ORIGINAL

No. 2011-1323

In the Supreme Court of Ohio

APPEAL FROM THE BOARD OF COMMISSIONERS
ON CHARACTER AND FITNESS
CASE NO. 426

CLEVELAND METROPOLITAN BAR ASSOCIATION,

Relator,

v.

JEFFREY VINCENT GUELI,

Respondent.

RELATOR CLEVELAND METROPOLITAN BAR ASSOCIATION'S ANSWER BRIEF TO OBJECTIONS OF RESPONDENT JEFFREY VINCENT GUELI

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I. Introduction

The Rules for the Government of the Bar are clearly written and unequivocally state that an applicant's record demonstrating a "significant deficiency" in honesty, trustworthiness, and reliability is basis enough to disapprove an applicant. Gov.Bar R. I(11)(D)(3). The record in this case supports that deficiency here. The Panel's report, adopted in its entirety by the Board of Commissions on Character and Fitness, premised its disapproval recommendation primarily on Respondent Jeffrey Vincent Gueli's "inability to know or tell the truth." See R. 27 (Panel Report and Recommendation), Appx. 12. Although Gueli challenges that conclusion, the record is replete with evidence to support it. The Panel documented several instances where Gueli was not forthcoming with events as they actually happened, including those involving (1) his past work history at the Florida State Attorney's Office (Appx. 3); (2) his lawsuit against the United States, former President George Bush, the state of Florida, former Governor Jeb Bush, and State Attorney Earl Moreland (Appx. 4); (3) his legal-related work history in Ohio (Appx. 5); (4) the recommendations of both his treating psychiatrist, Brooke Wolf, M.D., and therapist, Paul Hunkins, LISW, regarding residential treatment (Appx. 8-9); (5) representations made to The Florida Bar Association in September 2010 as to his drinking and attendance at required Alcoholic Anonymous (AA) meetings (Appx. 9-10); and (6) the same representations made to Dr. Wolf and Hunkins (Appx. 10). It was often only after Gueli was presented with uncontroverted evidence to the contrary that Gueli relented.

Gueli does not dispute that he, at times, has been untruthful—at least with respect to his attendance at required AA meetings. Gueli Br. at 2. But he claims that his lack of honesty with respect to his attendance at meetings "is not critically important"—his drinking habits are. Id. And there he claims he has "always been honest," not only with Dr. Wolf, but Ohio Lawyers Assistance Program (OLAP) Associate Director Paul Caimi, as to "material issues" involving his drinking history. Id. Although honesty is not limited to "material issues" nor is it Gueli's prerogative to choose which areas are material, this representation, too, is unsupported by the record. And that record plainly shows that Gueli misrepresented both his attendance at AA meetings *and* his drinking habits to those involved in his treatment and rehabilitation.

Gueli's inability to recognize the truth continues in this appeal. He continues to represent that he is "fully eligible to practice law in Florida" (Gueli Br. at 1) when that has been shown to be untrue. Gueli is fully aware that before he can practice in Florida, he must comply with the Florida Supreme Court's Recommendation of Diversion, which requires Gueli to be evaluated by Florida Lawyers Assistance (FLA) and follow its program of rehabilitation if recommended, or an equivalent program in Ohio. He has done neither, nor does he intend to. In fact, he now asks this Court in a supplemental filing that he be relieved of any obligation to enter into a contract with OLAP, not because of finances as he ostensibly represents, but because he simply wants to control the type of treatment he receives.

At bottom, Gueli's inability to be forthcoming and his attempts to control the rehabilitation process prevent him from satisfying the character and fitness requirements

to sit for the Ohio bar examination and eventually practice law in this state. Until he demonstrates that he can do so, which can only be accomplished by implementing the Board's recommendations, its Findings of Fact and Recommendation should be adopted.

II. Counterstatement of facts

Gueli presents few facts in his brief and those he does present are often intertwined with his challenges to the Board's Findings of Fact, in particular, that:

- he has had only "some issues" with depression (Gueli Br. at 1);
- he has "always [been] truthful" with his psychiatrist Dr. Wolf and OLAP monitor Paul Caimi on "material issues" (id. at 2); and
- he has not resisted treatment and, instead, has a "proven record of success in avoiding alcohol and drugs" (id. at 2-3).

None of these representations are accurate. More importantly, he continues to represent that he is "fully eligible" to practice law in Florida (id. at 1), when that, too, is untrue.

A. Gueli becomes licensed to practice in Florida in 2005 and takes a short-lived position with the Florida State Attorney's Office.

Gueli, a native of Mayfield Heights, Ohio, graduated from Stetson Law School in 2005 and became licensed to practice law in Florida in September of that year. 4/20/11 Hearing Transcript (hereafter Tr. ___) at 18; see, also, R. 1 (10/10/08 Registration Application) at 4. Around the same time, he began working for the Florida State Attorney's Office as an assistant state attorney where he was primarily responsible for prosecuting misdemeanor cases. Tr. at 18. He resigned six months later—in March 2006—after becoming embroiled in controversy over battery charges he had filed against a teacher. Although he stated in his Ohio bar application that he left the Office because

his "supervisors were engaging in unethical/criminal behavior" (R. 1 at 11), he conceded at the hearing that he questioned no witnesses and failed to consult with his supervising attorney before filing the charges. Tr. at 20-21. And he not only filed these uninvestigated charges but then talked to the press about them, which was a clear violation of the Office's policy. Id. at 21-22. Although Gueli acknowledged that policy and that he should have followed it, he nonetheless maintained that his communications with the press were protected by the First Amendment. Id. at 22. In fact, his testified at the hearing that he resigned, not because of any suspected unethical or criminal conduct, but because he "felt his rights were violated." He testified:

> I didn't appreciate the fact that they reprimanded me for speaking to the newspaper. I felt my rights were violated, and I didn't want to stay there any longer.

