BEFORE THE SUPREME COURT OF OHIO

In re:

APPLICATION OF RAHSHANN BLACKWELL Case No. 2007-0441

APPLICANT'S OBJECTIONS TO THE FINDINGS OF
THE BOARD OF CHARACTER AND FITNESS

Comes now the applicant, Rahshann Blackwell, to file objections to the findings of the Board of Character of Fitness, recommending that his application to take the Ohio Bar exam be disapproved.

Respectfully Submitted

FILED
APR 30 2007
MARCIA J MENGEL, CLERK
SUPREME COURT OF OHIO

Rahshann Blackwell, Pro se
1315 Krameria Street (Suite 200)
Denver, CO 80220
(303) 393-6009
(720) 982-8344
Rblackwell32@hotmail.com

Applicant, Rahshann Kenneth Blackwell hereby files his objections to the following findings of the Panel as adopted by the Board of Character and fitness.

1) Applicant had been arrested two (2) times prior to the 2005 Bar exam and did not report these incidents.
2) Applicant continued to write on a segment after being told to stop by Beverly Braskett in 2003.
3) Applicant ignored the instructions of Ms. Rosey Smith to stop when he entered the proctor room during the 2005 Bar exam.
4) Applicant asked Ms. Mengel if he could have the word changed back to the previously incorrect spelling.
5) Applicant adamantly denied that he wrote beyond the call of time during the morning session.
6) Applicant contended that it was not him that Ms. Liza Meyers was observing.
7) Applicant's racial classification as "African-American."
8) The Board's finding that there is no doubt that Applicant materially violated the exam rules during the afternoon segment.
9) The Board's finding that Applicant purchased a watch to help his timing during the exam.
10) The Board's finding that Applicant testified as to requesting that the answer be changed back to reflect the initially misspelled word "Thompson."
11) Applicant attempted to file an application in February 2005.

12) Applicant's application did not properly reflect or disclose that he had been arrested (once), before the 2005 Bar exam.

13) Applicant only made minor changes to his 2005 Bar Exam Application.

14) Applicant's 2005 Bar exam Application did not reflect his conduct between October 2004 and March 2005; the fact that he had been arrested.

15) The Board's finding that Applicant failed to update his 2005 Bar exam application, besides scratching off February and putting July on his exam.

16) Applicant significantly failed to update his 2005 Bar exam.

17) Applicant had two unreported arrests on his 2005 Bar exam application.

18) The Boards basis of its conclusion upon Applicant's "late" submission of a psychological evaluation.

19) The Board's finding that Ms. Anelli had withdrawn from representation of Applicant because he had failed to pay her timely.

20) The finding that Applicant failed to pay Ms. Anelli an agreed upon sum in a timely manner.

21) That the October, 2006 continuance was due solely to the delays of the Applicant.

22) The "great weight" given to the psychological testimony of Dr. Thomas Hustak.

23) The Board's finding that Dr. Hustak's dealings with attorneys as an expert witness qualifies him as an expert to testify as to Applicant's fitness to practice law.

24) The Board's refusal to consider the testimony of the licensed Attorneys who have testified and provided references as to Applicant's fitness.

25) The Board's finding that Applicant had listed his herbalist as a potential expert witness.

26) The Board's finding that Applicant disagreed with Dr. Hustak's diagnoses.

27) Applicant objects to the Board's requirement that Applicant be required to undergo treatment for his diagnosis of NOS (Not otherwise specified) anxiety and depressive disorder.

Statement of the Facts

The 2003 Bar Examination

Applicant's first informal hearing was brought before the Board of Bar Examiners in 2003, when the Applicant was reported for writing beyond time during the 2003 Bar Exam. Before the Exam Board, Applicant admitted to several writing violations on certain segments during the exam. Applicant had admitted that he had filled in captions of his exam after time had been called (i.e., dates and exam numbers). Applicant admitted to writing on his exam number card and fingerprint card after and between segments. He further admitted to writing the word "pay" after time was called on the very last segment of the exam, despite the fact that he had been given a warning earlier that day. Applicant was also reported for having water on his table, which was not permitted during the exam. He apologized to the Board and assured them that he would be more respectful, if ever permitted sit for the exam again.

At this hearing, The Clerk of Court, Marcia Mengel, testified as to the rules and regulations (e.g., protocol) of the exam. She explained that different sanctions may be imposed against an Applicant's exam, depending on the seriousness of an Applicant's exam violation. She testified that, on one extreme, an Applicant's violation might be entirely waived as "reasonable," while on the other extreme (e.g., "egregiousness") an Applicant's violation may cause the applicant's entire exam to be disqualified. Ms. Mengel testified that Applicant's conduct during the 2003 exam was more on the egregious end of the spectrum. She believed that Applicant's conduct was egregious, because he had been reported by more three other applicant's and one proctor.

Ms. Mengel also set forth the code of behavior and regulations for the Exam's administration. She testified that the overall objective of the examination is fairness; that all Applicants must have the same opportunity to display their competency. She testified that if a student were to complete one word after the call of time, she would not report such action or refer that student's exam to the Exam Board for review[1].

Ms. Mengel stressed the importance of a strict rule regarding timely completion of one's exam. However, she repeatedly expressed that the exam environment was intended to be a "comfortable setting" and that the proctors don't set out to "catch an applicant doing one little thing." She said that with regard to closure, "it is a matter of degree," recognizing that students might finish a word, cross a "t," dot an "i" etc. in some instances. She noted that the Bar exam was a high stakes exam. And she emphasized the overall objective of fairness to all students (e.g., no student should be able to have a material advantage over any other student).

Beverly Braskett, an administrative assistant, also testified at the 2003 Bar Exam Hearing. She stated that exam protocol required proctors to slap their hand on the table to "get the attention" of an Applicant that they are in violation of exam writing rules[2]. She stated that she had slapped her hand on several other Applicants' tables in the past and, even though all of them were technically in breach of the exam's writing rule, not all of their exams were brought under review by the Exam Board.

She further testified that, pursuant to two complaints and the directives of Ms. Mengel, she observed Applicant for two segments. Although, Applicant completed the first segment on time (the Multistate Bar Exam), he exceeded the time limit by

---

[1] See Bar Examiner's Hearing Case No 983 Page 45; line 36.
[2] See Bar Examiner's Hearing Case No. 983 Page 132; line 23. See also page 133 1-14.

approximately five (5) seconds during the next segment. At this point, Ms. Braskett slapped her hand on the table and gave the Applicant a verbal warning. Ms. Braskett testified that Applicant did not continue to write on this particular segment, after she slapped her hand on his table[3]. However, the Exam Board found that Applicant did write beyond time on the final segment of the exam, after he had already received this initial warning by Ms. Braskett[4].

