

**BEFORE THE BOARD OF COMMISSIONERS
ON
GRIEVANCES AND DISCIPLINE
OF
THE SUPREME COURT OF OHIO**

In Re:	:	SCO Case No. 04-1064
Reinstatement of	:	BOC Case No. 03-045
R. Allen Sinclair Attorney Reg. No. 0055915	:	Findings of Fact, Conclusions of Law and
Respondent	:	Recommendation of the Board of Commissioners on
Mahoning County Bar Association	:	Grievances and Discipline of the Supreme Court of Ohio
Relator	:	
	:	

FILED

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CLERK OF COURT
SUPREME COURT OF OHIO

This matter came for hearing in Columbus, Ohio on November 19, 2007, upon the petition of R. Allen Sinclair for reinstatement to the practice of law, pursuant to Gov. Bar R. V(10)(A), before a two-person panel consisting of Walter Reynolds, of Dayton, Ohio and Lynn B. Jacobs, of Toledo, Ohio. The third panel member, Judge Beth Whitmore, of Akron, Ohio, was not present due to recent surgery. Neither of the panel members was from the appellate district in which the petitioner resides or in which petitioner resided at the time of his suspension.

The Petitioner was represented by Geoffrey Stern, Esq., of the law firm of Kegler, Brown, Hill and Ritter, of Columbus, Ohio. The Relator, Mahoning County Bar Association, entered into a Joint Stipulation(Exhibit I) with Petitioner which was put on record at the beginning of the hearing. The Stipulation stated that the entire thirty-three member Certified Grievance Committee of the Mahoning County Bar Association had

been polled and that no objection to Petitioner's reinstatement was made either explicitly or implicitly. The Stipulation also stated that Attorney Ronald E. Slipski, who had prosecuted this matter in 2004, also had no objection to the reinstatement.

The burden is on the Petitioner to show by clear and convincing evidence that he should be reinstated to the practice of law. He must establish that he possesses all of the mental, educational, and moral qualifications that were required for admission to the practice of law at the time of his original admission, and that he is now a proper person to be re-admitted to the practice of law in Ohio, notwithstanding the prior disciplinary action.

The Petitioner must also show by clear and convincing evidence that he has made restitution(if any is due) to persons harmed by his misconduct, and that he has complied with the continuing legal educational requirements as prescribed by Rule X, Section 3(G) of the Rules for the Government of the Bar of Ohio.

FINDINGS OF FACT

1. At the hearing, the Panel heard testimony from Mr. Sinclair and one witness on his behalf, Mr. Loren Popio, Esq.

2 Petitioner Sinclair was born on August 12, 1963 and is a graduate of the Thomas M. Cooley Law School. He took and passed the Ohio Bar Exam in 1991 and was admitted to the practice of law in Ohio in that year.

3. A native of Youngstown, Ohio, Petitioner returned to the city and rented space from and did legal work for Attorney Henry DiBlasio, who became his mentor. DeBlasio, at that time, was also Chief of Staff for Congressman James Traficant, U.S.

Congressman for the 17th Congressional District. He also began to develop his own practice, especially personal injury work.

4. In 1996, Petitioner and DeBlasio formed a partnership which lasted about 2 ½ years until DeBlasio announced his intention to retire both from the practice of law and from his position as Chief of Staff to Congressman Traficant.

5. Petitioner testified that during the period from 1993-2004, he had approximately 400 open cases.

6. In 1998, Petitioner succeeded Attorney DiBlasio as Chief of Staff for Congressman Traficant. As part of his employment negotiations with the Congressman, Petitioner was to be paid \$60,000 per year on condition that Petitioner return to Traficant \$2500 from his paycheck each month. Thus, Petitioner would net only ½, or \$2,500, of his \$5,000 per month salary.

7. Since, upon retirement, DiBlasio intended to sell the building in which the two partners practiced, Petitioner decided to purchase DeBlasio's building in order to maintain his law practice. As part of the arrangement, Traficant relocated his office to DiBlasio's former space in that building, even though federal conflicts of interest rules precluded a staff person from leasing space to a Congressman.

8. To circumvent this problem, Petitioner's wife purchased the building from DeBlasio in the name of KAS Enterprises. She then leased office space to the Congressman.