Tr. at 23; see, also, Tr. at 21-22; R. 1 at 19, ¶8 (where Gueli stated that he was reprimanded for exercising his First Amendment rights); R. 4 (National Conference of Bar Examiners (NCBE) Character Report form completed by the Office of the State Attorney) (noting that Gueli was reprimanded for failing to conduct pre-filing interviews, failing to consult with supervisor before filing, and for discussing the case with the media).

The Office eventually dropped the charges against the teacher. See Bar Exh. 22 (11/6/06 Order at in *Gueli v. United States,* M.D. Fla. No. 8:06-CV-0180-T-27MSS) at 2.[1]

[1] All exhibits referenced here were admitted at the April 20, 2011 hearing. Tr. at 230.

B. Gueli opens a solo practice, files grievances against his former supervisors at the State Attorney's Office, and gets arrested for drunk driving; The Florida Bar begins opens an inquiry.

After leaving the Florida State Attorney's Office, Gueli started what would become a short-lived solo criminal defense practice in that state. Tr. at 23-24. Although he would take referrals from the Public Defender's Office (Tr. 24), he also advertised his services in a local newspaper (Bar Exh. 22 at 2).

Around this same time, he also pursued disciplinary action against his former supervisors at the State Attorney's Office. Tr. at 25. He filed grievances against not only against State Attorney Moreland, but two of his immediate supervisors there, Dennis Nales and Donald Hugh Hartery. Tr. 25. Although Gueli testified that he did not recall why he filed the grievances (Tr. at 26), he testified earlier that he believed there was "corruption" in the Office, and that his former supervisors were engaged in unethical and illegal conduct, which he reported to the press. Id. at 16-17. He told his therapist Paul Hunkins the same thing (id. at 129), as he did Dr. Wolf (id. at 143). He eventually withdrew the grievances. Id. at 26.

In June 2006, shortly after he filed the grievances, Gueli was driving at an excessive rate of speed in Sarasota County, Florida with an open container of alcohol and while under the influence of alcohol. See Bar Exh. 3 at 1. He was arrested, charged, and, as authorized under Florida disciplinary rules, reported to The Florida Bar Association. Id.

C. Gueli sues his former boss, State Attorney Earl Moreland, the state of Florida and its then-governor, Jeb Bush, the United States and its then-president George Bush.

Convinced that President Bush, Governor Bush, and State Attorney Moreland were conspiring against him for exercising his First Amendment rights, he sued them in federal court. Through his Second Amended Complaint, he claims that they conspired by tampering with his mail, lacing his drinks with narcotics, interfering with his ability to practice law, causing him to be falsely arrested for drunk driving, and ultimately attempting to murder him. See Bar Exh. 22 (11/6/06 Order in *Gueli v. United States*) at 2-3.

Gueli's conduct in filing unsubstantiated allegations in federal court against these government officials was not an isolated event. Around the same time—in July 2006—he also sent a caustic letter to the Federal Bureau of Investigation (FBI) about a "crime" committed by President Bush—a crime to conspire to murder him. Rehashing many of the same allegations made in his federal complaints, Gueli referred to President Bush, Governor Bush, and State Attorney Moreland as "The Three Stooges" and their "henchmen" as the Central Intelligence Agency. Bar Exh. 1 at 1, fn. 3, 4. Outlining his conspiracy theory to the FBI, Gueli reported his surprise that his letter to The Associated Press detailing his version of the events at the State Attorney's Office was never published, his "shock" that his advertisement in the local newspaper resulted in no calls for his legal services, and his belief that beverages served to him at restaurants were laced with narcotics. He stated:

> This bizarre sequence of events * * * led me to believe that The Three Stooges conspired to tamper with the letter I sent to The Associated Press. Accordingly, I sued The Three Stooges. On June 19, I was arrested for driving while under the influence of alcohol, despite the fact that the arresting officer had no probable cause to make the arrest.

Bar Exh. 1 at 2.

Continuing, he stated:

> The facts enumerated in this letter establish the following: (1) The Three Stooges conspired to tamper with the federal mails in that they conspired to manipulate the postal records relating to the letter in question; (2) At some point after the arrival of my letter at the Associated Press, Mr. G. Bush dispatched the Central Intelligence Agency to solve the political problem I posed to the Bush family (particularly Mr. J. Bush); and (3) Due to the fact that the knowledge I possessed posed a serious threat to the political careers of The Three Stooges, the Stooges, working together with the Central Intelligence Agency, conspired to murder me. (Footnotes omitted.)

Bar Exh. 1 at 3. As would become customary with letters he would later send, he cautioned the FBI to "act on this matter immediately," noting that if it chose to ignore the "situation," Gueli would "not go away." Id.