Despite the Ms. Mengel's proposed sanction of exam disqualification, the Exam Board decided to penalize the Applicant by eliminating five (5) of his essay answers from exam grading. Applicant failed the exam by app. 20 points as a result.

2004 Hearing Before Board of Character and Fitness

Although his exam was not disqualified, Applicant was summonsed by the Board of Character and Fitness, which called (sua esponte) for his explanation of the events taking place during the 2003 exam. At this hearing, several attorneys and professors assured the Board that Applicant held the requisite degree of honesty, integrity and fitness to practice law. One of applicant's professors did recall that Applicant spent more time than other students analyzing legal issues than many other students. However, this professor noted that Applicant received high scores on all of his examinations, which were all completed in a timely fashion. Each of Applicant's professors testified as to Applicant's involvement in activities, requiring co-operation with other students and faculty (i.e., Applicant's participation as an instructor in the school's Street Law program; Applicant's participation as the student coordinator for the school's Volunteer

[3] See Bar Examiners Hearing Case No. 983 Page 132; line6.
[4] Applicant admitted to writing the word "pay" after time was called on the final segment of the examination.

Income Tax Assistance Program; Applicant's role as a student aid to his Contract's Professor etc.).

Further, it was established that Applicant was currently in the process of developing an income tax business in Denver, Colorado (E-Tax, Inc). Applicant offered a reference letter from one of his business advisors, indicating that Applicant had received a small business grant for $4,000 as a result of his participation in a small business class; aside from Applicant's enrolment and graduation from the Denver University's Graduate Tax program in 2002 (LLM, Taxation). Applicant informed the court of his off season pursuits as an contractor for several local moving companies as well.

Applicant testified as to his conduct in 2003 and acknowledged that his conduct was inappropriate. Applicant defended himself against accusations that he had written beyond time on the MBE (the initial complaint, reported by two other Applicants). Applicant produced a copy of his fingerprint card (on file with the Admission's office), which reflected a check mark on the lower right hand corner, as proof that he did not answer any questions beyond the call of time on this segment. Although one student had accused him of "filling in a bubble" after the call of time, Applicant asserted that he was writing a checkmark on the lower right hand of his Applicant fingerprint card. Applicant acknowledged that such conduct was still inappropriate. He stated that he had often been given the courtesy of closing his answer on written exams throughout his college career (i.e., completing a word or two etc.); but that he understood that this tendency had caused an interference with the administration of the Ohio Bar exam. Applicant promised that he would take the steps necessary to ensure against any future problems with the

administration of the Bar exam in the future. He also stated that he understood why the rules were so strict in this matter.

The Board of Character and Fitness upheld Applicant's moral character and fitness as a result of this hearing. Applicant was given unlimited approval to be seated for the next exam, which was to be administered in July of 2004[5]. Although Applicant's application to be seated for the 2004 Exam had been filed in early May, 2004, the Admission's office rejected his application due to the absence of account numbers, which were to accompany the names and addresses of his listed creditors. Therefore, Applicant was not able to be seated for the July, 2004 Bar Exam.

Applicant's Traffic Cases

Near the end of 2004, Applicant was cited twice for driving without valid proof of insurance (applicant was not arrested in either of these events). Applicant updated his application immediately to reflect these two (October 2004) citations. Applicant wrote a detailed description of each event and added copies of the citations and the court dockets, reflecting the dismissal of both of these cases[6]. In addition to updating the Application with this information, applicant also wrote a detailed explanation of the hearing that he was a party to in 2004, before the Board of Character and Fitness. Finally, Applicant attached the Character and Fitness Board approval to his 2005 Bar Exam Application, in order to document the resolution of the matter. Applicant failed, however, to add the details of a civil collections matter in which he was sued by the University of Denver for $6,200. Although Applicant had paid the debt in full and the matter was dismissed with

[5] No conditions were placed upon the Applicant aside from the normal rules and regulations of the Bar exam.
[6] See Applicant's 2005 Bar application at pages 7-10.

prejudice, he has admitted that he negligently failed to update his Application to reflect this legal proceeding.

On March 22, 2005 Applicant was seized and detained for driving without proof of a valid operator's license[7]. While in police custody, Applicant called one of the tax preparers at his office and directed her to mail out his 2005 Bar Exam Application (which he had already updated). Although in jail, he had not been cited for any traffic offenses at that present time. Applicant's Application was sent out immediately on March 22, 2005, while he was still in jail. After Applicant was finally booked, ticketed and released on bond for the driver's license offense, he called an attorney and asked for legal advice regarding his duty to report the citation to the Ohio Bar. Applicant also called the Bar Admissions office, identified himself, explained his situation and asked whether his duty was to report the citation immediately or whether he had until the resolution of the matter to update the Application. Applicant was told by one of the Admission's clerks ("Jesse") that he could file a written update upon the resolution of the matter. On May 6, 2005 (the day after the matter was resolved); Applicant submitted his Application update -- detailing the arrest, citation and the dismissal of the no driver's license charge.

Notwithstanding Applicant's update, regarding the dismissal of his traffic offenses, Applicant's character and fitness were approved to sit for the July, 2005 Bar Exam[8]. The Admission's Office had already filed Applicant's Application on March 30, 2005, despite the fact that it was not properly notarized. The update, detailing the March

---

[7] Applicant had filed a police report recently, reporting that his wallet and driver's license had been stolen; See Applicant's amendment to Application; filed with this Court on May 6, 2005. Applicant was also cited for not having proof of insurance and an expired permit.

[8] This third incident was reported and filed with this Court on May 6, 2005. The Character and Fitness Board's finding that Applicant did not properly or timely report this incident was plain error. Further, according to this Court's notes in In re Application of Singh, 101 Ohio St. 3d 8. Applicant had no duty to disclose the fact that he had been arrested. See In re Singh, footnote 1.

22, 2005 arrest was filed by Applicant, via fax, on May 6, 2005. Therefore, more than 2 months prior to the July 2005 Bar Exam, the Admissions office had Applicant's updated Application, reflecting, his Character and Fitness hearing and his three traffic citations. The only matter missing from Applicant's Application by this time was the civil collections matter between Applicant and the University of Denver.

The 2005 Bar Examination

Applicant entered Veteran's Memorial Hall shortly before 9:00am on the first day of the 2005 Bar Exam. Applicant was wearing a blue moving company t-shirt, blue uniform shorts and a pair of tan work-boots. Applicant had practiced concluding his answers promptly, prior to the exam, although he believed that he would still be faced with the challenge of halting at the call of time. Applicant recalls promptly and timely concluding his answers on the first two segments of the exam. On the third segment (first day of the exam), Applicant recalled struggling with the temptation of writing a word beyond the call of time. However, Applicant recalled resisting this temptation[9].