9. Petitioner also agreed to prepare a Deed for the transfer of property Traficant owned to the Congressman's daughter, knowing that tax judgments against the

Congressman existed and that the transfer may have amounted to a fraudulent conveyance.

10. Based on the facts in paragraphs 6-9, Petitioner was indefinitely suspended from the practice of law by the Ohio Supreme Court on December 29, 2004 in Mahoning County Bar Assn. v. Sinclair, 105 Ohio St. 3d 65, 2004-Ohio-7014. [He had previously been sanctioned with a stayed six-month suspension and a one-year probation for publicity violations of the Ohio Code of Professional Responsibility, in Mahoning County Bar Assn. v. Sinclair (2000), 88 Ohio St. 3d 328. That sanction related to violations of the Code's provisions concerning law firm publicity.

11. At the time of the 2004 suspension, Petitioner owed no restitution to any wronged party.

12. The minimum required time of suspension from the practice of law for an indefinite suspension is two years, which term expired on December 29, 2006. The Petition for Reinstatement of this Petitioner was October 15, 2007. Petitioner testified that the reason for delaying his Petition for Reinstatement was the demands of the business he had created during the term of his suspension.

13. He testified that he had formed and operated two companies during his suspension in 2005-2006. The first, Newport Investments, LLC, bought, renovated and sold homes for sellers who, whether due to bankruptcy, threatened foreclosure, divorce, death or loss of job, needed to sell their homes and had been unable to do so through other means. The second arm of the company secured investors who were willing to lend money to buyers to make possible home purchases that also might otherwise be unobtainable.

In order to establish his business, Petitioner testified that he invested over \$30,000 of personal funds to attend 315 hours of seminars throughout the United States. He stated that in the two years of suspension, he has successfully renovated and sold 45 homes using his newly acquired skills.

14. These business activities and successes have been undertaken in compliance with Gov. Bar R. V, Sec. 10(C)(5). In further support of his rehabilitation, Petitioner testified that he has been invited to sit on the Board and to serve as (volunteer) Interim Director of Midlothian Free Health Clinic, the first free health clinic established in Youngstown. Finally, he continues to be an active husband, father of three children and member of two Youngstown area churches, both of whose clergy wrote letters of support for his reinstatement.

15. No prior petitions for reinstatement have been filed by or on behalf of the Petitioner and therefore none have been granted or denied.

16. Petitioner is in compliance with the continuing legal education requirements for reinstatement under Gov. Bar. R. X, Sec. 3(F) and (G). In fact, he has accumulated continuing education hours, both general and in the ethics, professionalism, and substance abuse components, in excess of the number required. [Exhibit C].

17. In addition to testimony from the Petitioner, the Panel heard testimony from Attorney Loren Popio, a former judicial clerk of the Court of Appeals for the Seventh District of Ohio and a mediator before whom the Petitioner appeared frequently during the ten years he practiced personal injury law prior to his indefinite suspension. Mr. Popio spoke highly of the Petitioner's professionalism and said he was impressed that the

Petitioner, unlike other attorneys, always put his client's interests first and always seemed to have a good personal relational relationship with them.

18. Many letters of support were also entered into evidence, including those of three attorneys in the Youngstown area who had known and practiced with the Petitioner for many years prior to his indefinite suspension. In addition, his former legal assistant and now office manager for his new real estate investment business wrote glowingly of the exemplary traits of character which had enabled the Petitioner to re-establish himself and support his family during his suspension and which would enhance the well-being of the entire community if he were to be permitted to resume the practice of law.

CONCLUSIONS OF LAW AND RECOMMENDATION

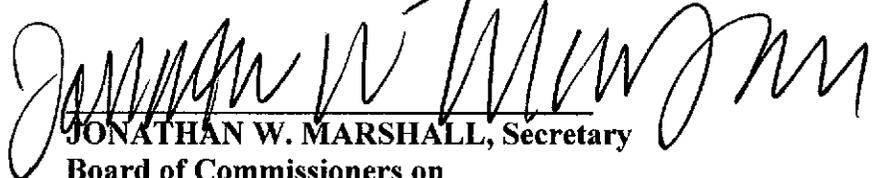
The Panel has concluded that Petitioner R. Allen Sinclair has proved by clear and convincing evidence each of the following:

1. The Petitioner owes no restitution to any wronged party;
2. The Petitioner has complied with the continuing legal education requirements stated in Gov. Bar. R.X, Section 3(F);
3. The Petitioner possesses all of the mental, educational and moral qualifications that were required of an applicant for admission to the practice of law in Ohio at the time of his original admission;
4. The Petitioner is now a proper person to be readmitted to the practice of law in Ohio, notwithstanding the previous disciplinary action;
5. The Panel, without reservation, unconditionally recommends that Petitioner, R. Allen Sinclair, be readmitted to the practice of law in the state of Ohio.