The district court in *Gueli v. United States* ultimately dismissed Gueli's Second Amended Complaint. Although Gueli simply noted in his Ohio bar application that this lawsuit was dismissed (R. 1 at 33), he represented to the CMBA Appeals Sub-Committee at the March 2009 appeal hearing that he "abandoned the lawsuit because he got tired of it." R. 7 (6/22/09 Admissions Committee Final Report) at 5. In actuality, the district court granted the respective defendants' motions to dismiss. Bar Exh. 22 at 15-16.

D. The Florida Bar's consolidated inquiry results in a Recommendation of Diversion, which he never completed.

The Florida Bar consolidated its inquiry as to Gueli's arrest record, his lawsuit in *Gueli v. United States*, and his ensuing letter to the FBI. In May 2008, Florida Grievance Committee 12A recommended that Gueli complete a diversion program, which required:

> Evaluation by Florida Lawyers' Assistance, Inc. (FLA, Inc.) to be completed within six (6) months from the date of acceptance of this report. Should FLA, Inc. recommend a rehabilitation contract, Respondent will execute the recommended contract within 30 days of the recommendation. [Gueli] shall follow all recommendations by Florida Lawyer's Assistance, Inc., during the entire diversion period. * * *

Bar Exh. 3.[2]

Gueli accepted the Committee's Recommendation of Diversion in June 2008 (Bar Exh. 4), but never submitted for an evaluation by Florida Lawyers' Assistance (FLA) within the six months allowed (Bar Exh. 5).

E. Gueli's unsteady work history continues: he leaves his law practice in November 2006 and takes short-lived legal jobs in Ohio and Florida.

Gueli left solo practice in late 2006 and eventually returned to his family's Mayfield Heights home in February 2007. Although licensed only in Florida, Gueli took a temporary position with Litigation Management in Mayfield Heights as an "attorney" from February 2007 to April 2007. R. 1 (Registration Application) at 10. He testified

[2] Before the Florida Grievance Committee issued its Recommendation, Gueli contacted The Florida Bar, called its conduct "atrocious," demanded it take immediate action to resolve the inquiry, and threatened to sue. See Bar Exh. 2.

that his work there, however, was limited to gathering documents, even though Litigation Management wanted licensed attorneys. Tr. at 32-33.

He then returned to Florida and eventually took a short-lived position with a debtors' rights firm in Deerfield Beach, Florida. R. 1 at 9; Tr. at 34-35. He was terminated in November 2007 after the three-month introductory period for "below-average work performance," which Gueli attributed to his lack of interest in the job. R. 1 at 57.

Gueli then returned to Ohio again and took another temporary position as an "attorney" at American Electric Power in Canton, Ohio. R. 1 at 8; Tr. 44-45. He testified that his job there entailed reviewing documents, but did not require a law license, only a law degree. Tr. at 45. Gueli left American Electric when the project ended one month later, in August 2008. Id. at 45-46. Since that time, he has had no legal-related employment (id. at 46), and only two short stints lasting no more than a few weeks in retail and at a local restaurant.

F. In October 2008, Gueli applies to take the Ohio bar examination, but is disapproved.

In October 2008—during the six-month period he was to complete Florida's diversion program—Gueli applied to take the Ohio bar examination being administered in February 2009. R. 1. He noted no problems with any mental health issues or substance abuse. Id. at 26-29, ¶¶25-28. The two attorneys who conducted his Character and Fitness interview in January 2009, however, were concerned not only with his mental health, but his failure to seem concerned about his, by now, noncompliance with the

Florida diversion program, his escalating debt and unemployment, and the possibility that he had been holding himself out as an Ohio-licensed attorney. R. 7 (Reports of Admissions Committee Interviewers). They ultimately found that he did not possess the requisite character and fitness to practice law and recommended that he not be accepted for admission. Id.

Gueli appealed to the CMBA Appeals Sub-Committee, which held a hearing in late March 2009. Concerned primarily with Gueli's mental health and his finances, the Committee found that Gueli was "not grounded in reality," was "out of touch and delusional," and had no plan on how to manage his escalating debt. It ultimately, and unanimously, voted to disapprove Gueli for admission, concluding that he "has a great deal to work on" before he does so. R. 7 (Appeals Sub-Committee Report).

G. Gueli enters into a mental health contract with OLAP in April 2009 and is thereafter diagnosed with "Major Depression with Psychotic Features."

In early 2009—around the time of his Character and Fitness interview—Gueli began seeing and treating with psychiatrist Brooke Wolf, M.D., and social worker Paul Hunkins. Although initially diagnosed with Adjustment Disorder with Anxious Mood, that diagnosis soon changed to Major Depression with Psychotic Features based on Gueli's self-reported history with the State Attorney's Office and his subsequent lawsuit against the President and others. Tr. at 108, 117, 131, 143.

Around this same time, he executed a three-year mental health contract with OLAP, with Paul Caimi as his monitor. Bar Exh. 6. Under the terms of this contract, Gueli was to adhere to mental health treatment as planned, refrain from the use of all

mood-altering substances (including alcohol), and regularly confer with Caimi as his monitor. Tr. at 193; see, also, Bar Exh. 6.