On the first portion of the afternoon segment of the exam, Applicant lost his concentration in his attempts to close several seconds before the call of time. Although Applicant had placed is pen down prior to the call of time, he quickly picked it back up and perfected the spelling of the name "Thomas," after time had been called. Applicant waited for his proctor to collect his exam and brought the error to her attention. He asked if he could draw a line through the correction. The proctor replied "don't worry about it,"[10] and collected his exam. Applicant began to contemplate the gravity of this error. Applicant struggled to complete the next exam segment, thinking of the possible

---

[10] See Page 4 of the Character and Fitness Board Recommendation; footnote 1.

repercussions of this thoughtless act. At the end of the day, Applicant approached the Clerk of Courts and informed her of his error. Recalling all of the possible sanctions of the Exam Board, Applicant asked if the word could be crossed out before his exam was graded. The Clerk of Court refused his request and told him to write down his account of what had taken place. Ms. Mengel asked Applicant why he made the correction and he replied "I was just trying to get it perfect."

Applicant attempted to remind the Clerk about her comments regarding the overall objective of fairness to all students taking the exam. Applicant asked the Clerk about her comments at the initial Exam Board hearing (i.e., Applicant's being able to finish a word after the call of time; cross a "t" dot an "i" etc). These reminders were not addressed by the Clerk. She directed Applicant to make a statement regarding the violation and informed him that the matter would be settled through "protocol."

On the second day of the Exam, Applicant submitted a report to the Clerk of Court, detailing the correction that he had made after the call of time. He was informed that he would probably hear from "the Board" soon.

After the conclusion of the Bar Exam, Applicant provided contract labor at a moving company and resided with his family in Cincinnati, OH. After a few weeks working there, Applicant was contacted by two of his clients regarding tax matters in Denver. In response to his clients' concerns and in anticipation of retrieving correspondence from the Board of Bar Examiners, Applicant went back to Denver. Upon arrival, Applicant received a letter from the Board of Bar Examiners informing him that his exam had been disqualified. He was told that the matter would be automatically

referred to the Character and Fitness Board. Thus, Applicant was not given a hearing on the matter.

Applicant's Post-Exam Arrest

Applicant continued to prepare business returns and provide contract labor for several moving companies throughout Colorado, while anticipating his review before the Board of Character and Fitness.

On Labor Day weekend (2005) Applicant went to a 24-hour Laundromat in downtown, Denver. Applicant parked his car alongside the Laundromat in a fenced in parking lot. As he exited his car, Applicant noticed a black bag hanging on a utility box, next to the fence, which enclosed the parking lot. Applicant picked up the bag and inspected the bag. Before he could decipher the contents inside the bag, Applicant was approached by Guardian Angels Peace officers who were on the opposite side of the fence (e.g., on the public sidewalk).

One of the officers asked the Applicant, "What are you doing with that bag?" Applicant replied "I'm being nosy, just like you." Applicant considered his pending matter before the Board of Character and Fitness, apologized about the remark and handed the officer the bag through the fence and then grabbed his Laundry. Applicant entered the Laundromat and began to wash his clothes. Shortly thereafter, the Guardian Angels entered the Laundromat and asked Applicant to go outside with them. Applicant refused at first, but eventually left with the officers. The officers placed hand cuffs on the Applicant and sat him down on the side walk. The officers then called the Denver police. While waiting for the police, Applicant asked the officers if he could stand up. They

replied that they would feel much more comfortable if he remained seated. Applicant remained seated and quiet until the police finally arrived.

When the police arrived, the Applicant identified himself as "Dr. Rahshann Blackwell." Applicant attempted to explain that he had found the black bag and had handed it to the officers through the fence. Applicant was subsequently charged with possession of marijuana and disturbing the peace (the black bag allegedly had marijuana inside). Applicant was then taken to the Denver City Jail, where he stayed for three days. The charges were eventually dismissed and Applicant began consulting with Counsel of record to address the matters now before this Court.

In January, 2006, applicant was advised by counsel to undergo a psychological evaluation (at his own expense) in attempts to find out whether there was a psychological explanation to his conduct during the Bar Exam. Applicant made several attempts to locate a Psychologist in Ohio, for the convenience of his attorney and the Board, although Applicant continued to work in Denver. The Board had not ordered a psychological explanation or evaluation at this time. Thus, the idea of eventually proffering expert psychological evidence was left to the sole discretion of the Applicant and his learned counsel. However, the panel chair was very clear stating that any expert reports were to be submitted by April 1, 2006. The Board hearing was scheduled for May 26, 2006.

In the midst of the income tax season, Applicant began to search for a board certified psychologist in order to arrange a psychological evaluation before April 1st. He was unsuccessful in doing so. However, he did not abandon his attempts to find a psychologist thereafter, in the event such an evaluation would be accepted by the Board with the consent of the investigator for the Board. This had become the unilateral

objective of the Applicant; the Board never ordered Applicant to undergo a psychological evaluation.

Applicant was finally able to schedule a psychological evaluation in Lima, Ohio on May 9th, 2006. Applicant met with Dr. Thomas Hustak that morning and was told that he had until 6:00 that evening to finish two examinations. The first was the MMPI personality test (a 576 question True-False exam) and the second was an 18 page questionnaire, which asked more sensitive questions regarding race and religious background (none of which may be used in determining an Applicant's fitness to practice law). See Gov.Bar R. Sect. 11(D)(6).

Applicant took twice as long as Dr. Hustak's usual clients to complete the 567 question exam[11]. This fact was not supposed to be used in determining Applicant's test scores. Some of the answers to these questions were eventually disclosed at the hearing. Therefore, these 576 questions could reasonably be considered "admissions" for the purpose of determining applicant's fitness to practice law.