BOARD RECOMMENDATION

Pursuant to Gov. Bar Rule V, Sec. 10(G)(5) and (6), the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio considered this matter on December 7, 2007. The Board adopted the Findings of Fact, Conclusions of Law and Recommendation of the Panel and recommends that the Respondent, R. Allen Sinclair, be readmitted without conditions to the practice of law in the State of Ohio. The Board further recommends that the cost of these proceedings be taxed to the Respondent in any disciplinary order entered, so that execution may issue.

Pursuant to the order of the Board of Commissioners on Grievances and Discipline of The Supreme Court of Ohio, I hereby certify the foregoing Findings of Fact, Conclusions of Law, and Recommendations as those of the Board.

A handwritten signature in black ink, appearing to read 'Jonathan W. Marshall', is written over a horizontal line.

**JONATHAN W. MARSHALL, Secretary
Board of Commissioners on
Grievances and Discipline of
The Supreme Court of Ohio**

The Supreme Court of Ohio

DEC 29 2004

MARCIA J. MENGEL, CLERK
SUPREME COURT OF OHIO

Case No. 04-1064

Mahoning County Bar Association,
Relator,

v.

R. Allen Sinclair, a.k.a.,
Raymond Allen Sinclair,
Respondent.ON CERTIFIED REPORT BY THE
BOARD OF COMMISSIONERS ON
GRIEVANCES AND DISCIPLINE OF
THE SUPREME COURTORDER
100-599

The Board of Commissioners on Grievances and Discipline filed its Final Report in this Court on July 1, 2004, recommending that pursuant to Rule V, Sec. 6(B)(3) of the Supreme Court Rules for the Government of the Bar of Ohio the respondent, R. Allen Sinclair, be suspended from the practice of law for a period of two years. Respondent and relator filed objections to said Final Report, respondent and relator filed answers, and this cause was considered by the Court. On consideration thereof,

IT IS ORDERED AND ADJUDGED by this Court that pursuant to Gov. Bar R. V, Sec. 6(B)(2), respondent, R. Allen Sinclair, Attorney Registration Number 0055915, last known business address in Youngstown, Ohio, be indefinitely suspended from the practice of law consistent with the opinion rendered herein.

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

IT IS FURTHER ORDERED that respondent is hereby forbidden to counsel or advise or prepare legal instruments for others or in any manner perform such services.

IT IS FURTHER ORDERED that the respondent is hereby divested of each, any, and all of the rights, privileges and prerogatives customarily accorded to a member in good standing of the legal profession of Ohio.

IT IS FURTHER ORDERED that respondent be taxed the costs of these proceedings in the amount of One Thousand Seven Hundred Fifty-Four Dollars and Five Cents (\$1,754.05), which costs shall be payable to this Court by certified check or money order on or before 90 days from the date of this order. It is further ordered that if these costs are not paid in full on or before 90 days from the date of this order, interest at the rate of 10% per annum shall accrue as of 90 days from the date of this order, on the balance of unpaid Board costs. It is further ordered that respondent may not petition for reinstatement until such time as respondent pays costs in full, including any accrued interest.

