

[Filed 10-Mar-2006]

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In re Ruggiero (2006-154)

[Filed 20-Apr-2006]

**ENTRY ORDER**

SUPREME COURT DOCKET NO. 2006-154

APRIL TERM, 2006

In re John Ruggiero, Esq.	}	Original Jurisdiction
	}	
	}	
	}	Professional Responsibility Board
	}	
	}	
	}	PRB File Nos. 2005-058, 2005-130

In the above-entitled cause, the Clerk will enter:

Respondent John Ruggiero, Esq. has filed an affidavit of resignation under Rule 19.A of Administrative Order 9. Disciplinary counsel has submitted a statement of additional facts and supporting exhibits. Having reviewed the filings, the Court finds by clear and convincing evidence as follows. In January 2005, the Court issued an order placing respondent on interim suspension pending the completion of disciplinary proceedings arising from complaints against respondent involving the misappropriation of client funds. In April 2005, respondent entered a guilty plea to a federal information charging him with one count of mail fraud arising from a scheme to embezzle money from his trust account. In January 2006, the United States District Court for the District of Vermont sentenced respondent to 24 months in prison and three years supervised release upon the completion of his term, and ordered restitution in the amount of \$418,481, representing the funds that respondent misappropriated from his trust account.

In light of the foregoing, respondent's resignation from the Bar of the Vermont Supreme Court is accepted. We order that John Ruggiero is disbarred on consent from the office of attorney and counselor at law effective from the date of this order.

Respondent shall comply with the requirements of Administrative Order 9, Rule 23.

FOR THE COURT:

**FILED 4/20/06**

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Paul L. Reiber, Chief Justice

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John A. Dooley, Associate Justice

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Denise R. Johnson, Associate Justice

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Marilyn S. Skoglund, Associate Justice

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Brian L. Burgess, Associate Justice

**STATE OF VERMONT  
PROFESSIONAL RESPONSIBILITY BOARD**

In re: John Ruggiero, Esq.  
PRB Docket Nos. 2005-058 and 2005-130

Decision No. 88

Upon receipt of the Affidavit of Resignation submitted to the Board and pursuant to Administrative Order No. 9, Rule 19, we recommend to the Court that the above referenced Respondent be disbarred. Attached hereto are the Affidavit of Resignation, Disciplinary Counsel's Statement of Additional Facts, and Exhibits 1, 2 and 3.

Dated at Montpelier, Vermont this 10th day of March 2006.

/s/

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Joan Loring Wing, Esq. - Chair

attachments

cc: Michael Kennedy, Disciplinary Counsel  
P. Scott McGee, Counsel for John Ruggiero, Respondent

**STATE OF VERMONT  
PROFESSIONAL RESPONSIBILITY BOARD**

**In Re: John M. Ruggiero, Esq.  
PRB File Nos. 2005-058 and 2005-130**

**Statement of Additional Facts**

NOW COMES Disciplinary Counsel and, pursuant to Rule 19(D) of Administrative Order 9, submits this Statement of Additional Facts for the Board's consideration in connection with its review of Attorney Ruggiero's Affidavit of Resignation:

1. Attorney Ruggiero is an attorney licensed to practice law in Vermont.
2. In September of 2004, Kay Suwczynsky filed an ethics complaint against Attorney Ruggiero. The complaint was docketed as PRB File No. 2005-058 and the file was assigned to Deputy Disciplinary Counsel Beth DeBernardi.
3. In late December of 2004, as the Suwczynsky complaint was being investigated, Disciplinary Counsel received information tending to indicate that Attorney Ruggiero had misappropriated funds belonging to a client named Teresa DeYoung. The information was docketed as PRB File No. 2005-130 and the file was assigned to Disciplinary Counsel Michael Kennedy.
4. On January 3, 2005, having reviewed the DeYoung Matter, Disciplinary Counsel petitioned the Vermont Supreme Court for the immediate interim suspension of Attorney Ruggiero's license to practice law.
5. On January 5, 2005, the Supreme Court entered an Order immediately suspending Attorney Ruggiero's license to practice law.
6. Around the same time, the United States Attorney opened a federal criminal investigation into Attorney Ruggiero's conduct.

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7. In mid-January of 2005, Attorney Ruggiero filed an Affidavit of Resignation with the Board.