Dr. Hustak's Report

Dr. Hustak's main conclusion was that Applicant suffered from cognitive confusion (excessive thinking and confusion of thoughts). His primary basis was the amount of time Applicant took to complete the True False exam. Applicant's initial objective test results indicated that he had higher than normal levels of anxiety. Dr. Hustak performed a second objective test to confirm these results. The second test (16PF; multiple choice) indicated that Applicant exhibited normal levels of anxiety. There was never any specific anxiety disorder determined by Dr. Hustak (i.e., Obsessive

[11] Dr. Hustak commented, during the 2006 Character and Fitness hearing: "I used to work at a state psychiatric facility and they can answer those items in an hour and a half"

Compulsive Disorder, Post Traumatic Stress Disorder etc.) See In re Application of Bell 112 Ohio St. 3d 530). The objective tests scores indicated that applicant was extremely honest. However, Applicant possessed "mixed symptoms of anxiety and depression." In the final analysis, there was no specific disorder determined [depressive disorder NOS (Not Otherwise Specified)]. The test results also indicated that Applicant had schizoid personality traits (detachment from his emotions). Although the test indicated that Applicant had both obsessive and compulsive character traits, these were not sufficient to be categorized as any specific disorder. The test ruled out any evidence of mental illness (i.e., psychosis, schizophrenia, bi-polar disorder etc.). The test further determined that Applicant possessed passive-aggressive personality traits.

After a two hour interview with Applicant, Dr. Hustak determined that Applicant exhibited "unusual" thinking patterns. Dr. Hustak noticed that Applicant seemed to contemplate or "brood" things more than the "usual" subject. And finally, Hustak concluded Applicant had several interpersonal issues that needed to be addressed. Dr. Hustak's report reflected that he believed Applicant would probably pass the Bar Exam if he were seated again, but predicted that Applicant would have many difficulties functioning in the legal field, because of difficulties relating to people and difficulties with time constraints. Although Hustak opined that Applicant's efficiency level was relatively low, he gave no explanation as to how Applicant could have obtained his Masters of Laws degree from Denver University School of Law. Dr. Hustak did not explain how Applicant could have successfully run his income tax business; processing approximately 400 hundred tax returns in one season. Neither did Dr. Hustak address Applicant's recent appointment to the Business Advisory Council for the National

Republican Congressional Committee (e.g., Applicants receipt of the NRCC's National Leadership Award; See Wall Street Journal: September 22, 2006)[12].

Dr. Hustak recommended that Applicant seek out-patient treatment for his cognitive confusion and his unspecified clinical disorders.

2006 Bar Exam Application

While visiting Dr. Hustak's office in Lima, OH, Applicant took the same opportunity to personally file his petition with the Court, to accept his application to sit for the 2006 Bar Exam after the April 1, 2006 deadline. With this application, Applicant updated the Court of the incident involving the possession of marijuana charge (and its dismissal). Applicant also informed the court of a parking ticket, which had already been paid.

The Court granted Applicant the privilege to sit for the July 2006 exam, upon the condition that his character and fitness be approved prior to being seated.

Advent of 2006 Hearing

As the May 25, 2006 hearing began to approach, Applicant's counsel began to inquire as to whether the special investigator would allow Applicant's report to be submitted before the Board. The special investigator objected to the introduction of the report without being able to cross-examine Dr. Hustak. Dr. Hustak's appearance could not be arranged on that date. Applicant then ceased his efforts to share this information with the Board.

Within days of the hearing, Applicant's counsel deposed a witness in Cleveland Ohio named Lyza Meyers. Ms. Meyer's could not make it to the hearing due to

[12] "The NRCC's Business Advisory Council was formed to involve the country's top business leaders in the process of government reform. Applicant was recognized in September 21, 2006 for his leadership abilities and his success as a business owner among others in the state of Colorado.

scheduling conflicts. Ms. Meyers testified that she witnessed Applicant writing after time on the last segment of the morning session of the 2005 bar exam. She claimed that applicant came in right as the instructions were being given. She testified that Applicant was wearing yellow gym shoes and blue mesh shorts.

Ms. Meyers testified that at the conclusion of the morning session, on the first day of the exam, Applicant looked around furtively and then quickly jotted something on his exam sheet. She stated that because he appeared to be writing near the near the top of the page and that because the motion was so brief, she believed that he was probably filling in his caption with the date or his exam number.

Upon learning of Ms. Meyer's testimony, Applicant began to consider moving to continue the hearing so that Ms. Meyers could appear and testify in person. Applicant also considered contacting the Applicant who sat at his table. Applicant had conferred with this gentleman during the exam regarding his entire background and experience with the bar exam. With the permission of his attorney, Applicant called the Admissions office, requesting the name of the gentleman who sat at his table. He was told, by Ms. Lee Ann Ward (counsel for Bar Admissions), that this information would be forwarded to his attorney as soon as possible.

Applicant boarded a greyhound bus on or about May 24th to attend the May 25, 2006 hearing. While on the bus, Applicant considered Ms. Meyer's description of his attire and decided to have his tan work-boots sent from Denver to the Supreme Court Building, as a means to challenge Ms. Meyer's perception. Ms. Meyer's table was 10 to 15 yards away and across the isle from Applicant and she had indicated that he was wearing yellow mesh shorts and yellow gym shoes. Applicant recalled that he was

wearing his blue work uniform and believes he was wearing his tan work boots. Applicant does not own a pair of yellow gym shoes.

As the record reflects, Applicant notified Ms. Ward that he would be sending "some materials" to the Admissions office, which he might use in his defense. Applicant had the package sent to the Bar Admissions office "care of Lee Ann Ward: Rahshann," upon the notion that she was an uninvolved officer of the Court. He recalled that she had facilitated such correspondence on several occasions in the past[13].

On May 24, 2006, while en route to Ohio (St. Louis, Missouri), Applicant called his attorney and was then told that the hearing had been continued. Although there were many grounds upon which Applicant's attorney could have reasonably continued the hearing, Mr. French premised the continuance upon the unavailability of Dr. Hustak.

On the following day (i.e., the day of the intended hearing; 9:00am) Applicant called Ms. Ward and told her that he would be there shortly to pick up the package that he had sent in her care. She asked Applicant if the package had enclosed a pair of yellow boots. Applicant verified them as his and told her he would be there right away to pick them up.

Interim

Counsel for Applicant notified the Court that Applicant had began to seek council elsewhere. At the same time, Applicant faxed the panel chair and (mailed) the special investigator notice that he was seeking assistance elsewhere. He also requested that the next hearing be set prior to the July 2006 Bar exam.

[13] In a letter to Applicant dated September 16, 2005 Ms. Ward states "please call me if you need any further assistance."

Applicant sought to retain attorney Diana Anelli-- a seasoned attorney before this Court. Applicant agreed to pay a fee of $5,000. Applicant would pay a $1,000 retainer and the balance ($4,000) was to be paid by the day of the hearing. Applicant immediately paid Ms. Anelli $600 in hopes that she would make efforts to have his hearing scheduled before the 2006 bar exam. He had also given Ms. Anelli his office telephone number as well as his cell phone number.