Gueli relied on this contract to satisfy his, by this time, noncompliance with the diversion to FLA. Indeed, Gueli asked The Florida Bar and its Grievance Committee to nullify the diversion recommendation and represented that he "[did] not intend to practice in Florida" and that he was obtaining treatment in Ohio, which he believed was sufficient to satisfy the diversion to FLA. Bar Exh. 5. Indeed, he represented to the Committee that he had been evaluated as required by OLAP, had entered into a treatment program in Ohio, and was continuing treatment there in compliance with OLAP. Based on those representations, FLA reviewed Gueli's OLAP contract, found it sufficient to satisfy its program, and the Committee thereafter found no probable cause of a violation at that time. It expressly stated, however, that Gueli's file "will be retained and may be re-opened" in the event Gueli "fail[s] to successfully complete the OLAP program." Id.

H. Gueli eventually enrolls in Glenbeigh Hospital's intensive outpatient program and executes a chemical-dependency contract with OLAP, which is terminated eight months later for noncompliance.

In January 2010, Gueli was admitted into Glenbeigh's intensive outpatient program. Tr. at 148, 195-96; see, also, Glenbeigh Records (GLEN-1 to 21).[3] As noted in its Discharge Summary, Gueli did not respond well to treatment. See Glenbeigh Records at GLEN-2. At one point toward the end of February, he walked out during the program and only reengaged when he learned from Paul Caimi that he had no alternative. Id.

[3] Although these records were not referenced or admitted during the hearing, all treatment records were supplied to the Panel in paginated format beforehand, with Gueli's consent.

Although he seemed more involved for a time, that behavior did not continue. The discharge summary noted:

> [I]n his last couple of assignments he put so little effort and work into them that both staff and peers felt disrespected. It became obvious that he could not internalize the recovery process and his most feasible alternative at this time was to go to daily AA meetings and start individual therapy where he could learn to reduce his defenses. His prognosis is poor. Client is conditionally discharged to 90 AA meetings in 90 days and individual therapy for reduction of defenses.

Glenbeigh Records at GLEN-3. Gueli never attended the AA meetings as recommended despite representations to his psychiatrist and therapist to the contrary. See Bar Exh. 8 (AA Attendance Logs); Bar Exh. 15 (7/1/10 progress note); Bar Exh. 16 (10/21/10 progress note); Bar Exh. 17 (5/14/10 progress note); Bar Exh. 18 (2/24/11 progress note); Bar Exh. 19 (12/30/10 progress note).

A few months after his discharge from the Glenbeigh program, Gueli entered into a two-year chemical-dependency contract with OLAP. See Bar Exh. 7 (6/9/10 Chemical Dependency Contract); Tr. 195. Under the terms of this contract, Gueli was to identify a sponsor within two weeks of the contract, submit to random drug/alcohol screenings according to OLAP's Random Drug Testing Program, participate in and complete the 12-Step Program, and notify OLAP and his monitor if he used any prohibited substances, including alcohol. Bar Exh. 7 at 1-2.

Gueli did not comply with the terms of the contract. He did not identify a sponsor until mid-December 2010, he did not call in daily to check to see if he was scheduled for a drug/alcohol screen per OLAP's testing procedure, he failed two tests that he did take,

and he failed to contact Paul Caimi when he consumed alcohol. Tr. at 197, 203-04, 220. Because of his persistent noncompliance and lack of response to lesser treatment alternatives, Dr. Wolf, Paul Hunkins, OLAP recommended that Gueli participate in a residential, inpatient treatment program. Tr. at 134, 138, 146-47, 153, 154-55, 197-98.

Gueli flatly refused. Bar Exh. 9 (8/5/10 Caimi E-mail Detail). Although he acknowledged that Dr. Wolf also recommended inpatient treatment, he said he would not enroll in any form of inpatient treatment under any circumstances—even if it were free. Id.; see, also, Tr. at 198. Claiming that he is "not ill," he explained to Caimi:

> I see no reason to spend thirty days in a hospital when I'm not ill. For the past several weeks, I have been drinking between zero and ten alcoholic drinks per week—I do not feel that that is indicative of an illness which requires hospitalization. I am not ill and I do not belong in a hospital. I understand that it is OLAP's recommendation, as well as the recommendation of Dr. Wolf, that I enroll in residential treatment. Nevertheless, I will not be enrolling any such treatment.
>
> Before I began treatment for alcohol abuse, I was drinking between thirty and fifty drinks per week. My treatment for alcohol abuse has included therapy with Dr. Wolf, therapy with Mr. Hunkins, therapy with you, therapy at Glenbeigh, and therapy through Alcoholics Anonymous meetings. All of that therapy has been successful in reducing my drinking substantially, from 30-50 drinks per week to 0-10 drinks per week! That is incredible! I am happy with these results, and I do not feel that I need hospitalization in order to make the results even better.

Bar Exh. 9. Although Gueli recognized that his refusal would put him in noncompliance with his OLAP contract, he wanted to remain in "enrolled in OLAP," but under his terms, which did not include inpatient treatment. Id.

OLAP did not accept Gueli's "terms" and instead considered the contract terminated for noncompliance. Tr. at 199 (" * * * the bottom line is until he was ready to go to residential treatment, he could no longer be involved with OLAP. We were just going to terminate his contract when there was no point in continuing without the level of care required.").

Gueli, unhappy that his demands were not met, accused Paul Caimi of "lack[ing] common sense" and "common courtesy," and claimed that Caimi breached the contract, not Gueli. Gueli then informed Caimi, and has been Gueli's practice in the past, that he was going to sue him so Caimi should "govern [himself] accordingly. See Bar Exh. 13 (8/11/10 Letter from Gueli to Caimi).

