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

ORIGINAL

09-1171

In Re:	:	
Complaint against	:	**Case No. 08-026**
John G. Rust **Attorney Reg. No. 0000098**	:	**Findings of Fact, Conclusions of Law and Recommendation of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio**
Respondent	:	
Toledo Bar Association	:	
Relator	:	

¶1. This matter was heard at the offices of the Toledo Bar Association on April 30, 2009, before a panel of the Board of Commissioners on Grievances and Discipline (Board) consisting of Shirley Christian, Alvin Bell, and Stephen C. Rodeheffer, Chair. None of the panel members resides in the appellate district from which this matter arose or served as a member of the probable cause panel in this matter.

¶2. Appearing on behalf of Relator, Toledo Bar Association, were Attorneys Jonathan Cherry, Paul Giha, and Yvonne Tertel. Respondent appeared represented by Richard M. Kerger.

¶3. This action was initiated with the filing of a Complaint with the Board on April 14, 2008. Thereafter, Relator filed an Amended Complaint on April 28, 2008. The Amended Complaint contained the identical factual allegations of misconduct that were set forth in the initial Complaint, but asked the Board to find that Respondent had violated certain additional rules of the Ohio Rules of Professional Conduct.

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CLERK OF COURT
SUPREME COURT OF OHIO

¶4. Respondent is a 92 year-old lawyer who still engages in the full time practice of law in Toledo. It would appear that his unconventional and eccentric conduct has led many of his colleagues to question his mental ability to practice law. Consequently, Relator requested a mental health examination shortly after the case was filed. Respondent, through his counsel, agreed to the examination, and Dr. Riaz N. Chaudhary, M.D., examined Respondent on September 22, 2008. Dr. Chaudhary's initial report contained a mixed bag of findings that failed to address the underlying concern as to whether Mr. Rust suffered from a mental illness within the definition of R.C. §5122.01(A). The Secretary of the Board sent the doctor a follow up letter dated October 23, 2008, asking him to supplement his prior report with a discussion of the issues that prompted the referral in the first place. Unfortunately, Dr. Chaudhary's response dated November 7, 2008, was less than enlightening. Indeed, he suggested that the Panel seek the answers it wanted from a psychiatrist or neurosurgeon. Having lost time waiting for a resolution of Respondent's mental health issues that it was not going to receive, the Panel and the attorneys decided to forego an evaluation and proceed to trial.

¶5. The Amended Complaint alleges the following violations of the Ohio Rules of Professional Conduct:

a. Rule 1.1 [A lawyer shall provide competent representation to a client];

b. Rule 1.16(a)(1) [A lawyer shall not represent a client where the representation will result in a violation of the Ohio Rules of Professional Conduct];

c. Rule 3.1 [A lawyer shall not bring or defend a proceeding, or assert or controvert an issue in a proceeding, unless there is a basis in law or fact for doing so that is not frivolous];

d. Rule 8.4(c) [Conduct involving dishonesty, fraud, deceit, or misrepresentation];

e. Rule 8.4(d) [Conduct prejudicial to the administration of justice];

f. Rule 8.4(h) [Conduct adversely reflecting on the lawyer's fitness to practice law].

FINDINGS OF FACT

¶6. John G. "Bulldog" Rust began his legal career on March 17, 1948, after graduating from the University of Virginia Law School. Born John G. Rust, he legally changed his name to include "Bulldog" when he was given the moniker by a judge before whom he was trying a case. Despite his advanced age and sixty-one years of practicing law, Respondent's enthusiasm for the profession remains intact. As his legal counsel Mr. Kerger put it, there are no minor issues in Mr. Rust's cases. It is also clear that Respondent does not show any signs of being intimidated by the younger members of his profession, though he readily admits that his memory and hearing are not what they were "twenty years ago." (Tr. 121)

¶7. During his career Mr. Rust made the acquaintance of another individual of some repute in the Lucas County judicial system by the name of Duane Tillmon. From the testimony presented, it would appear that Mr. Tillmon (a non-lawyer) has extensive real property holdings in the Toledo area and has become a well known *pro se* litigant in the Lucas County courts. In fact, during Respondent's representation of him in the matters that gave rise to this proceeding Mr. Tillmon was declared to be a vexatious litigator as defined by R.C. §2323.52 by Judge Charles J. Donaghy. (Tr. 88)

¶8. Mr. Tillmon's mother was a lady by the name of Irene Tillmon who spent her last years as a resident of Harborside Healthcare where she died on January 25, 2005. The cause of death was testified to be gangrene. Mr. Tillmon, the only next of kin and sole heir of Ms. Tillmon's significant estate, came to the conclusion that his mother's guardian, an attorney by

the name of Edward "Ned" Fischer, and the nursing home were responsible for her death and he retained the law firm of Elk and Elk to prosecute a wrongful death action against the two.