Ms. Anelli took steps to have Applicant's hearing set prior to the 2006 bar exam, but was informed by the panel chair that the panel members' schedules would not permit such an early date. Applicant's hearing was reset for October 26, 2006.

During the interim Applicant continued to call Anelli and update her as to his efforts to completely pay the entire $5,000 as soon as he could. She requested that Applicant pay her the $400 balance on the retainer by September 1, 2006. She routinely contacted Applicant by U.S. mail or by e-mail instead of calling Applicant back directly on the telephone concerning his hearing.

On September 1, 2006 Applicant called Ms. Anelli and asked her if she would allow him another week to pay the $400. She waived the September 1st deadline and accepted his payment which was dispatched on September 8, 2006. Applicant understood that Ms. Anelli would immediately enter a formal notice of appearance upon the receipt of the $400. However, she did mention the importance of having the file of Applicant's previous attorney.

Despite having both of Applicant's telephone numbers, Ms. Anelli attempted to send Applicant an e-mail requesting the file that was previously maintained by his former attorney. These e-mails were never received by Applicant, because Ms. Anelli somehow

began using an incorrect e-mail address[14]. Applicant and Ms. Anelli had communicated several times in the past via e-mail.

Despite Applicant's fulfilling his end of the bargain pertaining to the $1000 retainer, Ms. Anelli sent Applicant a letter via U.S. mail, notifying him that she would not be representing him, because of his failure to tender his attorney's file. She stated that she had attempted to call him on his cell phone (which was temporarily disconnected) and that she had e-mailed him several times demanding the file. She did not call him on his office telephone despite his previous tenure of the same. Further, she had been using the incorrect e-mail address in her attempts to notify Applicant[15].

Believing that Ms. Anelli had already entered her formal notice of appearance, Applicant began to contemplate why he had not heard from Ms. Anelli with a confirmation that the notice had been sent. Before receiving any correspondence from Ms. Anelli, Applicant called Ms. Anelli to confirm that she had entered the notice of appearance. He was then informed that she had not filed the notice due to his failure to respond to her e-mails, which were improperly addressed. Although applicant had given Ms. Anelli his office telephone number on at least two occasions in the past, she made no attempt to call him on that number.

Applicant notified the panel chair that he would be present on the date of the hearing and that he would not be represented. He asked the panel chair for accommodations to present character testimony over the telephone. He also notified the

---

[14] Applicant's e-mail address is rblackwell32@hotmail.com. Ms Anelli, despite prior successful e-mail correspondence with Applicant had sent the demands to "r-blackwell@hotmail.com."

[15] The first time that Applicant ever recalls receiving a telephone call from Ms. Anelli was on or about September 20"2006. All previous phone calls were initiated by Applicant.

panel chair that he would make attempts to have both Dr. Hustak available to testify as well as his former attorney.

Applicant notified the Admissions office of his new office address and requested that he be sent the name of the applicant who was seated at his table during the 2005 bar exam. Instead of sending this information to the Applicant, who was without representation at the time, the Admissions office directed him to his former attorney to obtain this information. Applicant's former attorney indicated that he did not have nor did he recall ever receiving any correspondence regarding the name and address of this individual.

The panel chair had specifically limited the scope of the hearing to "the events taking place at the 2005 bar exam." He indicated that the special investigator could raise any other relevant issues regarding Applicant's moral character and fitness "upon timely notice."[16]

Within one week of the October 26, 2006 hearing, Applicant was notified by the special investigator that she would be raising several other issues including 1) Omission's on his 2005 Bar exam application (e.g., his civil mater with Denver University), 2) the updates to his on his July, 2006 Bar exam application (the dismissed charge of possession of marijuana) and his correspondence with Ms. Ward involving the pair of work-boots that he sent to the Supreme Court Admissions office. The special investigator also indicated that she would object to introduction of the psychological evaluation of the

[16] In Judge David Tobin's letter dated January 26, 2006, he states : "This matter is before the Panel on the *sole issue* of applicant's actions at the 2005 Bar exam." [Emphasis added]. This same letter indicated that the special investigator for the Board "could raise any other issues that need to be addressed provided those are timely noticed. . ."

Applicant because she had not yet obtained this report. This, despite having Dr. Hustak's official mailing address and the written consent of Applicant to investigate the same.

At or around noon, on October 22, 2006 (four days prior to the hearing) Applicant called the special investigator for the Board and they both had a conference call with the panel chair discussing matters that were not yet resolved. Applicant alerted the panel chair that he might be requesting a continuance in light of several new issues raised within one week of the October 26th hearing. [See Bar Examiner's Exhibit J: "10/18/06 letter from Trafford"]. Applicant assured the panel chair that he would make every attempt, however, to present his evidence on the scheduled hearing date; indicating that he would still be seeking assistance from competent counsel.

Second Continuance of Hearing

On October 26, 2006, as promised, Applicant appeared and was prepared to go forward on the scheduled hearing in the event that the Panel Chair denied his motion to continue the hearing on several grounds; the first being the unavailability of Bruce French, his attorney to assist him in his presentation. Attorney John Peck (General Partner Peck Shaffer & Williams LLP) had appeared to testify on Applicant's behalf and there were other attorneys prepared to testify via telephone.

Neither the Panel Chair, nor Ms. Loi appeared on the scheduled hearing date. This was because Applicant's attorney (Bruce French) notified them that Applicant would be moving to continue the hearing on several grounds. This was not an 11th hour continuance, because Applicant had already forewarned the Panel Chair four days prior that such a continuance was likely to take place.

Had not this motion been granted, Applicant was prepared to go forward on the scheduled hearing date. Applicant did not object, however, to the absence of Ms Loi or the Panel Chair from the hearing; understanding that they were hours away and that it was his belief that assistance of Counsel would help facilitate his presentation in the hearing.

2007 Hearing

The Board has placed great weight upon the opinion of Dr. Thomas Hustak, despite the fact that his opinion is legally unreliable in many areas.

Much of Dr. Hustak's opinion is based on future opinions, as opposed to Applicant's past or present acts and accomplishments. Therefore, much of Dr. Hustak's testimony would be precluded in any other legal proceeding, due to evidentiary inaccuracy and prejudicial tendency. Dr. Hustak's understanding of limitations against future predictions (e.g., evidentiary restraints against using future predictions in testimony) is reflected in the record where he states:

"Let me say this, there's nothing in. . . psychological testing that can say how a person is going to function as an attorney. . ."

Dr. Hustak then ignores this limitation by basing his evaluation of Applicant's fitness on future predictions:

"Rahshann is going to find it difficult to deal with that kind of [legal] environment, based on his profile, unless he practices some type of obscure law in a building somewhere, where he didn't have to deal with people and [there] weren't going to be time demands and he could kind of come and go as he wanted."

