

IN THE SUPREME COURT OF OHIO

AKRON BAR ASSOCIATION, ) CASE NO. 08-423  
Relator, ) RELATOR'S ANSWER  
vs. ) TO RESPONDENT'S  
JEFFREY A. CATANZARITE, ) OBJECTIONS TO FINDINGS OF  
Respondent. ) FACT, CONCLUSIONS OF LAW  
) AND RECOMMENDATION OF  
) THE BOARD OF  
) COMMISSIONERS

**FILED**  
APR 15 2008  
CLERK OF COURT  
SUPREME COURT OF OHIO

Now comes Relator, the Akron Bar Association, by and through Attorney Alfred E. Schrader, and respectfully answers the objections interposed by Respondent in this matter as follows.

I. Answer to Respondent's Objections to the Findings of Fact.

This matter was heard by a panel of the Board on November 8, 2007, in Akron. The panel members were Attorney Francis E. Sweeney, Jr., of Cuyahoga County, Ohio, Judge Joseph J. Vukovich of Mahoning County, Ohio, and Attorney Jean M. McQuillan of Cuyahoga County, Ohio, who served as Chair

The Panel unanimously recommended the Findings of Fact and Conclusions of Law to the Board, which accepted them. Respondent objects to the Board's Findings of Fact in Paragraphs numbered 11 through 17, and 20 through 23, and Findings 26 and 28.

The Panel had the opportunity to evaluate the credibility of each of the witnesses, having listened to them firsthand. Based upon evaluation of those witnesses, the Panel chose not to accept Respondent's version of the events. Respondent's objections mainly quote Respondent's testimony at the hearing. However, a fair reading of the transcript of the hearing of November 7, 2008, of the deposition of Respondent taken in this matter,

and of Dr. Nigro's report filed with the Board on August 14, 2007, indicate substantial evidentiary basis for the conclusions reached by the Board.

In its well written Findings of Fact, Conclusions of Law and Recommendation, the Board of Commissioners cites the specific evidence in the transcript that it relies upon for its Findings of Fact. Based on the Board's evaluation of the witnesses, the hearing Panel chose to believe the testimony of Hirsch and Joyce. The gist of Respondent's objections is that Respondent appears to believe that his testimony should be dispositive. The Board, based upon its evaluation of the credibility of the witnesses that it was able to evaluate firsthand, determined differently.

## II. Relator's Answer to Respondent's Objections to Conclusions of Law.

Paragraph 30 of the Panel's Report decided the crucial issue of whether or not an attorney-client relationship existed and an agreement for legal services was entered into between Respondent and clients Hirsch and Joyce. That is crucial because a number of the disciplinary rules alleged to have been violated would not be violated if it was determined that an attorney-client relationship never existed. Indeed, the Panel dismissed a number of charges brought by Relator on the basis that there was no established attorney-client relationship. For example, based upon its Finding No. 30, the Board concluded that DR1-104 was not violated, because if grievants never engaged Respondent's services, then the rule requiring disclosure of failure to maintain professional liability insurance at the time of client's engagement does not exist. Similarly DR2-110(A)(3) was dismissed, as was DR9-102(E). Nonetheless, Respondent objects to that finding. Respondent's objections to the Conclusions of Law are based largely on evidentiary argument. The Panel specifically found that the testimony of both

grievants was "credible and consistent". Indeed, the Panel felt that "Respondent's position that Joyce reported great success and that his advice about an informal approach was somehow an exclusive product of his years of legal expertise is incredible."

Respondent objects to Paragraphs 30, 32, 34, 36, 37, 38, 40 and 42 of the Report. While styled objections to conclusions of law, the objections are largely evidentiary based. However, the Panel's Findings of Fact, Conclusions of Law and Recommendation of the Board of Commissioners on Grievances and Discipline clearly set forth the factual evidence upon which the Board's conclusions were based. Those conclusions should be upheld.

Respondent does not cite any misinterpretation of law, nor any arbitrary or capricious action on the part of the Board. Rather, Respondent is of the opinion that his testimony should be dispositive.