¶9. The original administrator of the Irene Tillmon Estate was a lawyer by the name of Sarah McHugh who withdrew shortly after her appointment as the fiduciary because of a potential conflict she would have if the nursing home was sued.[1] On October 14, 2005, the Lucas County Probate Court appointed Attorney Douglas Taylor to replace her although he failed to communicate this fact to Mr. Tillmon until January 2006. As a result, when the Elk firm filed their lawsuit on January 17, 2006, it incorrectly named Sarah McHugh as the administratrix of the estate. An amended complaint identifying Douglas Taylor as plaintiff was filed on January 26, 2006.

¶10. Mr. Fischer, the former guardian, was served with the original complaint on January 20, 2006. (Ex. 3) Through his personal attorney, Fischer contacted Taylor and inquired whether he had authorized the action. Taylor denied having any knowledge of the suit and a few days later he signed an affidavit attesting to this fact. On March 20, 2006, Fischer's counsel used this affidavit as a basis for a motion to dismiss. Before a ruling was issued, Elk and Elk side stepped the challenge by filing a Civil Rule 41(A) dismissal without prejudice. Of course, this dismissal reduced the time for re-filing any claim on behalf of the estate to twelve months.

¶11. Mr. Taylor's actions regarding these events are somewhat disturbing. Taylor was well aware that there was a potential claim when he was appointed because it was this claim that prompted his predecessor's recusal. Furthermore, Duane Tillmon wrote the administrator a letter in early January 2006, describing his concerns regarding the death of his mother. Taylor, however, admitted that he made no attempt to inquire into the merits of the claim other than to

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[1] Ms. McHugh was appointed by the Lucas County Probate Court after a lengthy fight between Mr. Fischer and Duane Tillmon over their competing applications for the position.

leave a voice mail message with plaintiff's counsel. (Tr. 60) And what is even more remarkable is that this attempted inquiry was made after he had already signed the affidavit that he knew would be fatal to the pending litigation. Nonetheless, during his testimony he declined to acknowledge that he had any fiduciary responsibility to the estate or its only heir to make even a superficial inquiry as to whether the litigation should be pursued.

¶12. Following the dismissal of the first lawsuit, the claim remained dormant until Duane Tillmon appeared in Respondent's office about a week to ten days before the one year limitations period was to run. Respondent was staring at a very small window of time to renew the litigation, and apparently concluded from Taylor's prior conduct that the administrator was not going to cooperate. Undaunted by these realities he re-filed the case on March 29, 2007, without the administrator's consent using the identical complaint that had been filed by Elk and Elk and naming Douglas Taylor in his capacity as administrator as the plaintiff. (Tr. 50)

¶13. The events following the re-filing mirror those that followed the filing of the first complaint. Fischer's counsel contacted Taylor who signed yet a second affidavit on April 5, 2007, professing no knowledge of the suit and denying that he had authorized its initiation. Again, Taylor made no attempt to learn whether the suit had merit even though he knew that a second dismissal would be fatal to the claim. On the same day that Taylor signed the affidavit, he wrote Rust demanding that the suit be dismissed. Respondent realized he had a dilemma regarding the fiduciary's resistance to the proceeding, so he filed a motion with the trial judge assigned to the case asking that Duane Tillmon be substituted as plaintiff in the case. Remarkably, the trial judge sustained the motion by an order signed May 29, 2007, and

journalized June 6, 2007. (Ex. 6) The order was signed without notice and hearing, and prior to service having been perfected on Attorney Fischer.[2]

¶14. Mr. Fischer knew about the lawsuit prior to his being served because he was watching the Lucas County Common Pleas Court's on-line docket as the one year limitations period drew to a close. When he saw that the litigation had been re-filed he asked his legal counsel to solicit the second affidavit from the administrator. Then, when he saw the entry substituting Duane Tillmon as plaintiff appear on the docket, he personally authored and filed a motion for reconsideration on May 31, 2007, arguing that a judge of the general division of the Court of Common Pleas does not have jurisdiction to remove an estate fiduciary.[3] (Tr. 32) On July 19, 2007, the trial judge issued an order sustaining Fischer's motion effectively removing Tillmon as plaintiff. As a portent of things to come, the order also granted the defendants fourteen days to file their motion to dismiss.