"*I can't say*. . . I certainly can't predict the future . . . but it would be my best guestimate, in all likely probability, within a reasonable degree of certainty, that he's going to likely get in trouble concerning his profile. . . " [emphasis added].

"If the court hearing begins at 3:00, Rahshann will show up at 3:02, with some excuse as to why he couldn't make it on time..."

Dr. Hustak's testimony doesn't point to any specific instances where Applicant's profile has caused him any extraordinary timing problems. Dr. Hustak's evaluation of Applicant's efficiency level does not explain how Applicant managed to graduate from Law School; how Applicant completed the Graduate Tax Program at Denver University's Law School (2002); how Applicant has managed to maintain a successful tax business (i.e., processing 400 tax returns in the previous tax season); or how Applicant has been able to leverage $9,000 from both public and private entities over the past five years, aside from his general business revenues.

Dr. Hustak does not point to any corroborating criminal convictions of the Applicant to substantiate his prediction that applicant will almost certainly get involved in some trouble. Applicant's last criminal misdemeanor conviction occurred in 1994, when he was 19 years old (Applicant was charged with theft of another student's textbook while a student at Miami University in Oxford, OH; Charges amended to Disorderly Conduct). Dr. Hustak doesn't explain how Applicant's criminal record has been kept clean since the age of 19 in light of his cognitive confusion, which he states has existed for "quite some time."

Dr. Hustak's opinion as to Applicant's ability to relate with others on a professional level should be validated against the factual testimony of Applicant's

professional acquaintances, who regard Applicant as a cooperative, sociable and professional individual. They point to actual conduct of the Applicant. For example, Attorney Tyjuan Garrett (former classmate of Applicant) reflected that he and Applicant were study partners as students at the Denver University Graduate Tax Program (2002). He also felt that Applicant was trustworthy and recommended other classmates to Applicant's office to have their taxes prepared. Garret states that all of these students were satisfied with Applicant's work.

Lois Kramer, a client of Applicant, testified that she has continued to entrust Applicant with her complex tax matters for years and that Applicant has always timely filed her income tax returns – ensuring that she met her legal obligation to file her income taxes on time. Although Ms. Kramer indicated that they had experienced "some confusion" in the outset of their relationship, she informed the Board that "everybody" who has undertaken to prepare her returns experienced confusion initially. She recalled going into Applicant's office late one season (within days of the April 15th filing deadline) and still having her taxes filed timely. She noted that he was extremely busy at the time also.

Ms. Kramer testified that she was accustomed to receiving notices pertaining to her farm property out of state and that Applicant immediately addressed those notices by calling her and settling her matters via conference calls with the various taxing authorities. Although she stated that she was sent a bill regarding to two of the tax returns that Applicant had prepared for her, Ms. Kramer noted that this was a nothing unusual – emphasizing the complexity of her portfolio. Ms. Kramer stated that she was

pleased with the manner in which Applicant solved these issues. She finally opined that she felt comfortable when visiting Applicant's office.

Although far from conclusive, these testimonies should hold more weight than Dr. Thomas Hustak's prejudicial forecasts.

The primary incident that Dr. Hustak points to in support of his conclusion is the 2005 Ohio Bar Exam incident. The record doesn't reflect that Applicant was in material breach of any exam rule. Dr. Hustak does not point to any criminal record or criminal activity (a more relevant question that the Board is required by this Court to consider). Nor can he point to any extraordinary flaw in Applicant's timing. Dr. Hustak's show of cause is insufficient in that it does not distinguish the error of the Applicant from the ordinary and common error of those Applicants taking the examination right beside him.

The Board's responsibility is to assess Applicant's conduct against the law (e.g., his compliance with laws, rules and regulations; his conformity with the Disciplinary Rules, meeting financial responsibilities etc.). The Board has abandoned this inquiry and has based its reliance upon the word of a psychologist, who is not trained in the law.

Dr. Hustak assumes that the breach of a single exam writing rule during an exam, justifies Applicant's "self-imposed trouble" with the Exam Board. Dr. Hustak does not first address the code of behavior (e.g., protocols) of the Bar Exam. The protocols of the Bar Exam do not automatically cast an applicant before the Exam Board, where an applicant perfects one word after the call of time. This is what Marcia Mengel has said[17]. This Court recognizes that applicants may on occasion deviate from the time restraints. Nothing in the record suggest that Applicants deviation from the rules on this occasion

[17] See Bar Examiner's Hearing Case No 983 Page 45; line 36.

was other than normal. Chris Wilhelm, Applicant's proctor, excused the error as immaterial.

By basing it's conclusion on Dr. Hustak's report, the Board has based it's conclusion upon prejudicial predictions instead of basing its opinion on the Applicant's failure to conform to the Law (e.g., his behavior in light of protocol). Applicant's feelings, thoughts and emotions really have no relevance insofar as they have not affected Applicant's ability to maintain a successful business and provide professional and timely services for those in his community. The Character and Fitness Board should first consider Whether Applicant's conduct was inconsistent with the law, before it even attempts to addresses the constitutionally protected thoughts and opinion's of the Applicant. Perhaps this is why questions regarding an Applicant's mental state appear last on the Application.

The Clerk's articulation of the protocols, regarding exam writing violations evince this Court's opinion as to the reasonableness of writing beyond time. The record fails to reflect that Applicant's actions during the 2005 Bar Exam deviated from the material expectations of this Court. Therefore, Hustak's conclusion is unsubstantiated, because he points to the "reasonable" and lawful conduct of the Applicant in his attempts to support his conclusion that Applicant's thinking is self-destructive.

Dr. Hustak's testimony is extremely rhetorical and condemning, but it is unsubstantiated. His opinion is filled with predictions, comparisons, hypothetical scenarios etc., but he has very little, if any, corroborating support for these forecasts and predictions. The law requires the Board to look at the conduct (e.g., specific acts) of the Applicant when determining his qualifications to practice law in this state.

"Applicants... must establish by clear and convincing evidence that their prior *conduct* justifies the trust of the clients, adversaries, courts and others with respect to the professional duties owed to them." [Emphasis added]. See In re Application of Keita. (1995) 74 Ohio St.3d 46 at page 4.

General Premise of Applicant's Objections

Applicant objects to the disqualification of his exam by the Examination Board. Applicant further asks that this court refer this matter to the Exam Board so that his exam may be graded. The Exam Board's decision to disqualify Applicant's exam was a disciplinary measure (a responsibility of the Character and Fitness Board), which exceeded the scope of this Board's authority and as set forth by this Court.