### **The Federal Criminal Investigation**

8. Attorney Ruggiero waived his right to proceed by Indictment. Rather, he entered into an agreement with the government under which he pled guilty to an Information that charged him with violating 18 U.S.C. § 1341. Exhibit 1 is copy of the Information. Exhibit 2 is a copy of the Plea Agreement.

9. More specifically, Attorney Ruggiero pled guilty “to one count of mail fraud, in violation of Title 18, United States Code, arising from a scheme to embezzle money from his attorney trust account from 1999 to December 2004.” *Exhibit 2, para. 1.*

10. On January 24, 2006, the United States District Court adjudicated Attorney Ruggiero as guilty of committing Mail Fraud in violation of 18 U.S.C. § 1341. Exhibit 3 is a copy of the Judgment. Attorney Ruggiero was sentenced to 24 months imprisonment and ordered to serve 3 years of supervised release upon leaving prison. In addition, he was ordered to make restitution in the amount of \$418, 481.39. That amount represents funds that Attorney Ruggiero misappropriated from his trust account.

### **The DeYoung Matter – PRB File No. 2005-130**

11. Paragraph 4 of Attorney Ruggiero’s Affidavit of Resignation references two disciplinary investigations. The first reference is to PRB File No. 2005-130. In that case, Disciplinary Counsel’s investigation revealed as follows:

- a. In 2002, Teresa DeYoung hired Attorney Ruggiero to represent her four children in connection with claims that they had against their grandmother’s Estate (“the Estate”);
- b. In April of 2003, Attorney Ruggiero provided each of Ms. DeYoung’s children with a check for \$27,258.28. In that Ms. DeYoung has four

children, the total amount of money that Attorney Ruggiero gave to her children was \$109,033.12. At the time, he indicated to Ms. DeYoung that each child could expect to receive additional funds from the Estate;

- c. Between April of 2003 and December of 2005, Ms. DeYoung repeatedly contacted Attorney Ruggiero to ask whether he had received additional funds and, if not, when he expected to receive them. In November of 2004, Attorney Ruggiero told Ms. DeYoung that the additional funds had yet to arrive, but that he expected funds to be available around Thanksgiving;
- d. As of December 31, 2004, Attorney Ruggiero had neither forwarded any funds to the children nor informed them that he had received any funds from the Estate;
- e. In fact, in 2002, the Estate sent a total of \$409,033.12 to Attorney Ruggiero. In July of 2002, the Estate sent Attorney Ruggiero a check in the amount of \$300,000 and made payable to Ruggiero Law Office Trust Account. The check was sent by certified mail, return receipt requested, and was signed for by L. Vandenburg of the Ruggiero Law Office. Attorney Ruggiero acknowledged receipt of the \$300,000 on July 10, 2002. The check was cashed by the Ruggiero Law Office on July 11, 2002;
- f. In October of 2002, the Estate sent Attorney Ruggiero a check in the amount of \$46,533.12 and made payable to Ruggiero Law Office Trust Account. The check was sent by certified mail, return receipt requested, and was signed for by Elsie Gilmore of the Ruggiero Law Office. Attorney Ruggiero acknowledged receipt of the \$46,533.12 on October 16, 2002. The check was cashed by the Ruggiero Law Office on October 18, 2002;
- g. Finally, in December of 2002, the Estate sent Attorney Ruggiero a check in the amount of \$62,500 and made payable to Ruggiero Law Office Trust Account. The check was sent by certified mail, return receipt requested, and was signed for by Elsie Gilmore of the Ruggiero Law Office. Attorney Ruggiero acknowledged receipt of the \$62,500 on January 8, 2003. The check was cashed by the Ruggiero Law Office on January 14, 2003;
- h. In sum, in 2002 and 2003, the Executrix of the Estate of Betty DeYoung sent \$409,033.12 to Attorney Ruggiero. The money was to benefit his clients, the grandchildren of Betty DeYoung. As of December 31, 2004, Attorney Ruggiero had only provided the children with \$109,033.12.

**The Suwczynsky Matter: PRB File No. 2005-058**

12. The second disciplinary investigation referenced in Paragraph 4 of Attorney Ruggiero's Affidavit of Resignation is PRB File No. 2005-058.