¶15. Not to be out maneuvered, Respondent filed a motion the same day the order granting reconsideration was entered, asking that the trial court stay the proceedings until he could obtain an order from the probate court removing Taylor and appointing his client fiduciary. This motion was overruled by order dated August 8, 2007. (Ex. 6)

¶16. On July 25, 2007, Edward Fischer through his attorney filed a motion to dismiss. Respondent filed a pleading on August 17, 2007, entitled: *"SON AND SOLE HEIR DUANE J. TILLMON, BY HIS COUNSEL, ADVISING COURT OF OUR FOLLOWUP TO MOVE PROBATE COURT TO ACT ON MR. TILLMON'S MOTION FOR APPOINTMENT AS EXECUTOR OR SPECIAL ADMINISTRATOR PROMPTLY." (Ex. 19)* Without ruling on or

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2 The nursing home's legal counsel had already filed an answer to the complaint on April 20, 2007, but it is not clear whether they were served with a copy of the motion. The motion (Exhibit 11) does not contain proof of service.

3 Fischer filed the motion by making a limited appearance since service on him had yet to be completed.

otherwise acknowledging this pleading, the trial court entered an order dismissing the case on August 21, 2007. (Ex. 6)

¶17. Of additional importance to these proceedings is the fact that in a separate case involving Duane Tillmon in which Respondent was not involved, Judge Charles J. Doneghy of the Court of Common Pleas, Lucas County, entered an order on June 17, 2007, declaring Duane Tillmon to be a vexatious litigator under R.C. §2323.52. (Ex. 22) In that entry Judge Doneghy limited Tillmon's access to the courts in the following manner:

> Pursuant to R.C.2323.52(D)(1), the Court further ORDERS that unless he first seeks leave of court, defendant Tillmon may not: 1) institute legal proceedings in Ohio State trial courts; 2) continue any legal proceedings that Defendant Tillmon has instituted in any of the state courts; or 3) making (sic) any application, other than an application to proceed, in any legal proceedings instituted by him in state courts. (Ex. 22, p. 8)

Judge Doneghy made the order effective for three years.

CONCLUSIONS OF LAW

¶18. The conduct which Relator believes violates the six provisions of the Ohio Rules of Professional Conduct as alleged in the Complaint can be reduced to two actions on the part of Respondent in his representation of Duane Tillmon: 1) his filing the wrongful death action in the name of the administrator of Eleanor Tillmon's Estate without his authorization, and 2) his filing pleadings in the case without court permission after Mr. Tillmon was declared to be a vexatious litigator. An analysis of each alleged Rule violation follows.

Prof. Cond. R. 1.1 : Competence. A lawyer shall provide competent representation to the client.

¶19. Rule 1.1 of the Ohio Rules of Professional Conduct requires that a lawyer act competently. The rule further provides, however, that a lawyer must provide the skill *reasonably necessary* for the representation of the client. (Emphasis added.) Being an expert in a particular

particular field is not required so long as the attorney has the capability to recognize the legal problem involved and act accordingly.[4]

¶20. In the case of John Rust, it cannot be said by clear and convincing evidence that he acted in violation of this rule by handling his representation of Tillmon in an incompetent manner. He properly brought the wrongful death case in the name of the administrator of the estate. Following his having filed suit, he made an attempt to substitute his own client in place of the uncooperative administrator, Douglas Taylor. While one might criticize his having erroneously assumed that the trial court could change the administrator of the estate, one must also keep in mind that he initially succeeded in getting the trial judge to grant his request for a substitution. Following the trial judge rescinding that order, he then appropriately made application to the probate court for the substitution.