Alternatively, the Board's sanction was inappropriate and excessive, considering the alleged violation. Without allowing the Applicant a prior hearing, the Exam Board unilaterally disqualified Applicant's entire exam, where Applicant had admitted to perfecting a single word after the call of time. Applicant urges this court to note the difference between determining whether an exam properly reflects the entire work and knowledge of an Applicant and whether the applicant has the requisite degree of character and fitness to practice the law. These are two different considerations subject to two different determining bodies. In substance, by refusing to impose an appropriate and consistent sanction, the Exam Board took an act which was outside the scope of its authority and which automatically called for an investigation into the Applicant's Character and Fitness to practice law. The Applicant moves that this court dismiss the present cause and reset the cause with the Exam Board for a hearing to determine

whether the Applicant's exam is a true reflection of his knowledge of the law and whether he meets the state's standard for minimum competency.

Where an Applicant is found to have written beyond the call of time during the Bar exam, several sanctions have been imposed. These sanctions are imposed according to the extent to which an Applicant's writing exceeds the call of time[18]. Where the Applicant's extended writing is incidental there *may* be no action taken at all. Typical sanctions include the elimination of words, sentences and / or entire answers from the exam prior to its grading. The most severe sanction imposed by the Exam Board is disqualification. Disqualification of an entire exam has been deemed appropriate where the Applicant's continuation is found to be "egregious." The Clerk of Court, who administers the exam, has stated that an Applicant's violation is considered egregious, where there are several complaints reported against him or where a student continues to write after being told to stop on a particular segment. See In re Application of Wang. These sanctions are implemented to meet the Exam Board's fairness objective; that no student get an unfair, material advantage over any other student and that each student has a fair and even opportunity to demonstrate minimum competence to practice law[19].

The Exam Board denied Applicant's hearing and an opportunity to justify his actions before it disqualified his exam. The Board's determination automatically classified the Applicant's actions as egregious, before allowing him an opportunity to hear or defend against any statements and accusations which may have been raised against him or an opportunity to defend, under law, his own actions. The Exam Board's

---

[18] See Applicant's hearing before the Board of Examiners. Case No. 983 at 36: "And so we don't try to catch an Applicant doing one little thing and then try to get the Board to take action against the Applicant. It's really a matter of degree." Clerk of Court, Marcia Mengel.

[19] See Bar Examiners Hearing Case No. 983; p 24 line 23 "So its important with any high stakes licensing exam to make sure that. . . all Applicant's have followed the same set of rules."

action violated Applicant's rights under the 14th Amendment, which requires that the Applicant be subjected to the same penalty or sanctions imposed on other Applicant's who commit the same or similar purported violations (if any measures are taken at all). The Exam Board's decision also violated Applicant's 14th Amendment right, because its sanction necessarily denied the Applicant the same opportunity as other Applicants to prove his ability to meet the minimum competency requirements (as distinguished from demonstrating requisite character and fitness).

Neither the law, as set forth by this Court, nor the rules of administration require an absolute halt at the call of time on the examination. Applicant recognizes that this Court's tolerance is extremely limited, allowing an Applicant only so much time as to contemplate both the nature and the possible consequences of his actions (e.g., coming to attention). And that the overall purpose of such strict time limitations is to ensure fairness in the administration of the exam and to maintain the trust of the public.

In the words of the Clerk of Court, Marcia Mengel:

It's a timed exam, and if we have. . .Applicants stopped at a certain time, but allow the other Applicants to continue to write, then we don't have fairness in the examination... we are just trying to make it as fair as we can really for *all* Applicants. And as a result, then we have satisfied our charge of protecting the public. [Emphasis added].

Ms. Mengel has testified:

"I expect [a conclusion] to be reasonable. And reasonable to me is to finish a word, not a sentence."[20]

[20] Examiner's Hearing. Case No. 983 at page 36.

The Clerk of Court also stated that, although writing past time was not permitted, she would not take any action against an individual for finishing one word beyond the call of time.

"I wouldn't take any action for somebody finishing a word."[21]

In the hearing before the Board of Character and Fitness, it was established that Applicant perfected one word beyond the call of time. Thus it is Applicant's position that no action by the Exam Board should have been taken, pursuant to the regulations of the exam's administration. If Ms. Mengel would not bring an action against any other student for finishing one word beyond time, then she should be estopped from bringing an action against the Applicant, regardless of his past encounters with the Exam Board. This would offend the objectives of the examination process, which Ms. Mengel set forth previously. Allowing other students to perfect even one word after the call of time, while not allowing the Applicant the same grace, would be to put the Applicant at an unfair disadvantage. In Ms. Mengel's words, this would violate the public trust. If other Applicants have the liberty in this exam to complete and bring to perfection one word after the call of time, then so should the Applicant.

The acceptance and implementation of this regulation is clearly demonstrated by the response of Ms. Chris Wilhelm, an exam proctor who waived Applicant's correction as immaterial. When the Applicant notified Ms. Wilhelm that he had written beyond the call of time and was shown Applicant's correction, she told him "don't worry about it." She did not report the incident to the Board until Applicant had reported the incident to Ms. Mengel. This proves that, consistent with Ms. Mengel's statement, such grace is given by the exam proctors who assist in the administration of the exam.

---

[21] Id. At page 47; line9.

The fact that the Applicant wrote for 4.45 seconds after the call of time does not necessarily call for a review by the Exam Board. The fact that Applicant perfected a word after the call of time should not affect the authenticity of his exam, because all of the other students in the Examination hall shared this same privilege -- to take such a limited measure. Once again, to allow all others in the Exam Hall the opportunity to finish or perfect one word on a given exam segment and to disallow Applicant the same liberty, would necessarily place Applicant at an unfair disadvantage. The Applicant is not asking this court for special testing allowances or any favorable treatment in this present matter. Applicant expects, however, an equal opportunity to display his knowledge of the Law.

Applicant's Approach to the Clerk on a "Personal Level"

In the case below, the investigator for the Panel raised the question as to the impropriety of Applicant's appeal to the Marcia Mengel on a "personal level." Ms. Mengel indicated that, at the conclusion of the 2005 Bar Exam, Applicant reported his writing incident to her and then claimed he was appealing to her "on a personal level." She testified that his repeated use of the term "on a personal level" gave her the impression that he was asking her not to report the incident to the Board. She testified also that her response was that such a concealment of information would be essentially unethical (Ms. Mengel used the term "unfair").

Ms. Mengel's prior testimony reflects her prior abstention from reporting Applicants in the past for writing beyond time. In addition to the statements already addressed above, Ms. Mengel has stated that:

A: "Because frankly, if I saw somebody continue to write I would make a note of that and it *could* be an issue that I want to investigate." [Emphasis added].

