IN THE SUPREME COURT OF OHIO

Toledo Bar Association

Relator

vs. **Case No. 06-1994**

Linda S. Cook

Respondent

ON RESPONDENT'S OBJECTION TO THE FINDINGS AND RECOMMENDATIONS OF THE BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE OF THE SUPREME COURT OF OHIO

RELATOR'S BRIEF

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TABLE OF CONTENTS

Table of Authorities. ii

Statement of Facts. 1

Argument. 5

1. THERE WAS SUFFICIENT, CREDIBLE EVIDENCE TO SUPPORT ALL OF THE PANEL'S FINDINGS 5

2. ALL OF THE MISCONDUCT FOUND WAS CHARGED IN THE COMPLAINT. 10

3. A RESPONDENT IN AN ATTORNEY DISCIPLINARY CASE IS NOT ENTITLED TO A BIFURCATED HEARING. 13

4. THE CONDUCT OF RESPONDENT JUSTIFIES PERMANENT DISBARMENT. 16

Conclusion. 18

Certificate of Service. 19

TABLE OF AUTHORITIES

CASES:

Dayton Bar Assn. v. Overman (1996) 75 Ohio St. 3d 48.....18

Disciplinary Counsel v. Bell (1984) 15 Ohio St. 3d 18.....18

Disciplinary Counsel v. Carroll 106 Ohio St. 3d 84, 2005-Ohio-805.....15

Cincinnati Bar Association v. Clark (1994) 71 Ohio St. 3d 145.....8

Disciplinary Counsel v. Galinas (1996), 78 Ohio St. 3d 87 8

Disciplinary Counsel v. O'Neill 103 Ohio St. 3d 204, 2004-Ohio-4704.....15

Disciplinary Counsel v. Simecek (1998), 83 Ohio St. 3d 320,
1998 Ohio 92.....11, 14

Disciplinary Counsel v. Slavens (1992) 63 Ohio St. 3d 162.....8

In re Ruffalo (1968) 390 U.S. 544 14

Mahoning County Bar Association v. Theofilos (1998) 36 Ohio St. 3d 43.....8

Ohio State Bar Assn. v. Weaver (1975), 41 Ohio St. 2d 97, 100.....15

Spevack v. Klein (1967), 385 U.S. 511.....14

Stark County Bar Assn. v. Hare (2003) 99 Ohio St. 3d 310.....18

State v. Edwards (1952), 157 Ohio St. 175.....14

Toledo Bar Assn. v. Cook (2002) 97 Ohio St. 3d 225, 2002-Ohio-5787 17

COURT RULES:

BCGD Proc Reg 4(A).....15

Ohio R.Civ.P. 42(B).....15

DR 1-102(A)(4) 1, 5, 8, 11

DR 1-102(A)(6).....1, 5, 8, 9, 11

DR 1-102(A)(3).....1, 5

DR 5-101(A)(1).....1, 5, 9

DR 5-104(A)..... 1, 5, 9

EC 5-1.....13

EC 5-5.....8

Gov. Bar Rule V.....14, 15

Gov. Bar Rule V(11)(A).....15

Gov. Bar Rule V(11)(G).....15

OTHER AUTHORITY:

Restatement Third of the Law Governing Lawyers, Section 33(2)(a) and (d), ALI, 2000.....10

Statement of Facts

Relator disputes Respondent's statement of facts in many respects. Relator submits that all of the facts found by the hearing panel are true and fully supported by the evidence presented in the case. In fairness, however, the facts are the subject of substantial dispute. They are also crucial to an understanding of the case.

Summary

Relator alleged, and the Board found, that Linda Cook prepared documents which were fraudulent, *i.e.*, prepared with the intent to mislead, probably so that her client's gift of property to the client's church would not result in any period of disqualification for Medicaid nursing home benefits.

Further, Cook structured the documents so that Cook benefited personally from the transaction, by obtaining beneficial title to the client's property, then transferring it to the client's church and taking an income tax deduction for the charitable gift.

The Board found this conduct to be violations of DRs 1-102(A)(4), 1-102(A)(6), 1-102(A)(3), 5-101(A)(1), and 5-104(A).

