

**IN**

**THE SUPREME COURT OF OHIO**

**Jay A. Goldblatt (0014263),**  
Petitioner

**CASE NO. 2007-1961**

**Disciplinary Counsel**  
Relator

**RELATOR'S ANSWER TO  
PETITIONER'S OBJECTIONS  
TO THE BOARD OF  
COMMISSIONERS' REPORT AND  
RECOMMENDATIONS**

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**RELATOR'S ANSWER TO PETITIONER'S OBJECTIONS**

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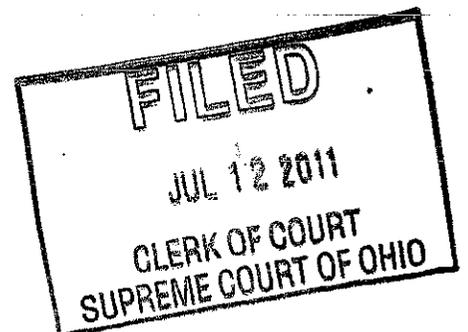
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INTRODUCTION

Now comes relator, Disciplinary Counsel, and hereby submits the following answer to petitioner, Jay A. Goldblatt's, objections to the report of the Board of Commissioners on Grievances and Discipline (the board). Petitioner has objected to the board's recommendation that his petition for reinstatement following an indefinite suspension be denied.

Many of the relevant facts of this matter are set forth in the board's Findings of Fact, Conclusions of Law, and Recommendation (the report) that is attached hereto as Appendix A. See S. Ct. Prac. R.6.2(B)(5)(b). As set forth therein, the hearing panel recommended that petitioner be reinstated to the practice of law; the board rejected the panel's recommendation and recommended that this Court deny him readmission.

The report was certified to this Court and a show cause order was issued. On June 29, 2011, petitioner filed objections to the board's report. Following is relator's response to those objections.

### **RELATOR'S ANSWER TO PETITIONER'S OBJECTIONS**

Petitioner, Jay A. Goldblatt, was indefinitely suspended from the practice of law on May 29, 2008. *Disciplinary Counsel v. Goldblatt*, 118 Ohio St.3d 310, 2008-Ohio-2458, 888 N.E.2d 1091. At the time of his indefinite suspension, petitioner was already subject to an interim suspension of his law license pursuant to Gov. Bar R.V(5)(A)(4) (felony suspension). See *In re Goldblatt*, 108 Ohio St.3d 1422, 2006-Ohio-289, 841 N.E.2d 785. Petitioner's felony suspension was ordered by this Court on January 27, 2006. *Id.*

In November 2005 and prior to the felony suspension ordered by this Court, petitioner changed his law license to "inactive" status. Accordingly, at the time his petition for reinstatement was filed with this Court, petitioner had not practiced law for more than five years.

Section 10 of Gov. Bar R.V provides the procedural and evidentiary requirements for reinstatement proceedings following an indefinite suspension. In compliance with Gov. Bar R.V(10), on January 24, 2011, petitioner filed a petition for reinstatement with the Clerk of this Court. Pursuant to Gov. Bar R.V(10)(F), the Clerk forwarded the petition to the board and a hearing was held on May 10, 2011 in Akron, Ohio.

Following the hearing, the panel concluded that petitioner had presented clear and convincing evidence that "he is now a proper person to be re-admitted to the

practice of law in the State of Ohio, notwithstanding the previous disciplinary action.” Report at 7. At its June 2011 meeting, the board rejected the panel’s recommendation. Id. For the reasons set forth herein and consistent with the position advanced at the reinstatement hearing, relator agrees with the panel’s recommendation that petitioner is a proper person to be readmitted to the practice of law in the state of Ohio. Accordingly relator answers petitioner’s objections solely to affirm to this Court that relator’s position is that petitioner should be reinstated to the practice of law.

Gov. Bar R.V(10) provides a series of “requisites for reinstatement.” As clearly recognized by the panel, the burden of proof is on the petitioner to establish at the hearing “by clear and convincing evidence” that he “has satisfied those requisites for reinstatement.” Id. See, also Report at 1.