13. PRB File No. 2005-058 was opened on September 28, 2004, upon the receipt of a complaint from Kay Suwczynsky. By letter dated October 5, 2004, Disciplinary Counsel informed Attorney Ruggiero of the complaint and requested that he file an answer by October 26, 2004.

14. On October 26, 2004, Attorney Ruggiero faxed a letter to Disciplinary Counsel requesting an extension until November 1, 2004 in which to respond to the complaint. The same day, Administrative Assistant to Disciplinary Counsel, having checked with Deputy Disciplinary Counsel, left Attorney Ruggiero a message that he could have an extension until November 1.

15. Attorney Ruggiero did not respond by November 1, 2004. On November 5, 2004, Administrative Assistant to Disciplinary Counsel, acting under the direction of Deputy Disciplinary Counsel, wrote to Mr. Ruggiero and informed him that the failure to respond can be a violation of the Rules of Professional Conduct and asked him to respond by November 12. Mr. Ruggiero did not respond by November 12.

16. On November 17, 2004, Deputy Disciplinary Counsel sent Mr. Ruggiero a certified letter informing him that he would be charged with failure to cooperate if he did not file an answer by November 29, 2004.

17. On November 29, 2004, Attorney Ruggiero faxed an answer and also called to discuss the case with Deputy Disciplinary Counsel. During the conversation, Deputy Disciplinary Counsel conducted a preliminary interview of Attorney Ruggiero. She had

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already interviewed the complainant on October 21 and November 29 of 2004. Deputy Disciplinary counsel and Attorney Ruggiero spoke again on December 8, 2004.

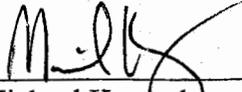
18. Deputy Disciplinary Counsel's investigation revealed as follows:
  - a. On or about January 31, 2003, Ms. Suwczynsky sold her timeshare condominium unit;
  - b. Attorney Ruggiero acted as the transfer agent for the condominium association in the transaction;
  - c. Because Ms. Suwczynsky lived out of state, Mr. Ruggiero withheld 2 ½ percent of the purchase price to send to the Vermont Department of Taxes, as required by Vermont law. Out-of-state sellers of real property may file Vermont Income Tax Returns for the year of withholding and seek a refund of the withheld funds from the Tax Department the following year;
  - d. Attorney Ruggiero did not inform Ms. Suwczynsky that she could file a tax return and seek a refund of the funds he had withheld;
  - e. Ms. Suwczynsky learned from her mortgage officer that she could file a Vermont Income Tax Return and request a refund of the funds that had been withheld. She filed a Vermont Income Tax Return for tax year 2003. When no refund was forthcoming, Ms. Suwczynsky contacted the Tax Department. The Tax Department informed her that it had never received the \$750 withheld from the sale of her timeshare unit;
  - f. Ms. Suwczynsky contacted Attorney Ruggiero on more than one occasion in the summer of 2004 to ask him to remedy the error. Attorney Ruggiero repeatedly informed her that he would take care of the matter by forwarding the funds to the Tax Department;
  - g. Attorney Ruggiero did not forward the funds to the Tax Department until December 13, 2004, five days after speaking with Deputy Disciplinary Counsel. Ms. Suwczynsky received the money in January of 2005.

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DATED at Burlington, Vermont on March 8, 2006.

Respectfully submitted,

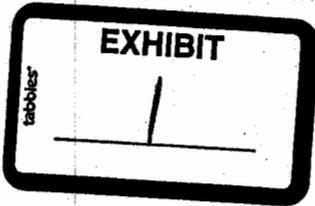


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Michael Kennedy  
Disciplinary Counsel  
32 Cherry Street, Suite 213  
Burlington, Vermont 05403

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U.S. DISTRICT COURT  
DISTRICT OF VERMONT  
FILED

2005 APR 21 PM 4 24

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF VERMONT

BY [Signature]  
CLERK  
DEPUTY CLERK

UNITED STATES OF AMERICA )

v. )

JOHN M. RUGGIERO, )  
Defendant. )

Criminal No. 1:05-CR-54-1

**INFORMATION**

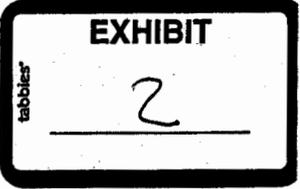
The United States Attorney charges:

In or about and between 1999 and December 2004, in the District of Vermont and elsewhere, the defendant JOHN M. RUGGIERO devised a scheme and artifice to defraud and to obtain money by means of materially false and fraudulent pretenses, representations, and promises, to wit: embezzling money from his attorney trust account, and did for the purposes of executing such scheme and artifice and attempting to do so knowingly cause to be delivered by mail a matter and thing, that is: a check for \$300,000 payable to the Ruggiero Law Office Trust Account mailed from Dunning & Kirrane, L.L.P., Shellback Place, 133 Route 28, Box 560, Mashpee, MA 02649 to John M. Ruggiero, Esq., Ruggiero Law Office, 76 Grove St., Rutland, VT 05701.

(18 U.S.C. § 1341)

David V. Kirby / SDK  
DAVID V. KIRBY (SDK)  
United States Attorney

Burlington, Vermont  
April 21, 2005



U.S. DISTRICT COURT  
DISTRICT OF VERMONT  
FILED

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF VERMONT 2005 APR 21 PM 4 24

UNITED STATES OF AMERICA )

v. )

JOHN M. RUGGIERO, )  
Defendant. )

BY [Signature]  
DEPUTY CLERK

) Criminal No.

1:05-CR-53-1

PLEA AGREEMENT

The United States of America, by and through the United States Attorney for the District of Vermont (hereafter "the United States"), and the defendant, JOHN M. RUGGIERO, agree to the following in regard to the disposition of pending criminal charges against JOHN M. RUGGIERO.

1. JOHN M. RUGGIERO agrees to waive his right to proceed by Indictment and plead guilty to an Information charging him with one count of mail fraud, in violation of Title 18, United States Code, Section 1341, arising from a scheme to embezzle money from his attorney trust account from 1999 to December 2004.

2. JOHN M. RUGGIERO understands, agrees and has had explained to him by counsel that the Court may impose the following sentence on his plea: not more than/up to twenty (20) years imprisonment, pursuant to Title 18, United States Code, Section 1341; not more than a three year period of supervised release, pursuant to Title 18, United States Code, Section 3583(b); a fine of not more than a \$250,000 or twice the amount of the fraud, whichever is greater, pursuant to Title 18, United States Code, Section 3571; and a \$100 special assessment

pursuant to Title 18, United States Code, Section 3013. Full restitution may also be ordered.

3. It is the understanding of the parties to this agreement that the plea will be entered under oath and in accordance with Rule 11 of the Federal Rules of Criminal Procedure. JOHN M. RUGGIERO represents that he intends to plead guilty because he is, in fact, guilty of the crime with which he is charged.

4. JOHN M. RUGGIERO agrees and understands that this agreement is conditioned upon his providing the United States Attorney, at the time this plea agreement is executed, a bank cashier's check, certified check, or postal money order made payable to the Clerk, United States District Court, in payment for the mandatory special assessment of \$100 for which he will be responsible when sentenced. The United States agrees to safeguard and pay the special assessment imposed at sentencing to the Clerk of the Court immediately after sentencing. In the event that this plea agreement is for any reason terminated or JOHN M. RUGGIERO's guilty plea is not accepted by the Court, the special assessment shall be promptly refunded to JOHN M. RUGGIERO. In the event that the tendered bank check is not honored for whatever reason, JOHN M. RUGGIERO understands that he will still be liable for the amount of the special assessment which the Court imposes. JOHN M. RUGGIERO understands and agrees that, if he fails to pay the special assessment in full prior to sentencing, the United States' obligations under this plea agreement will be terminated, the United States will have the right to prosecute JOHN M. RUGGIERO for any other offenses he may have committed, and will have the right to recommend the Court impose any lawful sentence. Under such circumstances, JOHN M. RUGGIERO will have no right to withdraw his plea of guilty.

5. JOHN M. RUGGIERO agrees and understands that it is a condition of this agreement

that he refrain from committing any further crimes whether federal, state or local and that, if on release, he will abide by all conditions of release.