Therefore, Applicant would have been justified in openly requesting that she simply "take note" of the incident instead of referring his exam to the Board. This statement, along with Ms. Mengel's "reasonableness" statement and her open acknowledgement that she wouldn't turn an exam over to the Board for one's simply "finishing a word" beyond time tend to establish that it wouldn't have been improper for Applicant to ask that she not report the incident. As the Exam Board hearing reflects, Ms. Mengel does not refer every writing violation to the Exam Board.

Case Analysis

A relevant case to consider in the present matter is In re Application of Wang. In Wang, this Court disapproved an Applicant who continued to write after he had been specifically instructed to stop writing on a particular exam segment. Mr. Wang's table was slapped (according to protocol) and despite this warning he filled in answers on the exam after he had time to contemplate the gravity and potential consequences of his act. Mr. Wang was disapproved because the Board of Character and Fitness determined that he had lied about the incident under oath before the Exam Board.

In the current matter, Applicant directly addressed his proctor and informed her that he had written beyond the call of time. His proctor waived the correction and told him that this was an immaterial incident. Further, Applicant addressed the Clerk of Court and "flagged" his exam. Applicant wrote a detailed explanation of his correction. At his hearing, Applicant admitted his action in a forthright manner. Applicant did not deny the

possibility that he may have corrected his exam number in an earlier segment; although he stated that he did not recall doing so.

In any event in Mr. Wang's hearing before the Board of Bar Examiner's, a distinction was made between substantive changes (i.e., bubbles being filled in after time had been called) and changes to numbers and dates in the top caption of the answer sheet. Further Ms. Mengel has previously testified that "finishing one word" was reasonable and the Panel found that Applicant had done just this (e.g., perfected) one word after time had been called.

Applicant in this present case has done nothing out of the ordinary in this particular exam. Such an act has been deemed reasonable and non-actionable previously by the Clerk of Court. Further Applicant notified and did not lie about his act when testifying under oath.

In In re Application of Bowers, this Court denied an applicant's application to be seated, because of the fact that she had been diagnosed and evaluated by at least two (possibly three) psychologists and each of them doubted her mental fitness. Ms. Bowers was involuntarily committed to a psychiatric ward in her past. She had previously been diagnosed with psychosis and her psychologist had indicated that a relapse was possible to occur. Ms. Bower's was found to have conducted herself in an inappropriate manner, when she had called the grievance board and reported her employer (a licensed attorney) for practicing law in an unethical manner. Further Ms. Bower's references were held to be outdated.

In the present matter, Applicant has been evaluated by only one psychologist. Applicant's psychological report shows signs of cognitive confusion ("unusual" thoughts

and excessive thinking). Applicant's tests indicate mixed symptoms of anxiety and mild depression (see Hustak's report; depressive disorder NOS; not otherwise specified).

Appliant's score on the MMPI indicated elevations in anxiety. However, when Dr. Hustak tested Applicant for a second time using the 16PF (multiple choice), Applicant exhibited normal levels of anxiety. Applicant's test results deny any sign of psychosis. Applicant's test results show no signs of schizophrenia (which is usually developed in the late teens). Applicant has no history of major psychological troubles or involuntary commitment to any psychological wards in the past.

Applicant's references were current. Several attorneys with whom Applicant keeps constant ties have testified on his behalf. For example, Tyjuan Garret was a classmate of Applicant in 2002 as a candidate for the degree of LLM; Taxation. Mr. Garret has testified that he has continued to call upon Applicant for his own tax advice since then. Applicant's recent 2006 appointment to the NRCC Business Advisory Counsel and his receipt of the NRCC National Leadership Award also indicate that his purported confused thinking has not hindered him from being a successful business planner and tax consultant. Applicant's recent act(s) at the 2005 Bar exam have not been distinguished from those of the other applicants, who have done similar things in the past without being disapproved by this Court.

Most importantly, Applicant has openly recognized that he has idiosyncrasies and tendencies stating "I know I've got issues..." However, these should not preclude him from being seated before the Bar, because Applicant's thoughts, desires, fears etc. have not been legitimately coupled with any substantially unprofessional or unethical conduct

(criminal convictions, drug or alcohol abuse etc.). Applicant's answers to question number 9 on the exam application has always been "no."

Protecting the Public Saftey

Applicant recognizes that extensive measures must be undertaken to protect the vital interests of the public, when determining one's fitness to be seated before the Bar. These safeguards are inherent in the Bar Exam Application. The questions in the application inherently preclude those with histories of criminal misconduct; professional misconduct; omissions; financial irresponsibility; drug addiction; mental illness (i.e., psychosis, schizophrenia; paranoia etc.)

Applicant's recent conduct during the 2005 Bar Exam should not preclude him from being seated before the Bar, because it falls outside of these questions. It has not been established that Applicant's acts have deviated from the norm in this situation. It is Applicant's position that his exam should have been graded in its entirety, because there is no evidence of any material advantage held by Applicant during this particular exam.

The Panel has clearly erred in finding that Applicant was not diligent in maintaining candor with the court. The Panel found that Applicant had been arrested two times prior to the July, 2005 Bar exam. Applicant was only arrested once. Further, Applicant updated this Court as to these incidents on his July, 2005 Bar exam application (filed March 30, 2005). Applicant also updated his application to reflect a subsequent citation (No proof of insurance etc.) on May 6, 2005. Notwithstanding, the Board approved his character and fitness and allowed him to be seated in July, 2005. The re-litigation of these issues has placed Applicant's approval in jeopardy for a second time, although he was already given permission to sit despite these incidents in July, 2005.

For the foregoing reasons Applicant asks this court to reset this cause with the Board of Bar Examiners to determine whether Applicant was in material violation of the July, 2005 Bar exam rules. Alternatively, Applicant asks this Court to remand the cause to the Board of Character and Fitness in light of the factually erroneous findings of the Panel; namely, the finding that Applicant failed to update his application with information regarding the traffic citations and one arrest, which were all filed timely before the July, 2005 Bar exam. [See Applicant's July, 2005 Bar Application (filed March 30, 2005; See also Applicant's update, filed May 6, 2005).]

CERTIFICATE OF SERVICE

I, Rahshann Blackwell, certify that I have caused a copy of these objections and the brief in support thereof to the following parties this 29th day of April, 2007.

Kathleen Trafford, Esq.,
Relator
Porter Wright Morris & Authur, LLP
41 South High Street
Columbus, OH 43215

Bruce Comly French
P.O. Box 839
Lima, OH 45802-0839