With that evidentiary standard firmly in mind, the hearing panel carefully considered petitioner’s evidence and each of the “requisites for reinstatement.” The panel carefully followed Gov. Bar R.V(10)’s requirements and noted the evidence presented by petitioner regarding each of them. Inter alia, the panel concluded that

- Restitution was not a factor in this reinstatement.
- Petitioner had not previously asked for reinstatement and over three years had elapsed since the imposition of his indefinite suspension. See Gov. Bar R.V(10)(B).
- Petitioner had completed the CLE required by the terms of his suspension.
- Petitioner has and is engaged in personal counseling, marital counseling, medical treatment, group therapy, and an OLAP contract.

- Petitioner “fully understands that he will always have a need to guard against reoccurrence of the issues that gave rise to his previous misconduct.”
- Petitioner is cognitively competent to return to the practice of law.
- Petitioner possesses all of the mental, educational and moral qualifications that were required of an applicant for admission to the practice of law in the State of Ohio at the time of his original admission.

See Report.

Notwithstanding the panel’s thorough evaluation of the requisite evidence, the board rejected the panel’s recommendation that petitioner be reinstated. In announcing its conclusion, the board set forth two reasons for denying the petition. The board stated that it “decided not to recommend reinstatement given Petitioner’s underlying crime of solicitation of sex with a minor and his 2010 relapse involving Petitioner’s participation on a chat line.” *Id.* at 7. The board also stated that it “remains unconvinced, due to Petitioner’s insufficient evidence of full recovery, that he is a fit candidate to be readmitted now to the practice of law.” *Id.*

The effect of the board’s recommendation is to unfairly extend the previously imposed suspension petitioner received for the misconduct he committed in 2004. Moreover, contrary to the board’s conclusion, petitioner’s open acknowledgement that he made telephone calls to a “chat line” in 2010, should not operate to nullify all of the other clear and convincing evidence that he is fit to be readmitted.

Gov. Bar R.V(10)(E)(4) provides that upon applying for reinstatement, the petitioner must establish that he “is now a proper person to be readmitted to the practice

of law in Ohio, notwithstanding the previous disciplinary action.” Although the previous disciplinary action is relevant from the perspective of considering why the petitioner was indefinitely suspended, the board should have considered whether petitioner is now fit to be readmitted “notwithstanding” the prior misconduct. In contrast, it appears that the board revisited the disciplinary case with the intention of reevaluating the previous sanction. The board’s decision to recommend denial of petitioner’s request for reinstatement “given” his previous misconduct, operates to impose a harsher sanction for the 2004 wrongdoing.

In 2008, when this Court announced the sanction for petitioner’s violations of DR 1-102(A)(3)<sup>1</sup> and DR 1-102(A)(6),<sup>2</sup> it was evident that this Court had thoroughly considered the “underlying crime” when it agreed with the board’s then-recommendation of an indefinite suspension. This Court unanimously concluded:

Respondent’s trustworthiness and fitness to practice law have been severely undermined by his criminal behavior. We are convinced that an indefinite suspension will help protect the public, deter other lawyers from similar wrongdoing, and preserve the public’s trust in the legal profession. Respondent is therefore suspended indefinitely from the practice of law in Ohio with no credit for his interim suspension.

*Goldblatt*, 118 Ohio St.3d at 315.

It is axiomatic that at the time an indefinite suspension was imposed, this Court was aware that petitioner could become a candidate for readmission. When petitioner filed for readmission, the board’s evaluation of whether he was a proper person to be

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<sup>1</sup> DR 1-102(A)(3) prohibits a lawyer from engaging in illegal conduct involving moral turpitude.

<sup>2</sup> DR 1-102(A)(6) prohibits a lawyer from engaging in conduct that adversely reflects on his fitness to practice law.

readmitted should have been based upon the requisites of Gov. Bar R.V(10) and not rooted in condemnation of the original sanction.

Basing its denial of petitioner's reinstatement in part upon his "underlying crime," is contrary to Gov. Bar R.V(10) and diverges from the board's own recommendation of a indefinite suspension. Neither the Rules for the Government of the Bar nor Ohio law contemplate retrospective evaluation of the appropriateness of a petitioner's original sanction. A petition for reinstatement should not be denied based upon a present-day evaluation of the petitioner's past misconduct.

Focusing upon petitioner's 2010 use of a "chat line," the board denied his reinstatement in part because it remained "unconvinced, due to Petitioner's insufficient evidence of full recovery, that he is a fit candidate to be readmitted now to the practice of law." *Id.* According to the board, because of his "2010 relapse," petitioner could not prove his "full recovery." The board did not provide a definition or standard for understanding what constitutes a "full recovery" nor did the board explain its departure from the requisites of Gov. Bar R.V(10).