I. Gueli continues treatment with Paul Hunkins and Dr. Wolf, and ultimately proceeds with his appeal of the CMBA's recommendation of disapproval.

Although Gueli had appealed the CMBA's recommendation of disapproval in August 2009 (R. 10), he requested that any hearing on the appeal be continued until just before the Board's July 2011 meeting (R. 16). During this interim time period, including the time period after he terminated his contract with OLAP in August 2010, Gueli continued treatment with Dr. Wolf and Paul Hunkins.

At the April 2011 hearing, both Dr. Wolf and Hunkins testified that Gueli was competent to practice law, his delusional thinking had been successfully treated, and, based on Gueli's representations to them, was satisfactorily participating in AA and had been sober since September 11, 2010. Tr. at 132-33, 146-47. Both conditioned their opinion, however, on Gueli's continued, active participation in AA.

Paul Hunkins testified:

> I believe you are competent to practice law as long as you realize you need to stay on your medication, and you need to continue with AA on a very concentrated regular basis.
>
> * * *
>
> And also to continue with therapy for some support with these issues. I feel you are competent to practice as long as those conditions are met.

Tr. at 133.

Dr. Wolf testified similarly. She opined that as long as Gueli continued in AA as an "active participant" and attended "regular meetings," he was competent to practice law. Id. at 147. She testified:

> As long as you remain in treatment and follow through with your meds and the meetings, I do believe you're competent to practice.

Tr. at 147.

But both Hunkins and Dr. Wolf premised their opinions on Gueli's self-reports that he was attending AA, and then often daily, and that he had remained sober since September 11, 2010. Tr. at 135, 137, 146. When questioned if Hunkins's opinion would change if he learned that Gueli had not been attending AA as represented, Hunkins testified that it would. Tr. at 137. Upon further questioning, he testified:

> That would change my opinion considerably if he was untruthful about the attendance.
>
> * * *
>
> Well, it would change my opinion in that breaking the sobriety would not only undermine his truthfulness with me, but it would also threaten to bring back the delusional thinking that would be very easy to trigger under the duress of alcohol.

Tr. at 139. Clarifying further, he testified:

> Well, I think that not being truthful with me about the AA meetings would undermine his character, and I wouldn't feel he would be appropriate to serve on the Bar in the state of Ohio if he were not a truthful person and if he didn't have the integrity of telling his own counselor the truth about his life.

Id.

Despite Dr. Wolf's testimony that her ultimate opinion—that Gueli is rational and competent to practice law—would be unchanged even if Gueli lied to her, the Panel nonetheless found that Gueli's "inability to know or tell the truth" made him unfit for the practice of law in Ohio. R. 27, Appx. 12. Although it concluded that Gueli's paranoia and delusions appear to have been successfully treated (Appx. 11), the Panel found that Gueli's persistence in "creat[ing] his own facts * * * until challenged by incontrovertible evidence to the contrary" (Appx. 12) may be evidence of continued mental health issues.

> It is unclear to the panel whether Mr. Gueli always knows that he is creating his own facts, whether he is just being careless, and/or whether his mental health issues contribute to his perception of reality, but in any event it is clear that he presently is not a person upon whom clients, courts, adversaries and others can rely.

R. 27, Appx. 12; see, also, Tr. at 212-16 (questioning Gueli's "recollection" of events).

Ultimately concluding that Gueli presently manifests a deficiency in honesty, trustworthiness, and reliability consistent with Gov.Bar R. I(11)(D), the Panel recommended that Gueli not be approved for admission at this time. It further recommended that he not be permitted to reapply until January 2014, continue treatment with Dr. Wolf and Paul Hunkins in the interim, and enter into a three-year contract with

OLAP and fully comply with its terms and recommendations. R. 27, Appx. 13. The Board adopted the Panel's report in its entirety. R 27, Appx. 1.

This appeal followed.

III. Law and argument

A. Standard

An applicant for admission to the Ohio bar must prove by clear and convincing evidence that he or she "possesses the requisite character, fitness, and moral qualifications for admission to the practice of law." Gov.Bar R. I(11)(D)(1). To meet this standard, the applicant's conduct must reflect a record of honesty, trustworthiness, and reliability, among other character traits, to justify "the trust of clients, adversaries, courts, and others[.]" Gov.Bar R. I(11)(D)(3). A deficiency in any of these traits is sufficient to disapprove the applicant. Id., see, also, *In re Application of Corrigan*, 123 Ohio St.3d 173, 2009-Ohio-4183, at ¶13.

Gueli has not shown that he is honest, trustworthy, or reliable. The record is replete with evidence where he has misrepresented the truth—a pattern that persists in the proceedings before this Court.

B. Gueli's inability to accurately represent the truth justifies the Board's decision to disapprove his application.

1. Gueli has had more than "some issues" with depression.

Gueli admits that the lawsuit he filed against the United States, President Bush, Governor Bush, the state of Florida, and State Attorney Moreland was based on paranoid delusional thoughts that these defendants conspired to kill him. Gueli Br. at 1-2. But he claims that this delusional thinking then led to a diagnosis of "depression." Id. at 2. In

actuality, Gueli was diagnosed with "major depression" and then with "psychotic features." Tr. at 108, 131; see, also, Tr. at 129-30, 143-44. He was then treated for this "delusional disorder" with antipsychotic medication in addition to the antidepressant medication already prescribed. Id. at 144-45. As Dr. Wolf testified on questioning by Gueli:

> I tried a number of antipsychotics in succession trying to get the delusions to clear. At some point I realized that you were not taking the medicine regularly, you really were resistant, as many people with paranoia are, to taking medicine.