Undisputed Facts

Esther Benfer is a lady born in 1911. She has no immediate family. She owned and lived on a small farm in Fulton County (the Benfer farm, or the farm) until 2004, when she moved into a nursing home in Adrian, MI. She was declared incompetent by a Michigan court in 2004. The farm was appraised at $225,000 in 2001. The farm was titled in Benfer's name prior to Cook's involvement.

Respondent represented Esther Benfer in 2001 and 2004. Cook never advised Benfer, either orally or in writing, to seek other counsel concerning any transaction involved in this case.

Benfer wanted to give her farm to her church, but to live on it for as long as possible. One of the concerns Benfer and Cook discussed was paying for long term care, and the problem of Benfer's qualifying for Medicaid if she gave away property within the applicable "look-back" period before applying for Medicaid benefits.[1]

Cook prepared a number of documents for Benfer, including a will, a trust and durable general and special powers of attorney, Exhibits F-J, all dated June 8, 2001. These exhibits name Cook as co-trustee, beneficiary (as trustee), personal representative, and attorney-in fact.

Linda Cook prepared a deed (Exhibit A), dated May 20, 1998.[2] Exhibit A purported to transfer the farm from Benfer to "Linda S. Cook, Trustee." It was not, in fact prepared, signed, executed, or delivered in 1998. This deed was recorded on July 12, 2001, 38 months after it was purportedly signed.

Cook prepared and signed, or caused to be signed, at least four documents which reaffirmed that Exhibit A was a 1998 (or earlier) deed. These include Exhibit M, a statement of Esther Benfer; Exhibit N, a statement given in the Bar Association in its investigation; Exhibit X, Cook's 2000 tax return, in which she claims she

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[1] At all times material to this case, if an applicant for Medicaid nursing home benefits made a gift of property to an individual within three years prior to the application, or to a trust within five years prior, there would be some period of ineligibility for benefits.

[2] Though Ms. Cook denies in her brief that she prepared Exhibit A, she admits, under oath, in Exhibit P, that she prepared it. She admits in her testimony that it was prepared by her office.

acquired title to the Benfer farm in December, 1997; and Exhibit B, a discussion of which follows.

Some time between July 12, 2001, and September 10, 2001 Cook changed the designation of the grantee on Exhibit A from "Linda S. Cook, Trustee" to "Linda S. Cook, married," thus giving herself the beneficial ownership in Benfer's farm. This revised deed, Exhibit B, was recorded on September 10, 2001. Benfer did not sign the amended deed.

Cook prepared Exhibit C, a quitclaim deed from Cook and her husband to the Metamora Methodist Church. This was Benfer's church, to which she intended to transfer her farm. Exhibit C is dated December 25, 2000. It was recorded on December 13, 2001, nearly a year later.

Cook also prepared Exhibit M, dated August 30, 2001. In it, Benfer permitted Cook to "write off" the gift of the farm to the church. Cook prepared Exhibit O. It states that it was executed on December 25, 2000. It is notarized with that date. It was not signed in 2000, but was in fact signed by various people, probably in or after June, 2001. (Tr. 1, p. 120, 121)

Cook signed her 2000 federal tax return, Exhibit X, on October 14, 2001. In that return, and extended over the next five tax years, 2001-2004, Cook claimed deductions against her personal income tax for the charitable contribution of the Benfer farm to the Metamora church. The deductions totaled $225,000.

Disputed Facts

Relator suggests, and the Panel found, that Exhibit A was a false document. The circumstances indicate that it was not signed either on the date appearing on its face or the date Cook says it was signed, but rather that it was signed in June 2001, shortly after the trust was created, and shortly before Exhibit A was recorded. Someone then invented the idea of shifting the tax deduction to Cook. Benfer signed Exhibit M agreeing with the scheme on August 30, 2001. She got no independent counsel, nor was she advised to get any. To take the deduction, Cook needed beneficial title, not just title as trustee. Cook then changed Exhibit A to create Exhibit B and recorded it. She then signed and filed her 2000 tax return, Exhibit X. To complete the subterfuge, she created Exhibits C and O, to falsely state that the property was transferred to the church in 2000.