The evidence establishes that petitioner's self-described "2010 relapse," did not involve illegal conduct nor did it violate his OLAP contract. Moreover, at the time they occurred, petitioner immediately recognized that his calls to the "chat line," were a "violation of [his] own self-imposed definition of sobriety to call a telephone chat line regardless of whether I'm discussing sex or not." *Tr.* at 96. Petitioner explained to the panel that, "the reason that it is a violation of my self-identified sobriety is because it's a slippery slope. I'm a follower or, if you hang around a barber shop long enough, you will get a haircut." *Id.*

Recognizing that he needed assistance after calling the “chat line,” petitioner immediately contacted members of his support system including Paul Caimi, the Associate Director of the Ohio Lawyer’s Assistance Program and petitioner’s long-time OLAP monitor. See, e.g. Tr. at 57. Upon making contact with Caimi, respondent’s recovery program was “adjust[ed] to prevent further relapses.” Id. at 60. Caimi required respondent to call him weekly for a “long talk.” Id. Respondent was required to attend more weekly SLAA<sup>3</sup> meetings; to following a stricter regime with Candace Risen, his therapist; and, to following any treatment recommendations that Risen might make. Id.

Caimi was asked on cross-examination what the 2010 relapse and petitioner’s self-reporting of those events meant to him with regard to petitioner’s “recovery and his ability to return to the practice of law.” Id. at 65. Caimi responded as follows:

They say to me – actually, the fact that he reported it so quickly, there is a notion of what’s known as a therapeutic relapse. And, so – I mean, he has tried to avoid relapse. People try to avoid relapse. But there is a notion that relapses and lapses can occur.

And what – the important thing is a prompt reporting. Therapeutically, the important thing is a prompt reporting and an adjustment of treatment to prevent further relapse. And that has been the case with Mr. Goldblatt.

So I think it’s more important – everything is important. And relapse, trying to be avoided – but what one can do is adjust their treatment schedule. And that’s what he has done. He followed treatment recommendations and has had no further relapses.

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<sup>3</sup> SLAA is the acronym for “Sex and Love Addicts Anonymous,” a 12-step program. Tr. at 64.

I do not believe, in my opinion, that it impedes his ability to practice law that he had that relapse, primarily because he responded so well to it and so quickly.

Id. at 65-66.

Asking petitioner to prove that he has made a “full recovery” prior to reinstatement ignores well-established precedent of this Court. For example, this Court has repeatedly held that indefinite suspensions imposed upon attorneys suffering from mental illness or substance abuse “serve[ ] to protect the public while leaving open the possibility that with proper rehabilitation, the sanctioned attorney might one day be able to resume the competent, ethical, and professional practice of law.” *Columbus Bar Assn. v. Van Sickle*, 128 Ohio St.3d 376, 380, 2011-Ohio-774, 944 N.E.2d 677. In other words, this Court asks for evidence of “proper rehabilitation,” not proof of “full recovery.” This Court has also stated that its “duty is not only to protect the public from attorneys who are not ethically fit to practice law, but also to ‘take care not to deprive the public of attorneys who, through rehabilitation, may be able to ethically and competently serve in a professional capacity.’” *Columbus Bar Assn. v. Larkin*, 128 Ohio St.3d 368, 370, 2011-Ohio-762, 944 N.E.2d 669.

The key word in many of this Court’s previous disciplinary decisions is “rehabilitation.” The case presented by petitioner in the instant matter was filled with evidence of his “proper rehabilitation.” To wit, starting with the letter from Hon. Janet Burnside, to the letters of Dr. Levine and Candace Risen; continuing to the testimony of Paul Gaimi, the petitioner filled this record with evidence of his “proper rehabilitation.” In his own words, respondent testified that in asking for reinstatement, he was not trying “to ignore how” horribly he acted in 2004. Tr. at 39. Respondent testified that in 2005

he understood how horrible his conduct was and that he understood it in 2007 during his disciplinary hearing. Respondent also testified:

I understand it today [in 2011]. And I think I understand it better today. Although I was honest when I said these words in 2005, I think I understand better today when I said it was awful – and I hurt everybody – and it cannot happen again. And the reason I have a better understanding is I have better insight into it, which will happen when one has had as much therapy and 12-step work and soul-searching as I have.