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

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

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

IT IS FURTHER ORDERED that on or before 30 days from the date of this order, respondent shall:

1. Notify all clients being represented in pending matters and any co-counsel of respondent's suspension and consequent disqualification to act as an attorney after the effective date of this order and, in the absence of co-counsel, also notify the clients to seek legal service elsewhere, calling attention to any urgency in seeking the substitution of another attorney in respondent's place;
2. Regardless of any fees or expenses due respondent, deliver to all clients being represented in pending matters any papers or other property pertaining to the client, or notify the clients or co-counsel, if any, of a suitable time and place where the papers or other property may be obtained, calling attention to any urgency for obtaining such papers or other property;
3. Refund any part of any fees or expenses paid in advance that are unearned or not paid, and account for any trust money or property in the possession or control of respondent;
4. Notify opposing counsel in pending litigation or, in the absence of counsel, the adverse parties, of respondent's disqualification to act as an attorney after the effective date of this order, and file a notice of disqualification of respondent with

the court or agency before which the litigation is pending for inclusion in the respective file or files;

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

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

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

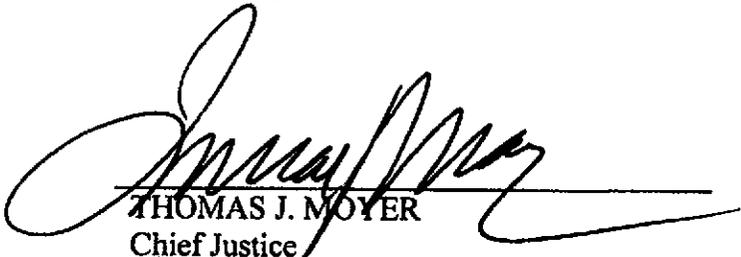
IT IS FURTHER ORDERED that on or before 30 days from the date of this order, respondent surrender the attorney registration card for the 2003/2005 biennium.

IT IS FURTHER ORDERED that respondent shall keep the Clerk, the Mahoning County Bar Association, and the Disciplinary Counsel advised of any change of address where respondent may receive communications.

IT IS FURTHER ORDERED, sua sponte, that all documents filed with this Court in this case shall meet the filing requirements set forth in the Rules of Practice of the Supreme Court of Ohio, including requirements as to form, number, and timeliness of filings.

IT IS FURTHER ORDERED, sua sponte, that service shall be deemed made on respondent by sending this order, and all other orders in this case, by certified mail to the most recent address respondent has given to the Attorney Registration Section.

IT IS FURTHER ORDERED that the Clerk of this Court issue certified copies of this order as provided for in Gov. Bar R. V, Sec. 8(D)(1), that publication be made as provided for in Gov. Bar R. V, Sec. 8(D)(2), and that respondent bear the costs of publication.


THOMAS J. MOYER
Chief Justice

MAHONING COUNTY BAR ASSOCIATION v. SINCLAIR.

[Cite as *Mahoning Cty. Bar Assn. v. Sinclair*,
105 Ohio St.3d 65, 2004-Ohio-7014.]

*Attorneys at law — Misconduct — Engaging in conduct involving dishonesty or
deceit — Engaging in conduct adversely reflecting on fitness to practice
law — Indefinite license suspension required when attorney has paid
illegal gratuities to public official.*

(No. 2004-1064 — Submitted October 12, 2004 — Decided December 29, 2004.)

ON CERTIFIED REPORT by the Board of Commissioners on Grievances and
Discipline of the Supreme Court, No. 03-045.

Per Curiam.

{¶ 1} Respondent, R. Allen Sinclair of Boardman, Ohio, Attorney Registration No. 0055915, was admitted to the practice of law in Ohio in 1991. On March 29, 2000, we ordered a six-month suspension of respondent's license, which we stayed, for his failure to comply with requirements for advertising his legal services. We placed respondent on probation for one year with conditions. See *Mahoning Cty. Bar Assn. v. Sinclair* (2000), 88 Ohio St.3d 328, 725 N.E.2d 1114. The court terminated respondent's probation on June 22, 2001. See *Mahoning Cty. Bar Assn. v. Sinclair* (2001), 92 Ohio St.3d 1425, 749 N.E.2d 753.

{¶ 2} On May 13, 2003, relator, Mahoning County Bar Association, charged respondent with additional violations of the Code of Professional Responsibility, all of which involved his association with former United States Congressman James A. Traficant Jr., who had been convicted of conspiracy to commit bribery, conspiracy to violate illegal-gratuity statutes, accepting an illegal gratuity, obstructing justice, conspiring to defraud the federal government, filing

false tax returns, and racketeering. See *United States v. Traficant* (C.A.6, 2004), 368 F.3d 646 (convictions affirmed). A panel of the Board of Commissioners on Grievances and Discipline heard the cause, made findings of misconduct, and recommended that respondent be suspended from the practice of law for two years, with 18 months stayed on the condition that he commit no further misconduct. The board adopted the panel's findings of misconduct but recommended a two-year suspension.