Cook testified that Benfer consulted her in 2000 (Tr. 1, p. 23), and that Exhibits A and Exhibit C were signed in 2000. (Tr. 1, p. 41, 114). The significance of these documents being executed in 2000, rather than 2001, is that they would, if true, bolster the claim that, because a gift was made in 2000, Cook could take the tax deduction on her 2000 return. Cook admits that Exhibit O, dated December 25, 2000, was several months later in 2001.

All was well for Cook until 2004, when Benfer became disabled and the church's counsel brought the matter to the attention of the Bar Association. Cook continued the fraud, telling the Bar Association that the property was transferred in 1998. When this was proven obviously false (because the notary on Exhibit A was not

licensed until 2000), Cook switched to her next story: That the dates on Exhibits A and B were clerical error and that Exhibit A was really executed sometime in 2000. This allowed Cook to continue her deduction scheme for tax year 2000 and to claim that Exhibit C was what it appeared to be. [3]

The latter story is the position she continues to take.

Panel Findings

The panel decision sets forth detailed findings of fact, which will not be repeated here in detail. In summary, the panel found that Cook was Benfer's lawyer at all times material to this case; that Exhibit A and other documents were fraudulently prepared; that Respondent's claim of a bizarre series of clerical errors was not credible; and that the evidence established a "pattern of deception and misconduct." It unanimously found this to be deceptive conduct in violation of DR 1-102(A)(4).

The panel further found that Respondent's conduct in taking beneficial title to the property and taking the tax deduction for Benfer's gift was a violation of DR 5-101(A)(1), 5-104(A), 1-102(A)(3), 1-102(A)(4), and1-102(A)(6).

ARGUMENT

1. THERE WAS SUFFICIENT, CREDIBLE EVIDENCE TO SUPPORT ALL OF THE PANEL'S FINDINGS.

This is an unusual case. Much of the evidence is circumstantial. It is true that Relator did not present a witness to testify about the Cook-Benfer transactions. Ms. Benfer cannot testify, since she is incompetent. However, this is a case that turns on documents. The documents speak for themselves, and the documents speak volumes.

[3] Cook could not claim that Exhibit O was what it appeared to be, because other signatories would refute the assertion.

The Panel found that Respondent Linda Cook created a series of false documents. While Relator need not prove motive, only deception, the Board's findings clearly show that the Panel and Board also accepted Relator's theory of motive. The initial motive is obvious: Cook backdated the deed so the client could immediately (or nearly immediately) be eligible for Medicaid nursing home benefits.

Cook later, however, entered on a much more elaborate scheme: She changed Exhibit A to create Exhibit B, either to shorten the Medicaid look-back period from five to three years, or to facilitate Cook's claiming the charitable deduction, or both. This also resulted in Cook's receiving, at least for a time, beneficial ownership of Benfer's property. She then created all of the other documents which made up the deception.

To accept Cook's theory, one would have to accept all of the following:

1. Benfer first consulted Cook in 2000. She decided to transfer her farm to Cook, though no file, bill, or backup documents were created. No bill was prepared.
2. Exhibit A was "cloned" from an old computer form. All of the data on the form was changed except the dates, which were left as 1998. This was a mere clerical error.
3. None of the four signatories, (three Cook employees and Benfer) noticed the wrong dates. Cook either did not review Exhibit A or did not notice the wrong dates.

4. The "trustee" designation for the grantee, Cook, in Exhibit A was another clerical error. No one noticed that either.

5. Exhibit A was signed at some unknown time in mid-2000, and was held in the file for a year before being recorded.

6. Five or six months after execution of Exhibit A, but several months before its recording, Cook executed Exhibit C, purporting to convey title to the farm to Benfer's church. This was signed at Cook's home on Christmas Day, 2000, witnessed by Cook's relatives, who also happen to work in her office. Cook did not realize that on that day she was a stranger to title. She held Exhibit C in the file, without recording, for nearly a year.

7. Within a few weeks of recording Exhibit A, Cook noticed that the grantee designation was wrong. She then changed it to create Exhibit B. By mere error, she again did not notice the 1998 dates.

8. Cook's statement in her 2000 tax return that she acquired the Benfer farm in December, 1997 was merely an error.

9. When the TBA investigated the matter, Cook carefully reviewed her records, but again, merely by error, did not realize the dates on Exhibits A and B were wrong. She told the Bar investigator in Exhibit N, in error, that the 1998 dates on Exhibit A were correct.

