

ORIGINAL

IN THE SUPREME COURT OF OHIO

CINCINNATI BAR ASSOCIATION : CASE NO. 2009-2302

Relator, : Before the Board of Commissioners on  
Grievances and Discipline

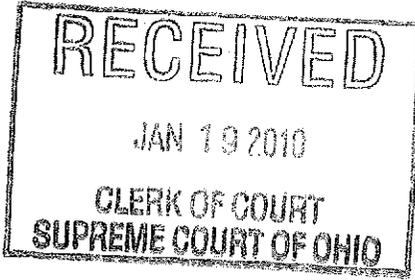
v. :

PAUL J. KELLOGG :

Respondent. :

RESPONDENT'S BRIEF IN SUPPORT OF RECOMMENDATIONS  
OF BOARD OF COMMISSIONERS ON  
GRIEVANCES AND DISCIPLINE OF  
THE SUPREME COURT OF OHIO

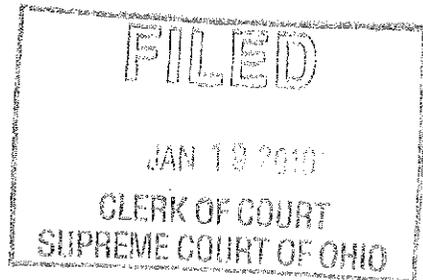
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THE SUPREME COURT OF OHIO

CINCINNATI BAR ASSOCIATION : CASE NO. 2009-2302  
Relator, :  
v. : RESPONDENT'S BRIEF IN SUPPORT  
PAUL J. KELLOGG : OF RECOMMENDATIONS OF BOARD  
Respondent. : OF COMMISSIONERS ON  
: GRIEVANCES AND DISCIPLINE OF  
: THE SUPREME COURT OF OHIO

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On December 23, 2009, the Board of Commissioners on Grievances and Discipline of the Supreme Court recommended that the Respondent Paul J. Kellogg be suspended by the practice of law for a period of two years with six months of the suspension stayed. The Board further recommended that the suspension be deemed to begin to run on January 15, 2009. On January 8, 2010, this Court entered an Order to Show Cause directing Mr. Kellogg to show cause why the recommendation of the Board of Commissioners on Grievances and Discipline should not be confirmed by the Court.

While the Board adopted neither the Respondent's nor the Relator's proposed sanction, Mr. Kellogg poses no objection to the sanction recommended by the Board. The sanction of a two year suspension of Mr. Kellogg's license, with six months of the suspension stayed, is consistent with the standards enforced by this Court, and is proportional in nature to the sanctions imposed on similarly situated attorneys who have committed violations of this nature.

Mr. Kellogg poses no objection to the Board's proposed sanction or its Conclusions of Law. By way of minor factual clarification, Mr. Kellogg notes that the Board's factual findings mistakenly relate Kellogg's convictions for Conspiracy to Commit Money Laundering to some personal involvement in Berkeley's continuity program or the underlying business practices of that company.

Specifically, in the Findings of Fact section of its Report, the Board found:

As a result of his involvement in the review, execution and funding of the trust agreements, Respondent was convicted of two counts of Money Laundering and one count of Conspiracy to Obstruct Proceedings before the Federal Trade Commission in the United States District Court for the Southern District of Ohio. He was acquitted of one count of making a false statement to a bank. Additionally, Respondent was convicted of two counts of Conspiracy to Commit Money Laundering for his role in the continuity program where supplements were automatically shipped to customers.

Mr. Kellogg's convictions for Money Laundering (both substantive Money Laundering and Conspiracy to Commit Money Laundering) related exclusively to his involvement in the review, execution and funding of the trust agreements that were created at the direction of certain attorneys at the Venable firm, which was representing Berkeley in an FTC investigation. Mr. Kellogg was never charged with nor was he convicted of any crime involving Berkeley's continuity program. Kellogg's convictions did not arise from a pattern of misconduct, but instead arose from two distinct and discrete events, the FDA inspection of the company in May 2004 and the creation of two trusts in October 2004.

In all other respects, Mr. Kellogg accepts the well reasoned and deliberative findings and recommendations of the Board. Accordingly, he requests that this Court adopt the recommended sanction.

Respectfully submitted,



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Attorneys for Respondent

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing Respondent's Brief in Support of Recommendations of Board of Commissioners on Grievance and Discipline has been served upon Counsel for Relator by mailing a copy by First Class United States mail to Susan R. Bell, 537 East Pete Rose Way, Suite 400, Cincinnati, OH 45202, and Peter Rosenwald, 114 East Eighth Street, Cincinnati, OH 45202, this 15<sup>th</sup> day of January, 2010.



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James P. Fleisher (0059509)