

Cleveland Metropolitan Bar Association,  
Relator,  
v.  
Kevin T. McFaul,  
Respondent.

Case No. 08-1203

ON CERTIFIED REPORT BY THE  
BOARD OF COMMISSIONERS ON  
GRIEVANCES AND DISCIPLINE OF  
THE SUPREME COURT

ORDER

The Board of Commissioners on Grievances and Discipline filed its Final Report in this court on June 19, 2008, recommending that pursuant to Rule V(6)(B)(3) of the Supreme Court Rules for the Government of the Bar of Ohio the respondent, Kevin T. McFaul, be suspended from the practice of law for a period of two years with the suspension stayed on conditions. Respondent filed no objections to said Final Report, and this cause was considered by the court. On consideration thereof,

It is ordered and adjudged by this court that pursuant to Gov.Bar R. V(6)(B)(3) and consistent with the opinion rendered herein, respondent, Kevin T. McFaul, Attorney Registration Number 0033568, last known business address in Cleveland, Ohio, be suspended from the practice of law for a period of two years, stayed on the conditions that respondent (1) complete a five-year monitored probation of his practice pursuant to Gov.Bar R.V(9) by an attorney appointed by relator, (2) complete any outpatient treatment as required by his treatment provider or by the court in his criminal case, (3) continue to comply with the terms of his Ohio Lawyers Assistance Program contract during the entire five-year probation period, including submitting to random drug testing and submitting periodic OLAP updates to his monitoring attorney, (4) avoid a guilty or no-contest plea to, or conviction of, any drug- or alcohol-related offense, (5) open and maintain a trust account, and (6) either obtain professional liability insurance in the amount of at least \$100,000 per occurrence and \$300,000 in the aggregate or advise his clients that he lacks insurance in accordance with Prof.Cond.R. 1.4, the successor to DR 1-104. It is further ordered that if respondent fails to comply with the conditions of the stay or probation, the stay will be lifted and respondent will serve the entire two-year suspension.

It is further ordered that on or before thirty days from the date of this order, relator shall file the name of an attorney who will monitor respondent during the probation. It is further ordered that at the end of the probationary period, relator will file a report with this court indicating whether respondent has complied with the terms of probation including monitoring.

It is further ordered that respondent be taxed the costs of these proceedings in the amount of \$2,785.47, which costs shall be payable to this court by certified check or money order on or before 90 days from the date of this order. It is further ordered that if these costs are not paid in full on or before 90 days from the date of this order, interest at the rate of 10% per annum shall accrue as of 90 days from the date of this order, on the balance of unpaid Board costs. It is

further ordered that if costs are not paid in full on or before 90 days from the date of this order, respondent may be found in contempt and suspended until costs and all accrued interest are paid in full.

It is further ordered, sua sponte, by the court, that within 90 days of the date of this order, respondent shall reimburse any amounts that have been awarded against the respondent by the Clients' Security Fund pursuant to Gov.Bar R. VIII(7)(F). It is further ordered, sua sponte, by the court that if, after the date of this order, the Clients' Security Fund awards any amount against the respondent pursuant to Gov.Bar R. VIII(7)(F), the respondent shall reimburse that amount to the Clients' Security Fund within 90 days of the notice of such award.

It is further ordered that at the end of the probationary period respondent may apply for termination of probation. It is further ordered that respondent's probation will not be terminated until (1) respondent files an application for termination of probation in accordance with Gov.Bar R. V(9)(D); (2) relator files a report with the clerk of the Supreme Court indicating that respondent has complied with the terms and conditions of probation during the probationary period; (3) respondent complies with this order and all other orders issued by this Court; (4) respondent complies with the Rules for the Government of the Bar of Ohio; and (5) this court issues an order terminating respondent's probation.

It is further ordered that respondent shall keep the Clerk, Cleveland Metropolitan Bar Association, and the Disciplinary Counsel advised of any change of address where respondent may receive communications.

It is further ordered, sua sponte, that all documents filed with this court in this case shall meet the filing requirements set forth in the Rules of Practice of the Supreme Court of Ohio, including requirements as to form, number, and timeliness of filings.

It is further ordered, sua sponte, that service shall be deemed made on respondent by sending this order, and all other orders in this case, by certified mail to the most recent address respondent has given to the Office of Attorney Services.

It is further ordered that the clerk of this court issue certified copies of this order as provided for in Gov.Bar R. V(8)(D)(1), that publication be made as provided for in Gov.Bar R. V(8)(D)(2), and that respondent bear the costs of publication.

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THOMAS J. MOYER  
Chief Justice