Tr. at 145. Gueli's diagnosis of major depression with psychotic features—shown to be based on his paranoid and delusional thinking at the time—is consequently more than what can be considered as "some issues" with depression.

2. Gueli misrepresented both his drinking habits and his AA attendance, both of which are material issues.

Gueli repeatedly represented to both Dr. Wolf and his therapist Paul Hunkins that he was attending AA meetings daily. See Bar Exh. 15 (7/1/10 progress note); Bar Exh. 16 (10/21/10 progress note); Bar Exh. 17 (5/14/10 progress note); Bar Exh. 18 (2/24/11 progress note); Bar Exh. 19 (12/30/10 progress note). The AA attendance logs, however, do not support Gueli's representations. During the intervals where he reported attending daily meetings, his actual attendance was as follows:

Month	Meetings Attended
February 2010	11
March 2010	14
April 2010	22
May 2010	22
June 2010	20
July 2010	19
August 2010	6
September 2010	0
October 2010	0
November 2010	3
December 2010	20
January 2011	25
February 2011	17
March 2011	11

Bar Exh. 8; see, also, Tr. at 65-66. As shown, Gueli's representations were false.

Gueli does not deny that he was untruthful. Gueli Br. at 2; see, also, Tr. at 65. He claims, however, that this lack of honesty in this area is not "material" and that on "material issues"—like his drinking history—he has always been truthful. Id.

Even if it Gov.Bar R. I(11)(D)(3) required an applicant to be honest on material issues only (and it does not), this representation, too, is inaccurate. Gueli, on more than

one occasion, told Dr. Wolf that he been sober or otherwise totally refrained from drinking when Dr. Wolf learned that this was untrue. She noted:

> Jeff stated that he hasn't had a drink for two weeks but told Paul Hunkins that he drank a week ago. His self-reports are clearly not reliable.

Bar Exh. 17 (4/30/10 progress note).

Gueli's lack of truthfulness also troubled Paul Hunkins. Although Hunkins opined that Gueli was "competent to practice law" as long as he continued his medications and continued with AA "on a very concentrated regular basis" (Tr. at 133), he testified that Gueli's false representations as to his sobriety and attendance at AA meetings would change this opinion. He explained:

> Well, it would change my opinion in that breaking the sobriety would not only undermine his truthfulness with me, but it would also threaten to bring back the delusional thinking that would be very easy to trigger under the duress of alcohol.
>
> * * **
>
> Well, I think that not being truthful with me about the AA meetings would undermine his character, and I wouldn't feel he would be appropriate to serve on the Bar in the state of Ohio if he were not a truthful person and if he didn't have the integrity of telling his own counselor the truth about his life.

Tr. at 139.

Gueli's representations to his OLAP monitor Paul Caimi were also less than truthful. Caimi noted in April 2010 e-mail communication to Gueli:

> When I asked you when was the last time you drank, you stated a few months ago, but the two drug tests in March indicate that you drank in mid and late March.

4/12/10 E-mail Detail (OLAP 141); see, also, 6/7/10 Phone Call Details (OLAP 128) (informing Gueli of various areas of OLAP noncompliance, including lying about calling in for drug tests, failing drug tests, relapsing without telling Caimi, saying he will get a sponsor and not doing it, and not following Glenbeigh's recommendations).[4]

3. The record is replete with Gueli's resistance to treatment.

Gueli claims he has a "proven record of success in avoiding alcohol and drugs," which he claims is shown merely by passing "nearly all" of the alcohol and drug tests given. Gueli Br. at 2-3. But whether he has passed "nearly all" alcohol and drug tests is not the sole indicator that he is successfully rehabilitated. Instead, it is his compliance with treatment recommendations that would be the benchmark for a "proven record of success," and there his evidence is lacking.

From the very beginning, compliance has been a problem for Gueli. Explaining that it began with the Glenbeigh intensive outpatient program, Paul Caimi testified:

> He was not in compliance. He did not -- he did not comply with Glenbeigh. Actually, they terminated -- recommended that he terminate his involvement in outpatient, and they recommended that a higher level of care was necessary. I guess this was back actually January and February of 2010.
>
> * * *
>
> And so he did not successfully complete the Glenbeigh program, and then he had relapses. He did not -- during the course of time -- during the course of the contract, he failed, you know, an alcohol test. He admitted that he was drinking and for different periods of time, so he wasn't -- ultimately he didn't follow our treatment recommendations.

Tr. at 197.

[4] Although these records were not referenced or admitted during the hearing, all OLAP records were supplied to the Panel in paginated format beforehand, with Gueli's consent.

When asked by Gueli how long he was in compliance with the OLAP contract, Caimi testified similarly that he was in compliance only in the very beginning. He explained:

> It was during the beginning period. I would say probably into late 2009, early 2010. I mean, you did go and follow our recommendation to get an assessment, but then at that point I think at Glenbeigh, I think as soon as you started not, you know, complying with Glenbeigh is when you fell out of compliance with us. There were also periods during our contract you wouldn't return calls and we had to make clear you were supposed to do that on a regular basis, so there were periods you kind of fell out of compliance. But kind of you got back in and you were working, but clearly, you know, I think during the later part of 2010 you were not in compliance.