¶21. In reality, if the trial court had pursuant to Civil Rule 17(A)[5] granted Mr. Rust time to allow his probate motion for substitution to run its course, it is conceivable that in the end Tillmon could have been appointed administrator of his mother's estate and the claim would have proceeded toward a decision on the merits. Unfortunately, it appears that everyone involved, from the trial judge to the estate administrator, was looking for a shortcut in dealing with this case. As a result Respondent simply ran out of time and alternatives.

¶22. Nonetheless, a review of the record does not reveal that Respondent acted incompetently. Admittedly some of his pleadings were less than models of legal clarity, however, the underlying purpose for each was discernible and their goals appropriate for the circumstances that existed when they were filed.

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4 See Comment to Rule 1.1

5 Civil Rule 17(A) provides in part that: "No action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until a reasonable time has been allowed after objection for ratification of commencement of the action by, or joinder or substitution of, the real party in interest."

¶23. The Panel recommends that this charge be dismissed.

Prof. Cond. R. 1.16(a)(1): Declining or Terminating Representation. A lawyer shall not represent a client or continue to represent a client where such representation would be a violation of the Ohio Rules of Professional Conduct or other law.

¶24. Relator contends that once Judge Doneghy declared Duane Tillman to be a vexatious litigator pursuant to R.C. §2323.52 by order dated June 17, 2007, Respondent had a duty from that date forward to obtain the trial court's permission before he filed any additional pleadings on behalf of his client. Respondent, on the other hand, argues that the limitations that Judge Doneghy imposed on Tillmon's further participation in any litigation did not apply to a lawyer already representing him. In Respondent's mind the vexatious litigator declaration only proscribes *pro se* action on the part of the client.

¶25. A review of the limited cases that have dealt with R.C. §2323.52 would seem to support Respondent's position inasmuch as they all deal with *pro se* litigants. The Panel could not find any authority for the proposition that an attorney representing an individual declared to be a vexatious litigator has to have all of his pleadings approved before they can be filed. In further support of Respondent's position, R.C. §2323.52(A)(3) specifically excludes from the definition of vexatious litigator an attorney licensed to practice law in the courts of this state.[6] Without any persuasive authority that this statutory provision extends to an attorney in Mr. Rust's situation, the Panel cannot conclude that Mr. Rust's representation of Tillmon following the issuance of Judge Doneghy's order violated Prof. Cond. R. 1.16(a)(1).

¶26. Mr. Rust's filing the lawsuit without Douglas Taylor's consent presents a more problematic dilemma for determination. Mr. Rust would argue that in the end, the real party in interest is the individual whose right to compensation is recognized by R.C. §2125.02. In this

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[6] "Vexatious litigator" does not include a person who is authorized to practice law in the courts of this state under the Ohio Supreme Court Rules for the Government of the Bar of Ohio unless that person is representing or has represented himself pro se in the civil action or actions.

case there is only one such individual – Duane Tillmon. Respondent further argues that the administrator is simply a nominal party to the action particularly where, as in this case, the administrator has no financial stake in the outcome of the case. Consequently, Respondent would have the Panel conclude that his filing the lawsuit was warranted since he was acting on the authority of Duane Tillmon. Respondent argues that by-passing the administrator was a necessary course of action given the fact that the past history of the case clearly indicated that Mr. Taylor was not going to authorize the action, and not filing the lawsuit would have been fatal to the claim.

¶27. Respondent has referred the Panel to two cases in support of his position. In *Douglas v. Daniel Bros. Coal Co.* (1939), 135 Ohio St. 641, a widow brought suit against the defendant coal company for the wrongful death of her husband. She brought the lawsuit as the administratrix of her husband's estate even though she had never formally been appointed. Once she learned that she lacked the necessary authority to proceed, she filed an application for appointment with the probate court that was later approved. Following this, she was granted leave by the trial court to amend her complaint after the statute of limitations had passed. In ruling that the trial court had properly allowed the widow to amend and allow the amendment to relate it back to the date of the original complaint, the Supreme Court's opinion does make the observation that the requirement that a wrongful death action be brought in the name of the estate representative is procedural in nature "and no part of the cause of action itself." Id. at 647. The Supreme Court goes on to note that the requirement that a case be brought in the name of the estate fiduciary is for the benefit of the "surviving spouse, children and next of kin of the decedent, *the real parties in interest.*" Id. at 647. (Emphasis added.)

