FILED

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CLERK OF COURT
SUPREME COURT OF OHIO

The Supreme Court of Ohio

Case No. 2012-1003

Cleveland Metropolitan Bar Association,
Relator,
v.
James W. Westfall, Jr.,
Respondent.

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 12, 2012, recommending that pursuant to Rule V(6)(B)(3) of the Supreme Court Rules for the Government of the Bar of Ohio respondent, James W. Westfall, Jr., be suspended from the practice of law for a period of two years with reinstatement contingent upon conditions. Respondent filed objections to said final report, relator filed an answer, 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, James W. Westfall, Jr., Attorney Registration Number 0029420, last known business address in Cleveland, Ohio, is suspended from the practice of law for a period of two years with reinstatement conditioned upon respondent: (1) making restitution as follows: $700 to Diana McCafferty, $399 to Charles and Setsuko Gresham, $499 to John Pestyk, and $599 to Reba L. Mosier, (2) paying the Internal Revenue Service all unpaid payroll taxes, interest, and penalty obligations owed up to the date of reinstatement or, alternatively, entering into, and complying with, an agreement with the Internal Revenue Service to pay all such obligations, (3) providing evidence satisfactory to relator of his compliance with the aforementioned conditions, and (4) committing no further violations.

It is further ordered that respondent immediately cease and desist from the practice of law in any form and is hereby forbidden to appear on behalf of another before any court, judge, commission, board, administrative agency or other public authority.

It is further ordered that respondent is hereby forbidden to counsel or advise, or prepare legal instruments for others or in any manner perform such services.

It is further ordered that respondent is hereby divested of each, any, and all of the rights, privileges and prerogatives customarily accorded to a member in good standing of the legal profession of Ohio.

It is further ordered that before entering into an employment, contractual, or consulting relationship with any attorney or law firm, respondent shall verify that the attorney or law firm has complied with the registration requirements of Gov.Bar R. V(8)(G)(3). If employed pursuant to Gov.Bar R. V(8)(G), respondent shall refrain from direct client contact except as provided in Gov.Bar R. V(8)(G)(1), and from receiving, disbursing, or otherwise handling any client trust funds or property.

It is further ordered that respondent be taxed the costs of these proceedings in the amount of $11,112.22, which costs shall be payable to this court by cashier's 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 and the matter may be referred to the Attorney General for collection. It is further ordered that respondent may not apply for reinstatement 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 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 respondent pursuant to Gov.Bar R. VIII(7)(F), respondent shall reimburse that amount to the Clients' Security Fund within 90 days of the notice of such award.

It is further ordered that, pursuant to Gov.Bar R. X(3)(G), respondent shall complete one credit hour of continuing legal education for each month, or portion of a month, of the suspension. As part of the total credit hours of continuing legal education required by Gov.Bar R. X(3)(G), respondent shall complete one credit hour of instruction related to professional conduct required by Gov.Bar R. X(3)(A)(1), for each six months, or portion of six months, of the suspension.

It is further ordered that respondent shall not be reinstated to the practice of law in Ohio until (1) respondent complies with the requirements for reinstatement set forth in the Supreme Court Rules for the Government of the Bar of Ohio; (2) respondent complies with the Supreme Court Rules for the Government of the Bar of Ohio; (3) respondent complies with this and all other orders of the court; and (4) this court orders respondent reinstated.

It is further ordered that on or before 30 days from the date of this order, respondent shall:

1. Notify all clients being represented in pending matters and any co-counsel of respondent's suspension and consequent disqualification to act as an attorney after the effective date of this order and, in the absence of co-counsel, also notify the clients to seek legal service elsewhere, calling attention to any urgency in seeking the substitution of another attorney in respondent's place;

2. Regardless of any fees or expenses due respondent, deliver to all clients being represented in pending matters any papers or other property pertaining to the client, or notify the clients or co-counsel, if any, of a suitable time and place where the papers or other property may be obtained, calling attention to any urgency for obtaining such papers or other property;

3. Refund any part of any fees or expenses paid in advance that are unearned or not paid, and account for any trust money or property in the possession or control of respondent;

4. Notify opposing counsel in pending litigation or, in the absence of counsel, the adverse parties, of respondent's disqualification to act as an attorney after the effective date of this order, and file a notice of disqualification of respondent with the court or agency before which the litigation is pending for inclusion in the respective file or files;

5. Send all notices required by this order by certified mail with a return address where communications may thereafter be directed to respondent;

6. File with the clerk of this court and the Disciplinary Counsel of the Supreme Court an affidavit showing compliance with this order, showing proof of service of notices required herein, and setting forth the address where the respondent may receive communications; and

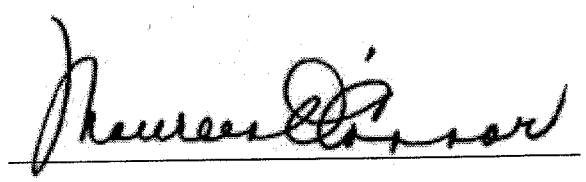
7. Retain and maintain a record of the various steps taken by respondent pursuant to this order.

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

It is further ordered that on or before 30 days of the date of this order respondent shall surrender his attorney registration card for the 2011/2013 biennium.

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, to respondent's last known address.

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.



Maureen O'Connor
Chief Justice