6. The United States agrees that in the event that JOHN M. RUGGIERO fully and completely abides by all conditions of this agreement, the United States will:

- (a) not prosecute him in the District of Vermont for any other criminal offenses known to the United States Attorney's Office as of the date of the signing of this plea agreement committed by him in the District of Vermont relative to a scheme and artifice to embezzle money from his attorney trust account;
- (b) recommend to the sentencing Court that he be sentenced to a term of imprisonment at the low end of the applicable Sentencing Guidelines range; and
- (c) recommend that he receive credit for acceptance of responsibility under Guideline Section 3E1.1, provided that he cooperates truthfully and completely with the Probation Office during the presentence investigation and abides by the conditions of his release and further provided that no new information comes to the attention of the United States Attorney's Office relative to the issue of his receiving credit for acceptance of responsibility.

7. If the United States determines, in its sole discretion, that JOHN M. RUGGIERO has committed any offense after the date of this agreement, or violated any condition of release, or has failed to cooperate fully with the Probation Office, or has provided any intentionally false, incomplete or misleading information to Probation, the United States' obligations under paragraph 6 of this agreement will be void and the United States will have the right to recommend that the Court impose any sentence authorized by law and will have the right to

prosecute JOHN M. RUGGIERO for any other offenses he may have committed in the District of Vermont. JOHN M. RUGGIERO understands and agrees that, under such circumstances, he will have no right to withdraw his previously entered plea of guilty.

8. JOHN M. RUGGIERO fully understands that the sentence to be imposed on him is within the sole discretion of the Court. JOHN M. RUGGIERO may not withdraw his plea because the Court declines to follow any recommendation, motion or stipulation of the parties to this agreement other than an agreement between the parties pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C). The United States does not make any promises or representations as to what sentence JOHN M. RUGGIERO will receive. The United States specifically reserves the right to allocute at sentencing. There shall be no limit on the information the United States may present to the Court and the Probation Office relevant to sentencing and the positions the United States may take regarding sentencing (except as specifically provided elsewhere in this agreement). The United States also reserves the right to correct any misstatement of fact made during the sentencing process, to oppose any motion to withdraw a plea of guilty previously entered and to support on appeal any decisions of the sentencing Court whether in agreement or in conflict with recommendations and stipulations of the parties.

9. Further, JOHN M. RUGGIERO fully understands that any estimates or predictions relative to the Guidelines calculations are not binding upon the Court and fully understands that the Guidelines are advisory and that the Court can consider any and all information that it deems relevant to the sentencing determination. Thus, JOHN M. RUGGIERO expressly acknowledges that in the event that any estimates or predictions by his attorney (or anyone else) are erroneous, those erroneous predictions will not provide grounds for withdrawal of his plea of guilty,

modification of his sentence, or for appellate or post-conviction relief.

10. It is further understood and agreed by the parties that should JOHN M. RUGGIERO's plea not be accepted by the Court for whatever reason, or later be withdrawn or vacated, this agreement may be voided at the option of the United States and JOHN M. RUGGIERO may be prosecuted for any and all offenses otherwise permissible. If the plea is withdrawn or vacated on motion of JOHN M. RUGGIERO, JOHN M. RUGGIERO herein expressly agrees that the entire period of time that elapses between the signing of this agreement and the withdrawal or vacatur of the plea shall be disregarded in calculating whether the prosecution of any charges is timely under the applicable statute of limitations. JOHN M. RUGGIERO also expressly agrees to waive any defense to the re prosecution of charges that he might have under the Speedy Trial Act, the speedy trial guarantees of the Constitution, or any other constitutional or statutory provision.

11. It is further understood that this agreement is limited to the Office of the United States Attorney for the District of Vermont and cannot bind other federal, state or local prosecuting authorities.

12. Both parties are free to move for a departure under the Guidelines and to argue for a sentence outside the advisory sentencing range, except as otherwise set forth in this agreement.

13. JOHN M. RUGGIERO agrees that he will provide a copy of any financial affidavit prepared during the course of the Probation Office's presentence investigation to the United States at the same time that it is provided to the Probation Office. In addition, he specifically hereby authorizes the Probation Office to provide the United States a copy of any and all financial affidavits submitted to it by him.

14. In voluntarily pleading guilty to the charges in the Information, JOHN M.

RUGGIERO acknowledges that he understands the nature of the charges to which the plea is offered. He also acknowledges that he has the right to plead not guilty or to persist in a plea of not guilty; that he has the right to be tried by a jury and at that trial a right to the assistance of counsel; that he has the right to confront and cross-examine adverse witnesses; that he has the right against compelled self-incrimination; that if a plea of guilty is accepted by the Court, there will be no further trial of any kind, so that by pleading guilty he waives the right to a trial and the other rights enumerated here.