¶28. The Supreme Court made the same observation regarding the status of the administrator in *Burwell v. Maynard* (1970), 21 Ohio St.2d 108. This case involved a lawsuit brought by the estate of an individual who was killed in a plane crash against the estate of the pilot of that plane. R.C. §2117.06 at that time required that any claim against an estate be made within four months after the appointment of a fiduciary. In *Burwell*, a written claim was timely served on the administrator for the pilot's estate on behalf of the passenger's seven year old daughter. However, no claim was made within the statutory time period by an official, court appointed fiduciary of the passenger's estate because none had been appointed. When a fiduciary eventually was appointed and suit filed, the representative of the pilot's estate defended on the grounds that the claim was barred because it had not been timely filed. The Supreme Court repeated its analysis of the real party in interest concept that it had discussed in the *Douglas* case, supra, and held that the claim made on behalf of the child was sufficient. To do otherwise, said the Court

> would ... be paying obedience to form rather than recognizing that the statutory beneficiary of the wrongful death action is the real party in interest and that the appellant had sufficient timely notice of a claim against the estate. *Burwell*, at 111.

¶29. The argument posited by Respondent and his counsel is certainly worthy of consideration. However, in the end, the argument ignores the fact that Respondent clearly filed a lawsuit in the name of Douglas Taylor as administrator without his permission. Furthermore, he did this knowing full well that Taylor was not interested in pursuing the claim. In the cases cited by Respondent the attorney for each plaintiff took action on behalf of an individual he actually represented. In their capacity as legal counsel for these plaintiffs, each attorney filed their case for their client and then proceeded to successfully correct the flaws in their client's legal status.

Respondent, on the other hand, took legal action on behalf of someone he clearly did not represent.

¶*30.* One can surely argue with some justification that Respondent was prompted by good motives in filing the action in that he was simply trying to preserve Duane Tillmon's right to be compensated for his mother's wrongful death. But while Mr. Taylor may, in fact, be a mere titular party to the wrongful death claim, in the final analysis he is cloaked with the discretion and authority to approve the filing of the claim. The Panel has concluded that the law and our disciplinary rules cannot condone lawyers filing lawsuits on behalf of individuals without their authorization. It is this Panel's recommendation that based upon the filing of this lawsuit the Board finds that Respondent violated Prof. Cond. R. 1.16(a)(1).

Prof. Cond. R. 3.1: Meritrious Claims and Contentions. A lawyer shall not bring or defend a proceeding, or assert or controvert an issue in a proceeding, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of existing law.

¶31. The Panel does not find that the Relator has proven a violation of Prof. Cond. R. 3.1 by clear and convincing evidence. The lawsuit filed by Respondent had a basis in both law and fact. Indeed, Respondent had an affidavit from a Dr. Lepkowski attesting to the fact that the conduct on the part of the decedent's guardian probably contributed to her death. As stated previously, some of the motions that Respondent filed in the case were less than artfully drawn, but the basis of each motions had merit. Further, this Panel declines to conjecture whether these motions would have met a better fate had they been drafted a different way.

¶32. The Panel recommends that this alleged rule violation be dismissed.

Prof. Cond. R. 8.4: Misconduct. It is professional misconduct for a lawyer to do any of the following:

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(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

(d) engage in conduct prejudicial to the administration of justice.

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(h) engage in any conduct that adversely reflects on the lawyer's fitness to practice law.

¶33. The Panel has considered the remaining three allegations of the complaint collectively. Of course, the most serious of the three is the alleged violation of Prof. Cond. R. 8.4(c). In reviewing the entire record the Panel is unable to identify any action on the part of Respondent that arguably would involve dishonesty, fraud, deceit or misrepresentation. On the contrary, Mr. Rust was brutally honest both in his dealings with the court and opposing counsel throughout the case.

¶34. An argument possibly could be made that his representing to the trial court that he was the attorney for Douglas Taylor involved some element of deceit or misrepresentation. However, when one considers that Mr. Rust honestly believed that Taylor was merely a nominal player in the litigation, and that Respondent did in fact represent the individual who he believed was the real party in interest, it is difficult to conclude that this conduct is in violation of 8.4(c). This conclusion is made even easier when one notes that within weeks of filing the suit Mr. Rust attempted to correct his procedural dilemma by filing a motion to substitute Tillmon for Taylor as the named plaintiff.