Misconduct

{¶ 3} The complaint alleged misconduct in three separate but related events: (1) respondent's kickbacks to Traficant from his salary as a congressional staff member, (2) respondent's agreement to rent Traficant office space through KAS Enterprises, and (3) respondent's preparation of a quitclaim deed for Traficant to transfer some property to Traficant's daughter. The complaint charged that respondent had in the course of these events violated DR 1-102(A)(3) (barring illegal conduct involving moral turpitude), 1-102(A)(4) (barring conduct involving dishonesty, fraud, deceit, or misrepresentation), 1-102(A)(6) (barring any conduct that adversely reflects on a lawyer's fitness to practice law), 7-102(A)(6) (prohibiting a lawyer from using false evidence), 7-102(A)(7) (prohibiting a lawyer from counseling or assisting a client in illegal or fraudulent conduct), and 7-102(A)(8) (prohibiting any illegal conduct or act in violation of a Disciplinary Rule).

{¶ 4} Upon graduation from law school, respondent started a private law practice and leased office space from then attorney Henry A. DiBlasio in Youngstown. In addition to practicing law, DiBlasio was Traficant's chief of staff and had been for years. DiBlasio eventually resigned from the Ohio bar with disciplinary action pending. See *In re Resignation of DiBlasio*, 99 Ohio St.3d 1207, 2003-Ohio-2733, 789 N.E.2d 239.

{¶ 9} Against this backdrop, DiBlasio advised respondent that he would be resigning as Traficant's chief of staff, and he offered to recommend respondent for Traficant's staff. Respondent learned in October 1998 that Traficant was interested in hiring him. Traficant later came to respondent's office and requested that they take a ride to discuss respondent's employment.

{¶ 10} In the car, Traficant offered to hire respondent as an administrative assistant and counsel, explaining that he had always had an attorney on staff and always would. Although respondent had previously performed some work for Traficant, he expressed reservations about what services he could realistically offer as an aide. Traficant reassured respondent, describing various research or constituent projects and other work that he would ask respondent to complete from time to time. Traficant offered respondent an annual salary of \$60,000 to \$65,000 and said that respondent could maintain his law practice as long as he could still work at Traficant's discretion. Traficant also told respondent that, as a condition of his employment, he would be required to repay \$2,500 of his monthly paycheck to Traficant.

{¶ 11} Traficant and respondent's conversation eventually turned to office space. Respondent and Traficant agreed that if respondent paid the kickback and also bought DiBlasio's building, a purchase respondent was already considering, Traficant would rent DiBlasio's office space. Respondent thought that this arrangement would enable him to maintain his private law practice while working for Traficant.

{¶ 12} Respondent accepted the staff position in Traficant's office and started immediately. The job and Traficant's increased lease payments were essential to respondent financially. And in exchange for respondent's job, the kickbacks and leasehold arrangement were essential to Traficant.

{¶ 13} Respondent later discussed with DiBlasio the \$2,500 monthly payments that Traficant had demanded. DiBlasio confirmed that he and Traficant

had had a similar arrangement. DiBlasio told respondent how to pay the kickback – by cashing his paycheck, placing \$2,500 each month in an envelope, and giving the envelope to Traficant.

{¶ 14} Respondent eventually purchased the office building, which was actually owned by a corporation that DiBlasio had formed, for \$120,000. He did not, however, buy the building in his own name. Because DiBlasio had told him that ethics rules precluded a congressional staff member from leasing property to a congressman, respondent bought the property using a trade name, KAS Enterprises, registered to his wife. Respondent claimed that this arrangement satisfied congressional ethics rules.

{¶ 15} Over the next year or so, until January 2000, Traficant leased office space from KAS Enterprises in accordance with his and respondent's agreement. Also during this period, respondent paid Traficant over \$32,000 in 13 or 14 monthly installments of \$2,500. Unlike DiBlasio, however, respondent deposited his paycheck and then withdrew Traficant's kickback, transactions memorialized in bank statements that would eventually be used to prosecute Traficant. Traficant, in turn, paid \$656 (\$6 a square foot) per month, a somewhat low rental price for his expanded office space.