15. JOHN M. RUGGIERO expressly states that he makes this agreement of his own free will, with full knowledge and understanding of the agreement and with the advice and assistance of his counsel, Robert F. O'Neill, Esq. JOHN M. RUGGIERO further states that his plea of guilty is not the result of any threats or of any promises beyond the provisions of this agreement. Furthermore, JOHN M. RUGGIERO expressly states that he is fully satisfied with the representation provided to him by his attorney, Robert F. O'Neill, Esq., and has had full opportunity to consult with his attorney concerning this agreement, concerning the applicability and impact of the sentencing guidelines (including, but not limited to, the relevant conduct provisions of Guideline Section 1B1.3), and concerning the potential terms and conditions of supervised release.

16. No agreements have been made by the parties or their counsel other than those contained herein.

17. It is agreed that a copy of this agreement shall be filed with the Court before the time of JOHN M. RUGGIERO's change of plea.

Dated at Burlington, in the District of Vermont, this 15<sup>th</sup> day of April, 2005.

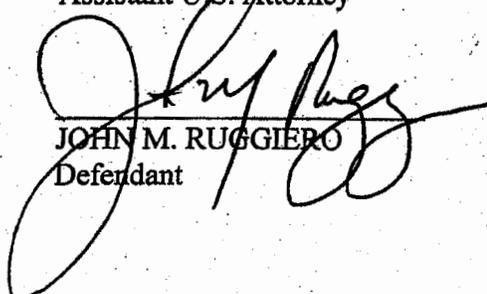
UNITED STATES OF AMERICA

DAVID V. KIRBY  
United States Attorney

By:

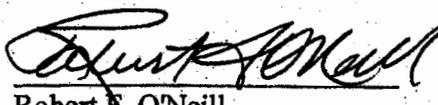
  
STEPHEN D. KELLY  
Assistant U.S. Attorney

15 April 2005  
Date

  
JOHN M. RUGGIERO  
Defendant

I have read, fully reviewed and explained this agreement to my client, JOHN M. RUGGIERO, and I hereby approve of it.

April 18, 2005  
Date

  
Robert F. O'Neill  
Counsel for the Defendant

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF VERMONT

UNITED STATES OF AMERICA )  
 )  
 v. ) Criminal No.  
 )  
 JOHN M. RUGGIERO )

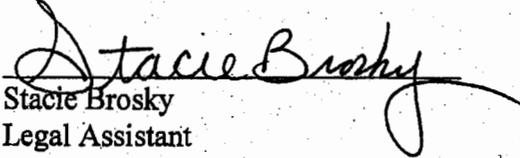
**CERTIFICATE OF SERVICE**

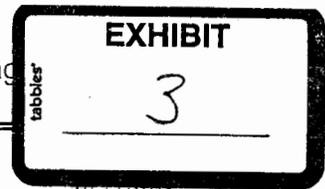
I, Stacie Brosky, do hereby certify that I have served a copy of the foregoing  
**INFORMATION AND PLEA AGREEMENT** on the Defendant by mailing a copy to

Defendant's counsel:

Robert O'Neill, Esq.  
Gravel and Shea  
PO Box 369  
Burlington, VT 05402-0369

DATED and SIGNED at Burlington, Vermont on this 21<sup>st</sup> day of April, 2005.

  
Stacie Brosky  
Legal Assistant



UNITED STATES DISTRICT COURT

District of Vermont

UNITED STATES OF AMERICA
V.
JOHN RUGGIERO

JUDGMENT IN A CRIMINAL CASE

2005 JAN 31 A 11:19
CLERK BY [Signature] DEPUTY CLERK

Case Number: 1:05-CR-54
USM Number: 04973-082

Robert O'Neill, Esq
Defendant's Attorney

THE DEFENDANT:

- X pleaded guilty to count(s) 1
pleaded nolo contendere to count(s)
was found guilty on count(s) after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Table with 4 columns: Title & Section, Nature of Offense, Offense Ended, Count. Row 1: 18 USC § 1341, Mail fraud, 12/2004, 1