¶35. For the same reasons the Panel declines to make a finding that Respondent violated 8.4(d) or (h).

¶36. The Panel recommends that these charges be dismissed.

SANCTION

Aggravation

¶37. The Panel has considered the following aggravating factors:

¶38. Prior disciplinary action. BCGD Proc. Reg. 10(B)(1)(a). Respondent was disciplined with a public reprimand in 1996 for representing clients with competing interests when he handled a loan transaction between a personal injury client and another client. *Toledo Bar Assn. v. Rust* (1996), 74 Ohio St.3d 635.

¶39. Refusal to acknowledge the wrongful nature of his conduct. BCGD 10(B)(1)(g). Respondent to this day believes that what he did was both legally and ethically correct, and he offered no apology to the Board when he testified at the hearing. The Panel does not place a great deal of emphasis on this factor, however, inasmuch as his lack of remorse is based more on a difference of opinion regarding the law rather than a lack of disrespect for the law and the rules that govern our profession.

¶40. The remaining aggravating factors outlined in Section 10(B)(1) of Appendix II to the Rules for the Government of the Bar clearly do not apply. There is no dishonest or selfish motive, no pattern of misconduct, and there are not multiple offenses at issue.

Mitigation

¶41. The Panel believes there are a number of mitigating factors that support the stayed suspension that is being recommended.

¶42. Absence of a dishonest or selfish motive. BCGD Proc. Reg. 10(B)(2)(b). From the beginning Respondent's conduct was selfless in the extreme. He could very easily have shown Mr. Tillmon the door when the client sought his help at the eleventh hour of his claim. Indeed, it is difficult to see that Respondent gained anything from his conduct in this case other than being brought before the Supreme Court on a disciplinary violation.

¶43. Full and free disclosure to the Board and a cooperative attitude toward the proceedings. BCGD Proc. Reg. 10(B)(2(d). Mr. Rust has cooperated in the disciplinary proceedings that have been brought against him. He timely responded to the initial inquiries regarding his conduct, he submitted to a deposition under oath, he voluntarily participated in a mental health examination, and he attended the hearing and testified.

¶44. Respondent presented no testimony regarding character or reputation, and he has been subjected to no other penalties or sanctions.

Sanction

¶45. Relator recommended an actual six month suspension with reinstatement conditioned on a doctor's opinion that he has the mental health to resume the practice of law. Respondent's counsel argued against a finding of any violations and, therefore, did not speak to any proposed sanction.

¶46. The Panel recommends a one year suspension with one year stayed and that Respondent be placed on two years probation. In the final analysis Mr. Rust acted on good intentions but simply ignored the bounds of his professional responsibilities. No evidence was presented that anyone was injured by the filing of the lawsuit other than being put through the inconvenience of filing pleadings to get the case dismissed. Under these circumstances an actual suspension would simply not be justified.

¶47. During the hearing Respondent admitted to needing help with some aspects of his practice. He also admitted to severe hearing problems and the need for a new hearing aid. In his report to the Panel, Dr. Chaudhray made mention of some minor health problems that may be causing a "minor cognitive disorder." Based upon this information the Panel would recommend that the conditions of Mr. Rust's probation include the following:

a. That Respondent undergo an evaluation by the Ohio Lawyers Assistance Program, and that he participate in any programs or treatments that are recommended by that agency, and

b. That Respondent not commit any further violations of the Ohio Rules of Professional Conduct, and

c. That he pay the costs of these proceedings prior to the end of his probationary period.

BOARD RECOMMENDATION

Pursuant to Gov. Bar Rule V(6)(L), the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio considered this matter on June 11, 2009. The Board adopted the Findings of Fact and Conclusions of Law of the Panel. Based on Respondent's limited misconduct and lack of harm, the Board recommends, with the agreement of the Panel, that Respondent, John G. Rust, be suspended from the practice of law for a period of six months with six months stayed followed by two years of probation on the conditions set forth by the Panel. The Board further recommends that the cost of these proceedings be taxed to 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.

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