Perhaps never before in an attorney discipline case has a lawyer created and perpetrated such a pack of falsity, fraudulent documents, lies, half-truths, and nonsense.

A trier of fact may, of course, accept a witness' testimony, reject it, or accept some portions of it and reject others. That is what happened in this case. The Panel unanimously found deception in violation of 1-102(A)(4). Any fair examination of the evidence could support no other conclusion.

Even if the transfer from Benfer to Cook had been legitimate, simply preparing the deeds which transferred beneficial ownership of Benfer's property to Cook violated 1-102(A)(6).

EC 5-5 provides:

> "Unless the client is related by blood or marriage, a lawyer should insist that an instrument in which the lawyer's client desires to name the lawyer beneficially be prepared by another lawyer selected by the client."

The Supreme Court in Disciplinary Counsel v. Galinas (1996) 78 Ohio St. 3d 87, 1996 Ohio 421, states that while EC 5-5 is not enforceable as a Disciplinary Rule,

> "a reading of [prior cases Mahoning County Bar Association v. Theofilos (1998) 36 Ohio St. 3d 43, Disciplinary Counsel v. Slavens (1992) 63 Ohio St. 3d 162, and Cincinnati Bar Association v. Clark (1994) 71 Ohio St. 3d 145] makes it abundantly clear that an attorney who fails to observe the standards embodied in EC 5-5 runs a grave risk of being found in violation of DR 1-102(A)(6) or other Disciplinary Rules." 78 Ohio St. 3d at 90.

On Count 2, it is totally undisputed that beginning in tax year 2000, and extending through tax year 2004, Linda Cook took a personal income tax deduction from her own income for the $225,000 charitable gift of the Benfer property by her client to the church. Cook was a total stranger to Benfer before 2001.

This is simply shocking self-dealing. Cook took advantage of her elderly client, or the government, or both, for her own ends. She never advised Benfer as to possible adverse consequences of her acts, she never advised Benfer, orally or in writing, to seek the advice of other counsel concerning the transaction. She simply saw what her client had that she wanted and she took it.

This was a violation of DR 5-101(A)(1) prohibiting self-dealing; 5-104(A), prohibiting business relations with a client, and 1-102(A)(6), conduct adversely reflecting on Respondent's fitness to practice law.

Some attention should be paid to Respondent's argument that Benfer was not her client in August, 2001, when she allegedly allowed Cook to take the tax deduction.

The Board found as a fact that the attorney-client relationship existed at "all times material to the allegations contained in the amended complaint." Finding 2. Cook clearly was Benfer's lawyer in May and June, 2001. She was recording deeds for Benfer in July, September and December, 2001. She continued as co-trustee, attorney-in-fact, and designated executor, at least until Cook's license was suspended on November 6, 2002. On April 20, 2004, Cook again claimed attorney-client status when she filed for the appointment of a guardian for Benfer. Exhibit S.

Nonetheless, Cook makes the completely disingenuous argument that, when Benfer signed the consent to the tax deduction in August, 2001, she was not Benfer's lawyer, and therefore owed Benfer no duty to refrain from overreaching, conflict of interest, self-dealing, or exposing her ninety-year-old "friend" to a possible tax fraud charge.

The existence of an attorney-client relationship is a function of the reasonable expectations of the client, based on the circumstances. If a client has a course of dealing with an attorney as her attorney, the client will ordinarily and reasonably expect that the duties owed to a client by her lawyer will continue in subsequent transactions between those individuals, at least for a reasonable time, and with regard to the same subjects which gave rise to the representation to begin with. That will continue at least until it becomes clear to the client, either expressly or from the circumstances, that the relationship is over.

Even if the specific service for which Benfer hired Cook had been completed, and even if the attorney-client relationship had terminated, Cook clearly had a duty to Benfer to "observe obligations to a former client such as those dealing with client confidences, conflicts of interest, client property, and fee collection" and to "take no unfair advantage of a former client by abusing knowledge or trust acquired by means of the representation." Restatement Third of the Law Governing Lawyers, Section 33(2)(a) and (d), ALI, 2000 (parentheticals omitted).