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s)
Count(s) is are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

January 27, 2006
Date of Imposition of Judgment

[Signature of J. Garvan Murtha]

Signature of Judge

Honorable J. Garvan Murtha, U.S. District Judge
Name and Title of Judge

JUDGEMENT ENTERED ON DOCKET
Date: 1-31-2006

January 30, 2006
Date

DEFENDANT: JOHN RUGGIERO  
CASE NUMBER: 1:05-CR-54-1

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: 24 months

X The court makes the following recommendations to the Bureau of Prisons:  
That defendant be designated to serve his sentence at the satellite camp at FMC Devens.  
That if defendant qualifies for placement in a half-way house, that he be designated to a half-way house in New York state.

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at \_\_\_\_\_  a.m.  p.m. on \_\_\_\_\_

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

X before 2 p.m. on 4/25/2006

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

**RETURN**

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

a \_\_\_\_\_, with a certified copy of this judgment.

UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: JOHN RUGGIERO  
CASE NUMBER: 1:05-CR-54-1

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: 3 years

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: JOHN RUGGIERO  
CASE NUMBER: 1:05-CR-54-01

### **ADDITIONAL SUPERVISED RELEASE TERMS**

The defendant shall make restitution payments until the financial obligation is paid in full. The court prefers that the outstanding restitution be paid in full before defendant commences his term of imprisonment. If he is unable to do so, he shall make restitution payments as his real estate properties are sold. In the event the real estate is not sold, he shall make restitution payments in an amount of at least 10% of his gross monthly income until the financial obligation is paid in full.

The defendant shall permit the U. S. Probation Officer access to any requested financial information, until the obligation is paid in full.

The defendant shall participate in a mental health program approved by the U. S. Probation Office, if deemed advisable by the probation officer. The defendant shall contribute to the cost of services rendered in an amount to be determined by the Probation Officer based on ability to pay or the availability of third party payment.

The defendant shall maintain employment and any employment must be authorized by the probation officer.

The defendant shall not engage in the business of handling legal affairs or handling of monetary instruments for the period of supervision, without permission of the probation officer.

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**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>		<u>Fine</u>		<u>Restitution</u>
<b>TOTALS</b>	\$ 100.00		\$		\$ 418,481.39

- The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.
- The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Teresa DeYoung		\$300,000.00	paid in full
Edwin Wayne Alley		\$ 41,000.00	priority ahead of Anthem Health Plan of NH and Vermont Health Access
Vermont Health Access		\$ 64,149.57	
Anthem Health Plan of New Hampshire		\$ 13,331.82	
<b>TOTALS</b>	\$ _____ 0	\$ _____ 418,481.39	

- Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_
- The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The court determined that the defendant does not have the ability to pay interest and it is ordered that:
  - the interest requirement is waived for the  fine  restitution.
  - the interest requirement for the  fine  restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A  Lump sum payment of \$ 418,581.39 due immediately, balance due  
not later than \_\_\_\_\_, or  
 in accordance  C,  D,  E, or  F below; or
- B  Payment to begin immediately (may be combined with  C,  D, or  F below); or
- C  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E  Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F  Special instructions regarding the payment of criminal monetary penalties:  
Restitution owed Edwin Wayne Alley shall be given priority ahead of Anthem Health Plan of New Hampshire and Vermont Health Access.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

The defendant shall pay the cost of prosecution.

The defendant shall pay the following court cost(s):

The defendant shall forfeit the defendant's interest in the following property to the United States:

VERMONT PROFESSIONAL RESPONSIBILITY BOARD

In Re John M. Ruggiero

PRB DOCKET NOs. 2005-  
2005-058

AFFIDAVIT OF JOHN M. RUGGIERO

NOW COMES John Ruggiero, upon oath and deposes and states as follows:

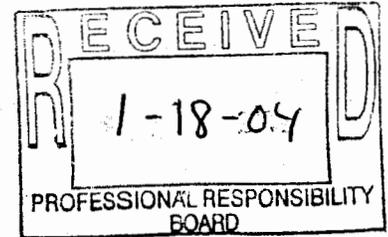
1. I am making this affidavit pursuant to Rule 19 of Supreme Court Administrative Order 9 governing resignation by Vermont licensed attorneys under disciplinary investigation.