\* \* \*

So the point I'm making is that – and the reason I'm reaffirming this statement of remorse, is because I'm in a better position today that I ever was of understanding what it means to be remorseful.

Tr. at 40.

The board's unfortunate assessment of the evidence as insufficient to prove petitioner's "full recovery," is akin to asking petitioner to "un-ring the bell" that began to toll when following his arrest, he sought rehabilitation through mental health treatment. In contrast to the board's recommendation and as determined by the panel, the evidence elicited at the hearing establishes that petitioner proved that he possesses all of the mental, educational and moral qualifications that were required of an applicant for admission and that he is now a proper person to be readmitted to the practice of law.

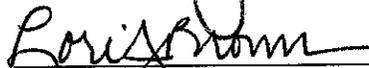
## CONCLUSION

Petitioner's presentation to the hearing panel resulted in the panel concluding that he was "a proper person to be re-admitted to the practice of law in the State of Ohio, notwithstanding the previous disciplinary action." Report at 7. Relator asks this Court to follow the panel's recommendation and reinstate petitioner, Jay A. Goldblatt, to the practice of law in the state of Ohio.

Respectfully submitted,



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## CERTIFICATE OF SERVICE

I hereby certify that the foregoing answer brief was served via U.S. Mail, postage prepaid, upon petitioner, Jay A. Goldblatt, 28700 Jackson Rd., Orange Village, OH 44022, and upon Richard A. Dove, Secretary, Board of Commissioners on Grievances and Discipline, Ohio Judicial Center, 65 S. Front Street, Columbus, Ohio 43215 this 12<sup>th</sup> day of July, 2011.



Lori J. Brown  
Counsel for Relator

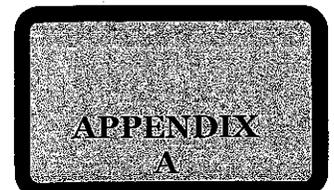
**BEFORE THE BOARD OF COMMISSIONERS  
ON  
GRIEVANCES AND DISCIPLINE  
OF  
THE SUPREME COURT OF OHIO**

<b>In Re:</b>	:	
<b>Petition for Reinstatement of:</b>	:	<b>Case No. 06-002</b>
<b>Jay Alan Goldblatt</b>	:	<b>Findings of Fact</b>
<b>Attorney Reg. No. 0014263</b>	:	<b>Conclusions of Law and</b>
	:	<b>Recommendation of the</b>
<b>Respondent</b>	:	<b>Board of Commissioners on</b>
	:	<b>Grievances and Discipline of</b>
<b>Disciplinary Counsel</b>	:	<b>the Supreme Court of Ohio</b>
	:	
<b>Relator</b>	:	
	:	

**INTRODUCTION**

1. This matter came on for hearing in Akron, Ohio, on May 10, 2011, upon the petition of Jay Alan Goldblatt for reinstatement to the practice of law, pursuant to Gov. Bar R. V(10), before a panel consisting of Judge Beth Whitmore and David E. Tschantz, Chair, both of whom are duly qualified members of the Board. A third panel member, John Siegenthaler, was appointed but was unable to attend due to an unforeseen emergency. At the hearing, both parties indicated on the record that they had no objection to proceeding with only two panel members. Neither of the panel members resides in the appellate district in which the petitioner resided at the time of his suspension. Petitioner appeared pro se, and Lori Brown represented Relator, Disciplinary Counsel.

2. The burden of proof is on Petitioner to show by clear and convincing evidence that he should be reinstated to the practice of law in Ohio. He must establish that he possesses all of the mental, educational and moral qualifications that were required of an applicant for



admission to the practice of law at the time of his original admission, and that he is now a proper person to be readmitted to the practice of law in Ohio, notwithstanding the previous disciplinary action. Petitioner must also show by clear and convincing evidence that he has made restitution to any persons harmed by his misconduct, and that he has complied with the continuing legal education requirements as prescribed by Gov. Bar R. X(3)(G).