Cook never told Benfer that she had changed hats, and was now no longer Benfer's lawyer, either in writing or orally. She never told Benfer to seek other counsel, or even that she could seek other counsel. She never advised Benfer that Cook's interests in the tax deduction scam might differ from Benfer's interests. She simply took Benfer's assets as her own. She took the property of a ninety-year-old client with no relatives, with no one in the world to look out for her. No one except

Linda Cook. Cook then urges on this Court that she was not Benfer's lawyer, that she owed no duty to Benfer. This argument is simply legalese mumbo-jumbo.

It is, however, typical of Linda Cook's behavior in this case. And it will be repeated until this Court stops her.

2. ALL OF THE MISCONDUCT FOUND WAS CHARGED IN THE COMPLAINT

Respondent is entitled to fair notice of the violations charged and the facts which support a finding of those violations. Disciplinary Counsel v. Simecek (1998) 83 Ohio St. 3d 320, 1998 Ohio 92. She got exactly that. Every violation found was based on facts alleged in the amended complaint, and every Disciplinary Rule violation was set forth in the amended complaint.

Count 1 of the amended complaint charged that Cook created and recorded false documents, Exhibits A and B, to defraud Medicaid. In the course of the case, it became clear that other documents prepared by Respondent were also false. Cook was not charged with the other false documents, but proof of those was certainly relevant to the establishment of the violations charged. Not all of the evidence was stated in the complaint, but it was all relevant to prove the violations alleged. The Panel and Board so found. Count 1 charged Cook with violating DR 1-102(A)(4), conduct involving dishonesty, fraud, deceit or misrepresentation, and 1-102(A)(6), conduct adversely reflecting on her fitness to practice law. The facts set forth to support these violations were, essentially, that Cook had knowingly prepared, executed, (or caused others to execute) and recorded specified documents which were not what they appeared to be.

The only plausible explanation is that she did this so that others would believe them to be what they appeared to be and to rely upon them.

Relator did not allege, nor need it prove, all of the elements of common law fraud. This is not a civil action to recover damages. It is sufficient if Respondent is shown to have engaged in the creation or publication of false documents. The documents exist. They were proved. They were recorded for all to see and rely upon. The only possible defense is that they were not created knowingly. Relator, the Panel, and the Board found that the circumstantial evidence established the knowledge element by clear and convincing evidence. The circumstances are set forth infra and need not be restated.

In virtually every hearing, testimony and evidence elicited is sometimes not precisely what was anticipated. Due Process does not demand that all possible eventualities be anticipated and pled. It merely requires that the respondent in a disciplinary case have fair notice of the charge, fair notice of the conduct complained of, an impartial and competent tribunal, and a fair opportunity to be heard. Linda Cook received Due Process.

Count 2 charged that Cook claimed a tax deduction of $225,000 against her personal income tax for Benfer's gift of property to her church. This fact is not in dispute. Cook did this. Cook argues that, first, she was not Benfer's lawyer when she did it, and second, it was a perfectly acceptable thing to do.

The first argument is utterly spurious, and is dealt with infra.

Cook did present some testimony that the deduction scheme was not criminal tax fraud. Assuming this is true, it does not save Cook from disciplinary action. Clearly, Cook's financial interest in taking the deduction differed from Benfer's interests in enjoying her property. Further, Cook's interests not only affected her professional judgment, but were apparently the only thing on her mind when she undertook this course of conduct. One searches in vain for some idea of what interest Benfer might have had in giving Cook her property and her tax advantage, even if Benfer could not use it.

"The professional judgment of a lawyer should be exercised, within the bounds of law, solely for the benefit of his client...." EC5-1. While Cook may still not understand that her conduct was solely in her own interest, not that of her client, any reasonable view of the facts will support the finding that her taking Benfer's farm, and taking the deduction for the gift, was improper self-dealing.

3. A RESPONDENT IN AN ATTORNEY DISCIPLINARY CASE IS NOT ENTITLED TO A BIFURCATED HEARING.

Respondent asserts that the refusal of the panel to bifurcate the hearing into a stage dealing with whether the Respondent committed misconduct and a separate stage dealing with the appropriate sanction denied her due process of law.