2. I have received notice that I am under investigation by disciplinary counsel for violations of the Rules of Professional Conduct, and I am currently disqualified as an attorney under an order issued on January 5, 2005, by the Vermont Supreme Court which effected the immediate interim suspension of my license to practice law.

3. This resignation is freely and voluntarily rendered. I am not being subjected to coercion or to duress. I am fully aware of the implications of submitting this resignation. I have discussed its terms and the consequences with my attorney and am submitting this resignation affidavit after advice of counsel and with full understanding of the legal and practical implications.

4. As noted above, I am aware that there are presently pending investigations into allegations that I have been guilty of professional misconduct. Specifically, in Docket No. 2005-0\_\_ I am alleged to have misused for my own benefit and contrary to the entitlement of my clients, client trust funds and monies delivered to me in trust for distribution to estate beneficiaries.\* The amount of the funds so misused totals approximately \$300,000. Additionally, in Docket No. 2005-058 I am alleged to have failed to timely file with the Vermont Tax Department an out-of-state seller's withholding tax form accompanied by payment of the taxes that should have been withheld and to have not properly accounted for the withheld funds in my client's trust account.\* Further, I have self-reported three other instances of misuse of client funds. Each is described below in subparagraphs (1) - (3).

(1) I failed to timely negotiate the settlement of a medicaid lien against proceeds of a personal injury settlement. Instead, I used and disbursed for my own purposes monies escrowed from the proceeds of the settlement to cover the medicaid lien. The amount of escrowed funds was approximately \$60,000.\*



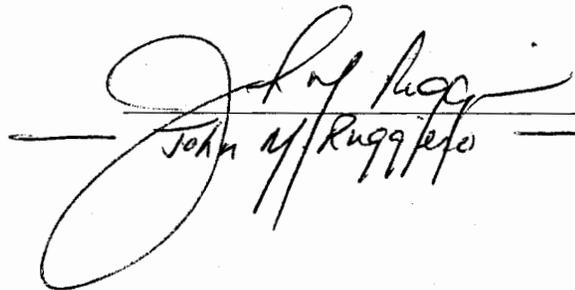
(2) I retained a portion of the client's share of the proceeds of a personal injury settlement and co-mingled and used those monies to benefit my own personal and business interests without disclosing to my former client that I was making such use of the funds. My former client knew that I was withholding the funds from his share of a personal injury settlement, but he believed that I was investing the funds for him to generate a higher return than available through bank deposits and CD's; whereas, in truth and in fact, I used the funds for my business purposes without disclosing to my client that I was doing so and co-mingled the funds with my own assets and used them as my own without maintaining any identity of ownership or interest in the funds for my former client.\*

(3) I entered into a business arrangement with a client under which I retained the client's share of the net proceeds of the sale of real property and the client's distribution from an estate. The total combined amount involved was approximately \$125,000. We had no written agreement, but the client expected that I would put the funds in escrow to draw upon for his agreed one-half share contribution to the costs of our planned business ventures going forward. In fact, I used the funds for my own personal and business purposes, intending to fund the client's share and my share of our business ventures from other income sources that were available to me.\*

5. I hereby acknowledge the truth of the facts set forth above and of my understanding of the investigation as set forth above and acknowledge that the material facts upon which the investigation into the above three matters is based are true. I acknowledge the correctness of the allegations of misappropriation of funds with respect to all four matters referenced above and agree that my conduct violates multiple rules of professional conduct. I understand that the three self-reported instances of misconduct have not yet been the subject of a client complaint, but I acknowledge that my self-report constitutes a complaint and that the matters self-reported are within the scope of this resignation affidavit.

6. I am submitting my resignation because I know that if charges were predicated on the misconduct under investigation, including the self-reported conduct, I would not successfully defend against them.

*\* All client names are being provided separately to disciplinary counsel.*

  
John M. Ruggiero — 11/2/04

John M. Ruggiero

STATE OF VERMONT  
COUNTY OF Rutland, SS.

At Rutland in said County this 12<sup>th</sup> day of January,  
2005, personally appeared John M. Ruggiero, under oath, and he swore to  
the truth of the foregoing.

Before me,

Luis A. Vandenberg

Notary Public

Comm. expires 2/14/07