{¶ 16} While working for Traficant as his administrative aide and counsel, respondent assisted Traficant in deeding some rural property, referred to as Traficant's farm, to Traficant's daughter. In or around December 1999, respondent prepared a quitclaim deed; however, respondent did not acknowledge his role as the preparer in the space provided because he "didn't feel comfortable" having his name on the document. Respondent knew of tax judgments against Traficant and that Traficant was trying to hide assets from creditors, and respondent feared that transferring this property might constitute a fraudulent conveyance. The deed was later recorded and apparently has not been challenged.

{¶ 17} Relator withdrew its allegation that respondent had violated DR1-102(A)(3). The parties stipulated, the panel agreed, and the board found that respondent had violated DR 1-102(A)(4) and 1-102(A)(6) by making kickbacks to Traficant. Rejecting respondent's claim that he was not acting as Traficant's attorney when he prepared the quitclaim deed, the panel and board also found clear and convincing evidence that, in addition to violating DR 1-102(A)(4) and 1-102(A)(6), respondent had violated 7-102(A)(6), 7-102(A)(7), and 7-102(A)(8) by preparing the deed for Traficant.

Sanction

{¶ 18} In recommending a sanction for this misconduct, the panel considered the aggravating and mitigating features of respondent's case. See Section 10 of the Rules and Regulations Governing Procedure on Complaints and Hearings Before the Board of Commissioners on Grievances and Discipline ("BCGD Proc.Reg."). In aggravation, the panel found that respondent had a prior disciplinary record for failing to make required disclosures in direct-mail solicitations. BCGD Proc.Reg. 10(B)(1)(a). And although respondent accepted Traficant's job offer in part because of DiBlasio's retirement and although Traficant had said that the \$2,500 payments were merely "loans," the panel found that respondent knew in his heart that the payments were wrong or illegal. On the other hand, the panel did not find a pattern of misconduct or multiple offenses, even though respondent had paid Traficant kickbacks for over one year, concluding instead that the whole transaction was one isolated incident. See BCGD Proc.Reg. 10(B)(1)(c) and (d).

{¶ 19} In mitigation, the panel found that respondent had made a good-faith effort to rectify the consequences of his misconduct inasmuch as he had cooperated in the government's prosecution and had testified against Traficant. BCGD Proc.Reg. 10(B)(2)(c). Respondent had also fully and freely disclosed his transgressions during the disciplinary process, expressed remorse for his

misconduct, and acknowledged that he had acted with poor judgment and dishonesty. BCGD Proc.Reg. 10(B)(2)(d). Moreover, three character witnesses and numerous reference letters asserted respondent's good character and reputation for honesty apart from the underlying incidents. BCGD Proc.Reg. 10(B)(2)(e). An assistant United States attorney and an FBI agent noted respondent's cooperation during the corruption investigation in Youngstown. Finally, the panel found that respondent would never repeat his misconduct and had already paid a price for his wrongdoing – respondent's reputation had been under a cloud during the four-year criminal investigation leading to Traficant's conviction. BCGD Proc.Reg. 10(B)(2)(f).

{¶ 20} Relator initially suggested that respondent be disbarred for his misconduct. After the panel hearing, however, relator reconsidered and proposed an indefinite suspension. Respondent advocated a stayed suspension. The panel recommended a two-year suspension with the last 18 months stayed on the condition that respondent commit no further misconduct. The board recommended, "based on the nature and seriousness of the offenses," that respondent be suspended from the Ohio bar for two full years.

Review

{¶ 21} Objecting to the board's findings and recommendation, respondent argues that he did not violate DR 7-102(A)(6), (7), and (8) in preparing the quitclaim deed for Traficant. He also urges us to defer to the panel's recommended sanction or to be more lenient. Relator objects as well, arguing that respondent violated DR 1-102(A)(4) and (6) by leasing office space to Traficant as part of the bribery deal to get on Traficant's congressional staff. Relator urges us to indefinitely suspend respondent.