The Board of Commissioners and this Court decide, on average, about one hundred discipline cases every year. Relator has discovered no case in which any respondent has made the argument that she is entitled, under due process or any other

theory, to a separate hearing to express remorse or present any other mitigation evidence.[4]

Clearly, Respondent is entitled to a proceeding which guarantees her due process of law. In re Ruffalo (1968) 390 U.S. 544; Spevack v. Klein (1967) 385 U.S. 511. The traditional elements of due process are fair notice and an opportunity to be heard. State v. Edwards (1952), 157 Ohio St. 175. Notice includes a reasonably definite statement of the charges. Disciplinary Counsel v. Simacek , *infra*. The right to a hearing includes an opportunity to be heard and to present evidence before an impartial tribunal.

The process set forth in Gov. Bar Rule V and the regulations of the Board, both of which were scrupulously followed in this case, guarantees all the due process to which Respondent is entitled. It may be that Respondent was required by tactical decision to choose between arguing inconsistent positions. But none of the authorities cited by Respondent holds that Due Process requires bifurcation. Respondent's tactical position may make asserting inconsistent positions inconvenient, difficult, awkward, or embarrassing. That does not mean that it was unfair or a violation of Due Process.

Respondent analogizes the disciplinary process to a murder case. The analogy is specious. One might expect a criminal defendant to assert at trial that he did not commit the crime, then assert at sentencing that he was sorry for having committed it. We expect more, both in candor and in honesty, from an officer of the court.

[4] One notes, parenthetically, that she never expressed remorse. Doubtless, given her testimony, she believes she did nothing wrong.

The attorney disciplinary process is neither civil nor criminal, but primarily investigatory and remedial in nature.

> [T]he primary purpose is not to punish an offender; it is to protect the public against members of the bar who are unworthy of the trust and confidence essential to the relationship of attorney and client; it is to ascertain whether the conduct of the attorney involved has demonstrated his unfitness to practice law, and if so to deprive him of his previously acquired privilege to serve as an officer of the court.* * * *The proceeding is not criminal in character; it is *sui generis*, stemming from the inherent power of the court to regulate the practice of law and the admission of persons to engage in that practice* * *. Ohio State Bar Assn. v. Weaver (1975), 41 Ohio St. 2d 97, 100.

See also Disciplinary Counsel v. O'Neill, 103 Ohio St.3d 204, 2004-Ohio-4704, and Disciplinary Counsel v. Carroll, 106 Ohio St.3d 84, 2005-Ohio-3805.

To that end, disciplinary cases have always been less formal than criminal prosecutions. Rules are to be liberally construed. Gov. Bar Rule V (11)(G).

Gov. Bar Rule V does not mention the possibility of bifurcation. Neither do the Board's Procedural Regulations. However, the Civil Rules govern disciplinary matters except when Rule V provides otherwise. Gov. Bar Rule V(11)(A), BCGD Proc Reg 4(A). They may provide some guidance.

Civil Rule 42(B) provides:

> **Separate trials.** The court, after a hearing, in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy, may order a separate trial of any claim, cross-claim, counterclaim, or third-party claim, or of any separate issue or of any number of claims, cross-claims, counterclaims, or third-party claims, or issues, always preserving inviolate the right to trial by jury.

This Rule permits separate hearing of issues when such a process would either avoid prejudice or facilitate convenience or economy.

In this case, neither convenience nor economy would have been served by bifurcation. The process Respondent advocates would have required a hearing with evidence and argument, followed by deliberation and decision, and perhaps Board approval, before any evidence supporting any aggravating or mitigating circumstances could even be presented. This would, effectively, double the hearing time for the panel, the Board, and counsel.

The only basis for bifurcation which might come into play, therefore, is avoiding prejudice. There is no showing of prejudice, or even a clear claim of prejudice. There is only Ms. Cook's unsupported claim that, if given another hearing, she might claim, in the face of all her lies, that she was sorry for her conduct, something that she chose not to do at the panel hearing.

The hearing panel members are all experienced, capable and dedicated volunteers, appointed by this Court with appropriate consideration of their qualifications, fairness, and ability to distinguish the relevant from the irrelevant, to determine whether misconduct occurred, and to recommend appropriate sanctions. They were not prejudiced against Ms. Cook. They simply did not believe much of what she said.

Since, in any event, the same panel would determine both the violation and the aggravation and mitigation, Relator can see no practical advantage to Respondent in bifurcation. Even assuming the second hearing were granted, Respondent would still be faced with taking inconsistent positions.

