations of both the First and Second Judicial Departments of New York's Supreme Court, Appellate Division.

**EIGHTH MITIGATING FACTOR**

Respondent has had exemplary conduct both prior to and since the incident.

**NINTH MITIGATING FACTOR**

The circumstances show no likelihood of repeat offenses.

**TENTH MITIGATING FACTOR**

This was an isolated incident.

**ELEVENTH MITIGATING FACTOR**

The representation was not for personal gain.

**TWELFTH MITIGATING FACTOR**

The client was not injured.

**DEMAND FOR HEARING**

Respondent, Vincent Chirico, hereby requests a hearing on all issues raised in the Complaint.

**DEMAND FOR DISCOVERY**

Respondent hereby requests the following discovery:

1. All writings as defined by N.J.R.E. 801(e) or other tangible objects including audiotapes, transcripts or those obtained from or belonging to Respondent.

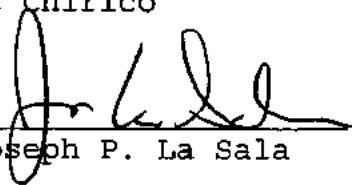
2. Written statements including any memoranda, reporting or summarizing oral statements made by any witness including Respondent.
3. Identity and contact information for fact witnesses and list of all persons who will be called as witnesses.
4. Investigation reports.
5. Identity of expert witnesses and opinions.
6. Any and all document Complainant intends to rely on at the hearing in this matter or that relate in any way to the allegations of the Complaint.

**DESIGNATION OF COUNSEL**

Respondent, Vincent Chirico, hereby designates Joseph P. La Sala, Esq., as counsel of record in this matter.

MCELROY, DEUTSCH, MULVANEY  
& CARPENTER, LLP  
1300 Mount Kemble Avenue  
P.O. Box 2075  
Morristown, New Jersey 07962  
(973) 993-8100  
Attorneys for Respondent,  
Vincent Chirico

By: \_\_\_\_\_

  
Joseph P. La Sala

DATED: February 29, 2016

CERTIFICATE OF SERVICE

I certify that an original and one copy of the foregoing Verified Answer, Separate Defenses, Mitigating Factors, Demand for Hearing, Demand for Discovery and Designation of Counsel have been filed by Hand-Delivery with the Office of Attorney Ethics on this 29<sup>th</sup> day of February, 2016.

McELROY, DEUTSCH, MULVANEY  
& CARPENTER, LLP  
1300 Mount Kemble Avenue  
P.O. Box 2075  
Morristown, New Jersey 07962  
(973) 993-8100  
Attorneys for Respondent,  
Vincent Chirico

By: \_\_\_\_\_

  
Joseph P. La Sala

DATED: February 29, 2016

VERIFICATION

I, Vincent Chirico, 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.



\_\_\_\_\_  
Vincent Chirico

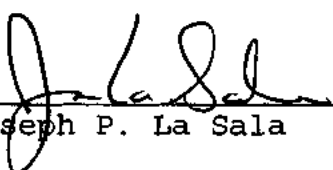
Dated: February 29, 2016

CERTIFICATION

1. I hereby certify that the facsimile signature of Vincent Chirico on his Verification in this matter is a genuine facsimile of his original signature, and that Mr. Chirico has acknowledged to me the genuineness of that signature.

2. I further certify that the Verification with Mr. Chirico's original signature will be provided if requested by the Office of Attorney Ethics.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

  
\_\_\_\_\_  
Joseph P. La Sala

Dated: February 29, 2016