{¶ 22} Pursuant to our independent review in disciplinary cases, *Ohio State Bar Assn. v. Reid* (1999), 85 Ohio St.3d 327, 708 N.E.2d 193, paragraph one of the syllabus, we find that respondent violated DR 1-102(A)(4) and (6) first in

paying Traficant kickbacks in exchange for employment and second in leasing office space to Traficant despite being Traficant's employee. We also find, as did the board, that respondent violated these Disciplinary Rules a third time by concealing his name as the preparer of the quitclaim deed that he realized Traficant might use to avoid future creditors. Finally, because respondent's admitted suborning and dishonesty manifest a fundamental breach of his duty to the public, we find that an indefinite suspension is appropriate regardless of any concomitant violations of DR 7-102(A)(6), (7), or (8).

{¶ 23} Few offenses so calamitously violate the public trust placed in the legal profession as does the secret offer of gratuities to a public official. Whether or not a conviction results, this misconduct lays waste to the community's expectation that lawyers will exhibit "the highest standards of honesty and integrity," American Bar Association, ABA Standards for Imposing Lawyer Sanctions (1992) 9, and contributes to the fear that lawyers will "take advantage of public trust if given the opportunity." *Disciplinary Counsel v. Pizzedaz* (1994), 68 Ohio St.3d 486, 487, 628 N.E.2d 1359. We have therefore disbarred attorneys for bribery-related acts involving public officials. See *Cleveland Bar Assn. v. Jurek* (1991), 62 Ohio St.3d 318, 581 N.E.2d 1356 (attorney's bribing of bond commissioner to avoid random judicial assignments warranted permanent disbarment); *Disciplinary Counsel v. DiCarlantonio* (1994), 68 Ohio St.3d 479, 628 N.E.2d 1355 (city attorney who received \$15,000 for his part in changing fire ordinance was disbarred), and *Disciplinary Counsel v. Melamed* (1991), 62 Ohio St.3d 187, 580 N.E.2d 1077 (attorney disbarred for paying bribes to court's bond commissioner in order to obtain assignment of his cases to judges of his choice, among other misconduct).

{¶ 24} Despite the magnitude of this misconduct, respondent contends that the mitigating features of his case, mainly his cooperation in the prosecution's case against Traficant, warrant a lesser sanction than indefinite

suspension. Stressing that the disciplinary system exists to protect the public rather than to punish offending lawyers, respondent essentially argues that because he has promised not to pay kickbacks ever again, a more rigorous sanction is unnecessary. We disagree.

{¶ 25} Even after taking a lawyer's cooperation, contrition, and other evidence of mitigation into account, we have historically imposed at least an indefinite suspension when lawyers have paid either a bribe or gratuity to a public official. *Disciplinary Counsel v. McClenaghan* (1991), 57 Ohio St.3d 21, 565 N.E.2d 572; *Bar Assn. of Greater Cleveland v. Italiano* (1986), 24 Ohio St.3d 204, 24 OBR 431, 494 N.E.2d 1113; *Columbus Bar Assn. v. Gloeckner* (1982), 1 Ohio St.3d 83, 1 OBR 120, 437 N.E.2d 1197.

{¶ 26} In fact, we routinely indefinitely suspend lawyers who merely suggest that public officials may be subject to financial influence. *Dayton Bar Assn. v. O'Brien*, 103 Ohio St.3d 1, 2004-Ohio-3939, 812 N.E.2d 1263 (attorney indefinitely suspended for suggesting to client that judge would allow withdrawal of a guilty plea for money); *Columbus Bar Assn. v. Benis* (1983), 5 Ohio St.3d 199, 5 OBR 415, 449 N.E.2d 1305 (attorney indefinitely suspended for offering to influence a member of the governor's staff to get clemency for a client's husband); and *Ohio State Bar Assn. v. Consoldane* (1977), 50 Ohio St.2d 337, 4 O.O.3d 477, 364 N.E.2d 279 (attorney indefinitely suspended for suggesting that he could obtain client's shock probation with a bribe). And contrary to respondent's argument, although these sanctions generally result in combination with a lawyer's conviction for influence-peddling, the fact of a conviction has never been critical to our disposition. Whether or not the lawyer is ultimately held criminally accountable, the lawyer's pledge to spurn such corruption is violated, and the breach of that duty threatens the public interest.

{¶ 27} Moreover, as relator argues, the circumstances preceding respondent's decision to cooperate with federal authorities are not as extenuating

as respondent asserts. Respondent did not alert the FBI about Traficant when agents initially interviewed him on January 21, 2000, while investigating DiBlasio's affairs. By that time, respondent's payoffs to Traficant were routine. And after meeting with the FBI, respondent did not immediately seek legal counsel to help him consider cooperating. He instead reported the meeting to Traficant, who recommended that respondent refuse any further communication with the agency.