### **FINDINGS OF FACT**

3. Petitioner is 53 years of age. He received his undergraduate degree from the University of Cincinnati and his juris doctor from the Case Western Reserve University School of Law in 1983. He was admitted to the bar in November 1983. After being admitted, he went into practice with a succession of law firms in Cleveland, specializing in corporate law, mergers and acquisitions and securities compliance. Later, he accepted a position as in-house counsel with a corporation, and was responsible for handling mergers and acquisitions, commercial and industrial real estate leases, collective bargaining, securities law compliance, tax matters and a variety of business and corporate transactional matters. He was so employed at the time he was convicted of two felonies in the Cuyahoga Court of Common Pleas. He was sentenced for those crimes in November 2005. In compliance with the sentence imposed upon him in November 2005, he changed his registration with the Supreme Court to "inactive," and immediately ceased practicing law. He was subsequently suspended by the Supreme Court on an interim basis on January 27, 2006, based on his felony convictions. In re *Goldblatt*, 108 Ohio St.3d 1422, 2006-Ohio-289.

4. After a hearing before a panel of this Board, Petitioner was indefinitely suspended by the Court on May 29, 2008 without any credit for time served under his interim suspension. This indefinite suspension was imposed as a consequence of findings by the panel and the Board,

and adopted by the Court, that Petitioner violated DR 1-102(A)(3) (illegal conduct involving moral turpitude) and DR 1-102(A)(6) (conduct that adversely reflects upon his fitness to practice law). These violations arose out of his attempt to arrange a sexual encounter with an underage girl. *Disciplinary Counsel v. Goldblatt*, 118 Ohio St.3d 310, 2008-Ohio-2458.

5. Petitioner has not previously petitioned for reinstatement and over three years have elapsed since his indefinite suspension was imposed.

6. There are no formal disciplinary proceedings pending against Petitioner.

7. Petitioner has completed CLE attendance as required by the order of suspension, and by Gov. Bar R. X(3)(G), and is in compliance with CLE and registration requirements in Ohio as of the filing of his petition.

8. Restitution is not a factor in this matter. No one was financially harmed by his misconduct.

9. All costs of the prior proceeding have been paid.

10. The Board report from the prior disciplinary proceeding discloses that Petitioner had certain mental issues that gave rise to his reprehensible actions, and that he had taken action to deal with those issues, including medical treatment, marital and personal counseling, group therapy and the execution of an OLAP contract. Significantly, Petitioner did not claim those issues as mitigating factors and they were not considered as such by the panel in the prior proceeding.

11. Petitioner established to this panel that he has continued in these treatment actions and that he fully understands that he will always have a need to guard against reoccurrence of the issues that gave rise to his previous misconduct.

12. Petitioner opened his presentation to the panel by presenting a letter from the judge who sentenced him on the underlying felonies, Judge Janet Burnside of the Cuyahoga County Common Pleas Court, General Division. Judge Burnside's letter is an unqualified recommendation that Petitioner be readmitted to the bar, and she took the time to cite his personal growth and discipline as the reasons for her recommendation. (Ex. A)

13. Petitioner also introduced a letter from Dr. Steven Levine, a psychiatrist who evaluated Petitioner at his request. Dr. Levine's letter analyzes the question of safety of the public in allowing Petitioner to again practice law, and he offered his conclusions in four areas. First, he opined that the petitioner is "cognitively competent to practice law." The panel agrees with this conclusion after observing Petitioner's presentation of his case.

14. Second, Dr. Levine opined that Petitioner has made considerable progress in dealing with his sexual addiction through maintenance of his individual and group therapy, twelve-step groups and the sponsoring of others in their quest to regain self-control. Dr. Levine noted that the Petitioner had relapsed at one point in 2010 by calling a "chat line," but that he quickly self-reported the relapse and sought support to ensure that it went no further.

15. Third, Dr. Levine opined that Petitioner has made considerable progress in recognizing the moral turpitude of his past behavior, that Petitioner appears to genuinely be repulsed by his past impulses, and that "[h]is maturation and evolving understanding of previous immature and self-centered patterns of living are likely to be strong safeguards against returning to the period of his personal and social degradation." (Ex. B, p.2)

16. Last, Dr. Levine opined that Petitioner has strong narcissistic personality traits, but that those traits are "no longer relevant to [Petitioner's] vocational competence." When read in the context of the entire letter, the panel interprets this to mean that the doctor believes that

these traits, while still present, will not result in harm to clients or anyone else. Dr. Levine concludes with the positive statement that Petitioner "is now capable cognitively, ethically, morally, and psychiatrically to practice his profession again." (Ex. B, p. 3)

17. Petitioner also introduced a letter from his treating psychotherapist, Candace B. Risen, LISW. The letter briefly states that Ms. Risen feels that the nature of the therapy she prescribes for Petitioner prohibits her from writing a more detailed letter concerning his progress. However, she is very careful to also state that she hopes her refusal will not be seen as a negative reflection on Petitioner's pursuit of reinstatement. The panel interprets this statement as support of his reinstatement to the practice of law.