There are simply no grounds for bifurcating the hearing into "guilt" and "penalty" phases. While it might provide Respondent with a convenient point for determining whether or not she regrets her conduct, bifurcation is required by neither due process nor by Ohio law.

4. THE CONDUCT OF RESPONDENT JUSTIFIES PERMANENT DISBARMENT.

The panel and Board found, with full evidentiary support, that Respondent intentionally falsified documents for fraudulent purposes. It found that she created false documents to defraud the government and to enrich herself. She clearly took advantage of an elderly client with no one to protect her. A unanimous Panel and the full Board recommend permanent disbarment for Cook's "extraordinary acts of misconduct."

Respondent presented no character witnesses and no letters attesting to her character or ability.

The Board found no mitigating factors and several aggravating factors, including lying at the panel hearing, a clear dishonest and/or selfish motive, a pattern of deception and misconduct, and an absolute refusal to acknowledge the wrongfulness of her conduct.

Among the aggravating factors was Cook's prior discipline. On November 6, 2002, this Court suspended Respondent's license for one year, with six months stayed. Toledo Bar Association v. Cook, 97 Ohio St. 3d 225, 2002-Ohio-5787. The gravamen of that case was that Cook had prepared a will and trust for an elderly client which effectively donated $300,000 to Cook's siblings' corporation. The complaint in that

case was certified on June 11, 2001. Respondent's answer was filed on July 10, 2001, two days before Exhibit A was recorded. Cook was therefore well aware of the impropriety of a lawyer accepting substantial gifts from clients before she obtained title to Benfer's farm in the summer and fall of 2001.

Obviously, permanent disbarment is reserved for the most serious cases. In this case, Respondent's misconduct demonstrates a complete inability to act as a lawyer without engaging in habitual acts of fraud and deceit. Such conduct warrants disbarment. Dayton Bar Assn. v. Overman (1996) 75 Ohio St. 3d 48, 1996 Ohio 252.

In Stark County Bar Assn v. Hare (2003) 99 Ohio St. 3d 310, 2003 Ohio 3651, this Court imposed permanent disbarment upon an attorney who charged a clearly exorbitant fee in an adoption proceeding, then deliberately falsified documents to conceal the fee and other questionable payments, fabricated incredible explanations for his misconduct, blamed others for his behavior, and simply lied. The Court found such conduct "manifestly contrary to the professional qualities of honesty, justice, and good character," citing Disciplinary Counsel v. Bell (1984) 15 Ohio St. 3d 118. The Court distinguished similar conduct in Bell, who avoided disbarment, because Bell ultimately recognized the gravity of his exploitive misconduct. Hare, however, "attempted to evade responsibility for and conceal evidence of his shameful betrayal of his clients' interests and professional oath." Disbarment was, in the Court's view, the only appropriate sanction.

Relator submits that the facts of the instant case warrant permanent disbarment.

Conclusion

Relator urges the Court to adopt the findings of fact, conclusions of law, and recommended sanction of the Board of Commissioners on Grievances and Discipline.

_____
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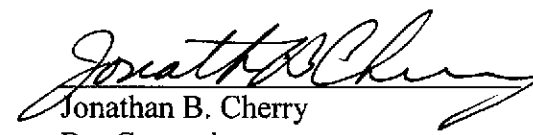
Conclusion

Relator urges the Court to adopt the findings of fact, conclusions of law, and recommended sanction of the Board of Commissioners on Grievances and Discipline.



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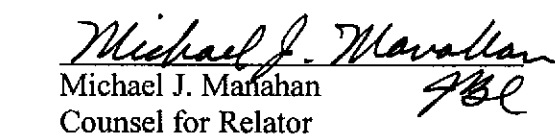

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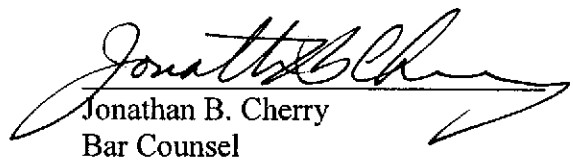
Certificate

The undersigned certifies that copies of the foregoing Brief of Relator were sent by regular U.S. mail to all counsel of record, at the addresses stated hereon, on the 12th day of January, 2007.



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