{¶ 28} Respondent did not heed Traficant's admonition, and on January 24, 2000, he met with FBI agents again. On that day, respondent again did not raise the possibility of his cooperation. To the contrary, when asked point-blank if he was kicking money back to Traficant, respondent appeared shocked and offered nothing. The inquiring FBI agent recalled respondent's reaction:

{¶ 29} "When I asked him the question, he was very startled. He gave me what I thought was a thousand yard stare. I could tell he didn't know what to do at that point. He seemed very confused. He said something to the effect of I'm not going to help you get Traficant or something. He left the office. He ended the interview and left the office."

{¶ 30} After the second FBI meeting, respondent again reported to Traficant, who became very angry at the news. Then, to avoid any surveillance devices, Traficant and respondent took another ride, drove around for hours, and at some point went to Traficant's office and switched vehicles. In the second vehicle, Traficant offered respondent envelopes of money in a plastic bag and suggested ways that he might explain the surplus funds to exonerate Traficant.

{¶ 31} They ended up in the basement of respondent's home, where Traficant removed \$16,000 in cash from some 30 envelopes. Respondent recognized some of the envelopes as those that he had stuffed with cash to pay off Traficant, while others were marked with Traficant's initials in what respondent knew to be DiBlasio's handwriting. Traficant gave the money to respondent, and

respondent took it. On Traficant's direction and in his presence, respondent afterward burned the envelopes in a concrete washtub with a butane torch.

{¶ 32} Respondent later returned to Traficant's office, where Traficant gave him an envelope with \$2,500 in cash and some empty envelopes. Respondent took the money and went home to burn the additional envelopes. Before he had completely incinerated the envelopes, however, respondent put out the fire. Finally, respondent decided that what he was doing was wrong.

{¶ 33} Respondent cooperated as a witness for the prosecution against Traficant, and his testimony was instrumental in obtaining that conviction, as well as DiBlasio's eventual conviction for perjury. Moreover, respondent turned over the partially burned envelopes and money to the FBI before the agency offered him an agreement to proffer his story without incrimination. But as relator cogently submits, any mitigating effect of respondent's cooperation is decimated by the timing of his cooperation and the obvious rationale for providing it.

{¶ 34} Respondent benefited for more than one year from paying gratuities to Traficant and leasing him office space. Not until the investigative noose began to tighten did respondent take action to stop the corruption, and only then to save himself from possible criminal liability. He succeeded. For the purpose of his testimony before the grand jury and trial, the prosecution granted respondent use immunity at a subsequent criminal proceeding. Thus, as long as respondent did not perjure himself, he would avoid prosecution.

{¶ 35} For these reasons, respondent's cooperation with federal authorities is of little mitigating effect. We also reject the finding that respondent's illicit association with Traficant represented an isolated incident rather than a pattern of misconduct or multiple offenses. Respondent and Traficant deliberated the consideration respondent would pay for his job and then executed the payment plan for more than one year. Respondent also concealed his preparation of the quitclaim deed for Traficant. Moreover, these acts clearly

constitute the multi-step course of conduct for which an actual suspension must be imposed. *Disciplinary Counsel v. Shaffer*, 98 Ohio St.3d 342, 2003-Ohio-1008, 785 N.E.2d 429.

{¶ 36} We do, however, accept all the other factors listed by the panel and board as mitigating. Thus, having found that respondent violated DR 1-102(A)(4) and (6) relative to the gratuities, which included the kickbacks, the lease of office space, and preparing the misleading quitclaim deed, we temper our disposition and do not disbar respondent. Respondent is instead indefinitely suspended from the practice of law. Costs are taxed to respondent.

Judgment accordingly.

MOYER, C.J., RESNICK, F.E. SWEENEY, PFEIFER, LUNDBERG STRATTON,
O'CONNOR and O'DONNELL, JJ., concur.

Ronald E. Slipski and David C. Comstock Jr., for relator.

Kegler, Brown, Ritter & Hill Co., L.P.A., Geoffrey Stern, and Christopher
J. Weber, for respondent.