18. Petitioner also introduced a letter and testimony from Paul Caimi, Associate Director of OLAP and Petitioner's monitor. Mr. Caimi detailed for the panel Petitioner's excellent performance to this point in his contract, and specified both in his testimony and in writing that he has no objection to Petitioner's return to the practice of law.

19. With regard to the single relapse incident in 2010, and in response to a question propounded by the panel, Caimi freely admitted that if Petitioner had not reported the relapse, no one else would have known about it. Relator, in her closing, stated: "The fact that we are even talking about the relapse from 2010 is evidence of his acceptance of responsibility and of his personality issues, his mental health issues and his self-governed sobriety." (Tr. 129)

20. Petitioner also introduced several letters of support from various individuals holding positions of responsibility and trust in various communities and organizations, all indicating that they support his reinstatement without qualification.

21. Petitioner also offered the following testimony:

In 2005, before Judge Burnside, I made the following statement:

“Thank you, Your Honor. What I did here was awful. . . . I offer no excuses. I feel nothing but shame for what I have done. I have hurt my family. I’ve hurt my friends. I’ve hurt my community. I’ve hurt my profession. I’ve hurt my employer. I’ve hurt my co-workers. I will be working for the rest of my life to make that right. . . .”

I meant that when I said it in 2005. I meant that when I said it before the panel in 2007. And I repeat the same sentiment here today, that I am not here in any sense of the word to try to ignore how horrible I acted in 2004.

I understood this in 2005. I understood it in 2007. I understand it today. . . . and it cannot happen again. (Tr. 37-38)

22. Relator, in her closing remarks, stated that Petitioner Goldblatt has established that he “is fit to be re-admitted to the practice of law in the State of Ohio.” (Tr. 130)

#### **CONCLUSIONS OF LAW**

23. Based upon the foregoing, the panel determines, by clear and convincing evidence, that:

A. Petitioner possesses all of the mental, educational and moral qualifications that were required of an applicant for admission to the practice of law in the State of Ohio at the time of his original admission;

B. Petitioner has complied with the continuing legal education requirements of Gov. Bar R. X(3)(G); and

C. Petitioner is now a proper person to be re-admitted to the practice of law in the State of Ohio, notwithstanding the previous disciplinary action.

**PANEL RECOMMENDATION**

24. The panel recommends that Petitioner, Jay Alan Goldblatt, be re-admitted to the practice of law in Ohio.

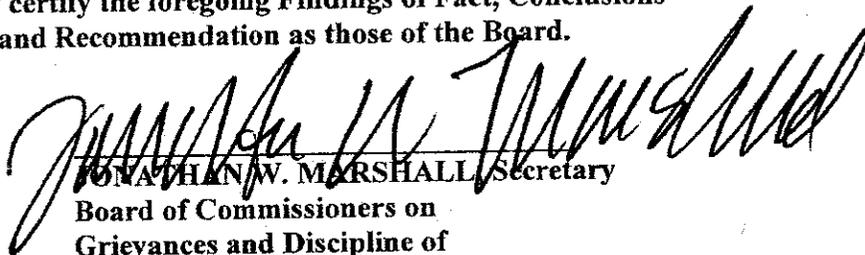
**BOARD RECOMMENDATION**

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 June 10, 2011. The Board rejected the Recommendation of the Panel and recommends that Petitioner, Jay Alan Goldblatt, be denied readmission to the practice of law in the State of Ohio.

The Board decided not to recommend reinstatement given Petitioner's underlying crime of solicitation of sex with a minor and his 2010 relapse involving Petitioner's participation on a chat line. The Board remains unconvinced, due to Petitioner's insufficient evidence of full recovery, that he is a fit candidate to be readmitted now to the practice of law.

The Board further recommends that the cost of these proceedings be taxed to Petitioner 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 Recommendation as those of the Board.



JONATHAN W. MARSHALL Secretary

Board of Commissioners on  
Grievances and Discipline of  
The Supreme Court of Ohio