Tr. at 203-04.

It was this extended period of noncompliance that prompted the recommendation for inpatient treatment. As Caimi explained:

> We tried every kind of lesser alternatives. I tried sending him to AA meetings. He would not get a sponsor. He just kept drinking, is the bottom line. So ultimately he was appropriate for a higher level of care, and I reviewed the options with Dr. Wolf and Mr. Hunkins, and both agreed some kind of residential treatment was appropriate.
>
> And regardless of what they recommended, OLAP is entitled to make its own recommendations. Because we exhausted every other level of care, we recommended residential treatment.

Tr. at 197-98.

Caimi's testimony did not change when Gueli asked what prompted the directive for inpatient treatment. He testified:

> You continued drinking. You entered into a contract where specifically you said you would not do that. You failed alcohol and drug tests. You failed to get a sponsor, and all other -- even the AA meetings, even though you were attending the AA meetings and seemed like you were trying there, remember this is a disease. So, you know, all other levels of care had failed. You tried outpatient, intensive outpatient treatment and that had failed. You tried therapy, individual therapy, and that had failed, and you tried AA meetings, and that had failed. There were really no other options other than to go to some kind of inpatient treatment.

Tr. at 204.

Gueli, however, wanted no part of inpatient, residential treatment and flatly (and emphatically) refused, even if it were free. See Bar Exh. 9. Contrary to Gueli's representations then, the record plainly supports that he has "steadfastly resisted treatment" as concluded by the Panel. See R. 27, Appx. 11.

This Court had consistently found that evidence of an untreated alcohol dependence indicates "'a significant deficiency in the honesty, trustworthiness, diligence, or reliability of an applicant' and constitutes a basis for disapproval." *In re Application of Ralls*, 109 Ohio St.3d 487, 2006-Ohio-2996, at ¶8. In *Ralls*, as here, the applicant dismissed professional opinions of his alcohol dependence and instead believed he could "control his drinking with moderation." Id. at ¶13. The Court was unpersuaded. "Until [the applicant] * * * commits to and sustains a treatment plan for recovery, he is a poor risk to entrust with the critical duties owed clients, the courts, adversaries, and others in the practice of law." Id.; see, also, *In re Application of Lynch*, 116 Ohio St.3d 187, 2007-Ohio-6044, at ¶9 (noting that the applicant needed additional time "to show that he has overcome his alcohol dependency and is managing his condition with sufficient treatment

and counseling"); accord *In re Application of Alban*, 116 Ohio St.3d 190, 2007-Ohio-6043, at ¶13.

Gueli, like *Ralls*, dismisses what OLAP recommends and finds it sufficient that he has reduced his drinking from 50 drinks per week to no more than ten in that same time period. See Bar Exh. 9. And even though he now represents that he "no longer drink[s] alcohol" (Gueli Br. at 2), that representation is suspect given his record of untruthfulness. At bottom, his steadfast refusal to comply with OLAP's recommendation for treatment is inconsistent with his representation that he has a "proven record of success."

C. Gueli's manipulative behaviors support his lack of fitness to practice law in Ohio.

The larger problem with Gueli's resistance to effective treatment is that he wants to control and direct any treatment he undertakes, including choosing which parameters will demonstrate successful sobriety (e.g., taking and passing the alcohol tests administered at Dr. Wolf's direction only). He has no desire for inpatient treatment—even if it were free—because he has no desire to be in a treatment program with what he characterizes as a "facility for homeless persons." See Bar. Exh. 13. Although he may have been successful in manipulating Dr. Wolf and influencing her opinion, there is no dispute that she agreed that inpatient, residential treatment was the best alternative for him because he was "failing over and over again the intensive outpatient" form of treatment. Tr. at 152-153. And Hunkins agreed too. Tr. at 134-35, 138.

This desire for control continues with Gueli's latest filing in these proceedings. Objecting to the Board's recommendation that he enter into a three-year contract with

OLAP, he says that this recommendation is cost-prohibitive because OLAP will require him to enroll in inpatient treatment as a condition of the contract, which he cannot afford to do nor does he have any insurance that will cover it. See 9/26/11 Waiver of Oral Argument and Additional Objection. Again not considering that there are programs he could take advantage of that are either low cost or no cost to him (see Tr. at 198), he instead wants to control his treatment by asking this Court to decline the Board's recommendation that he enroll in OLAP and allow him to continue only in the care of Dr. Wolf and Paul Hunkins, as he has been doing.

This latest attempt at control is no different than that he has exhibited since his treatment began. He failed to comply with FLA, he failed to effectively participate in the Glenbeigh program, and he failed to do as was required of him by OLAP. Instead, he wants to do it his way. This persistent resistance and insistence that others do what he demands is not consistent with the requisite character and fitness needed to practice law in Ohio.

D. Gueli's continued misrepresentations that he is "fully eligible" to practice law in Florida further justifies his disapproval.

Gueli correctly represents that he became licensed to practice law in Florida in September 2005. Gueli Br. at 1. He is not, however, "fully eligible" to practice law there as he states in his brief before this Court. See Gueli Br. at 1.