III. Relator's Answer to Respondent's Objections to the Mitigation, Aggravation and Sanctions.

The Board found a dishonest and selfish motive, a lack of cooperation in the disciplinary process, a refusal to acknowledge the wrongful nature of his conduct and vulnerability and resulting harm to victims of his misconduct. To date, it is clear that Respondent simply does not "get it". He is unable to acknowledge the wrongful nature of his conduct. An important role of the legal profession is to act as a gatekeeper for the Courts. Proper practice of our profession requires an attorney to refrain from filing a lawsuit seeking \$5,000.00 for a \$300.00 claim. That is precisely why an actual suspension of six (6) months and a one (1) year probationary period is important -- to protect the public, and to have any chance of rehabilitating this particular attorney to return to the productive and proper practice of our profession. Respondent attacks Dr.

Nigro when confronted with Dr. Nigro's conclusion that "Mr. Catanzarite has a maladaptive paranoid personality style which interferes greatly with his career and social function," alleging the doctor somehow violated Respondent's privacy rights. Dr. Nigro also indicated that he could not identify any symptoms for which medications could be of some help. However, he did express hope that Respondent may desire "to explore intense psychotherapy ways to change, but that is doomed to failure, unless he really wants to do it." The Board properly concluded there was no evidence of a mental illness or a mental condition which would mitigate Respondent's misconduct. However, Dr. Nigro's report, as well as Respondent's continued refusal to admit any wrongdoing, make it clear that some period of actual suspension is necessary so that Respondent is given an incentive to want to obtain help to again become a productive member of the legal profession.

Thus, the Board modified Relator's requested sanction and recommended to this Court a suspension of one (1) year, with six (6) months stayed on the following conditions: (a) that Respondent be evaluated by the Ohio Lawyer's Assistance Program (OLAP) and enter into a contract and follow all counseling or treatment recommendations made by OLAP for the applicable term of the OLAP contract; and (b) that Respondent be under probation for one (1) year following the completion of his period of actual suspension with his practice monitored by an attorney appointed by the Relator to ensure his compliance with all the rules of professional conduct. Respondent suggests instead a sanction of a public reprimand but cites absolutely no cases or prior orders of this Court suggesting that such a sanction would be proper in a case involving similar misconduct.

Neither the Board nor Relator was able to find any prior cases that dealt with conduct similar to Respondent towards perspective clients. But prior sanctions for failure to cooperate and some intimidation ranged from two (2) year suspensions, with one (1) year stayed, to a one (1) year suspension, with six (6) months stayed, as outlined in Paragraph 45 of the Board's Recommendation. The Board properly crafted a sanction that satisfies the twin goals of protecting the public, while at the same time allowing the attorney the chance to return to the practice of law. The sanction proposed provides to Respondent the necessary motivation to seek help from OLAP. It also protects the public by having Respondent's practice monitored once he does return to the practice of law after his six (6) months actual suspension. Dr. Nigro's report, together with Respondent's continued inability to understand that he did anything wrong here, cries out for a sanction that provides a motivation for him to seek help from OLAP. As a result, Relator, Akron Bar Association, respectfully urges the Court to uphold the Recommendations and proposed sanction suggested by the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio.

Respectfully submitted,



ALFRED E. SCHRADER #0001837  
Schrader, Romanoski, Stevenson & Grant  
441 Wolf Ledges Pkwy., Suite 400  
Akron, OH 44311-1039  
(330) 762-0765  
E-mail: [alschrader@choiceonemail.com](mailto:alschrader@choiceonemail.com)

---

PATRICIA A. VANCE #0015381  
544 White Pond Drive, Suite E  
Akron, OH 44320  
(330) 836-9358  
E-mail: [alisonpfeister@gmail.com](mailto:alisonpfeister@gmail.com)

---

DAVID LOWRY #0031017  
66 South Miller Road, Suite 100  
Fairlawn, OH 44333  
(330) 376-2004  
E-mail: dmlowrylaw@yahoo.com

PROOF OF SERVICE

A copy of the foregoing Answer to Respondent's Objections to Findings of Fact, Conclusions of Law, and Recommendation of the Board of Commissioners was, this 14th day of April, 2008, sent by regular U. S. Mail, to:

Respondent, Jeffrey A. Catanzarite  
372 Afton Avenue  
Akron, Ohio 44313

Board of Commissioners on Grievance & Discipline  
Ohio Supreme Court  
65 South Front Street, 5th Floor  
Columbus, Ohio 43215-3431



ALFRED E. SCHRADER (0001837)