The Florida Supreme Court through its Grievance Committee expressly stated that his disciplinary record there will be retained and may be reopened in the event Gueli fails "to successfully complete the OLAP program." See Bar Exh. 5. There is no question

that Gueli did not "successfully complete" OLAP. Indeed, Gueli readily concedes he did not follow the recommendations made by OLAP and that his contract was terminated in August 2010 for this reason. Bar Exh. 13; Bar Exh. 14; Tr. at 50, 75, 213. And although Gueli represented during the April 2011 hearing that he had informed The Florida Bar that his OLAP contract was terminated, he provided no documentation to this effect either before the hearing as he had been directed to do or at the hearing. Tr. at 42-44.

At the Panel's request, he produced a September 4, 2010 letter to this effect after the hearing. See 9/4/10 Letter from Gueli to Florida Bar Counsel Jodi Thompson.[5] Although the Panel questioned the authenticity of this letter (R. 27, Appx. 9), the CMBA is satisfied that Gueli informed the Florida Bar that his OLAP contract was terminated before it had been completed based on the undersigned counsel's contemporaneous telephone communication with Ms. Thompson, who confirmed that Gueli informed The Florida Bar of the terminated OLAP contract. Ms. Thompson also confirmed, however, that Gueli cannot practice law in Florida until he satisfies FLA. The undersigned informed the Panel and Gueli as to this communication in a May 6, 2011 e-mail. Consequently, Gueli is well aware that he is not presently "fully eligible" to practice law in Florida despite his representations to the contrary.

More troublesome, however, is that the September 4 letter, too, is inconsistent with what Gueli reported to Dr. Wolf and Paul Hunkins. In the letter, he reported to The Florida Bar that (1) he had been attending AA "nightly" since February 2010; (2) his

[5] Gueli produced the September 4 letter to the Panel and counsel after the hearing, but at the Panel's express direction and instruction that the record would be left open for that purpose. Tr. at 233-34.

OLAP contract was terminated solely because he would not agree to inpatient treatment, which he said he did not agree to because Dr. Wolf did not believe he needed inpatient treatment; and (3) with the exception of a "brief relapse" in March 2010, he had "completely abstained from the use of alcohol." 2/4/10 Letter to The Florida Bar.

As noted by the Panel, none of these representations were true. See R. 27, Appx. 9-10. First, the AA Attendance Logs show that Gueli did not attend "nightly" meetings and, in fact, he attended no meetings in September or October. See Bar Exh. 8. Second, Gueli's decision to refuse inpatient treatment was not based on Dr. Wolf's advice against inpatient treatment. In fact, she favored inpatient treatment (Tr. at 153, 161)—a fact Gueli acknowledged in the e-mail to Paul Caimi where he told Caimi he was refusing this type of treatment (see Bar Exh. 9 (8/5/10 E-mail Detail). And lastly, Gueli had not "completely abstained" from alcohol despite his admitted March 2010 relapse. Gueli conceded in the very same August 5, 2010 e-mail that he was consuming anywhere up to ten drinks a week, which he considered an "incredible" improvement. See Bar Exh. 9. So even though Gueli may have informed The Florida Bar that his OLAP contract had been terminated, his representations to that organization continued to exhibit Gueli's recreation of "facts" that are not supported by the truth.

IV. Conclusion

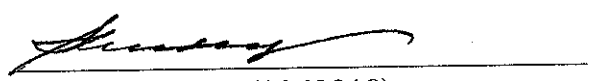
Respondent Jeffrey Vincent Gueli's variations of the truth undermine his arguments to this Court that the Board acted irrationally and unfairly. He continues to misrepresent facts as they really exist or existed. More importantly, he appears to believe that his version of the facts is the truth. This apparent disconnect is a deficiency in

honesty, trustworthiness, and reliability, and under Gov.Bar R. I(11)(D)(3) requires that his application for admission be disapproved at this time.

Relator The Cleveland Metropolitan Bar Association therefore recommends that the Findings of Fact and Recommendation of the Board of Commissioners on Character and Fitness of the Supreme Court of Ohio be adopted in its entirety.

Furthermore, Relator The Cleveland Metropolitan Bar Association does not waive oral argument, which is presently scheduled for November 1, 2011, and, under Sup.Ct.Prac.R. IX(9.3)(C), can proceed to present argument even though Respondent Jeffrey Vincent Gueli has notified this Court of his intention to waive argument.

Respectfully submitted,



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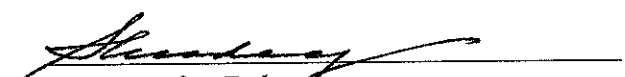
Cleveland Metropolitan Bar Association

CERTIFICATE OF SERVICE

A copy of the foregoing **Relator Cleveland Metropolitan Bar Association's Answer Brief to Objections of Respondent Jeffrey Vincent Gueli** has been served this 26th day of September, 2011, by U.S. Mail, postage prepaid, upon the following:

Jeffrey Vincent Gueli
1643 Chelmsford Road
Mayfield Hts., OH 44124

Respondent



Attorney for Relator
Cleveland Metropolitan Bar Association

APPENDIX

The Supreme Court of Ohio

11-1323

BEFORE THE BOARD OF COMMISSIONERS

ON CHARACTER AND FITNESS OF

THE SUPREME COURT OF OHIO

In re: Application of
Jeffrey Vincent Gueli

Case No. 426

FINDINGS OF FACT AND RECOMMENDATION OF THE BOARD OF COMMISSIONERS ON CHARACTER AND FITNESS OF THE SUPREME COURT OF OHIO

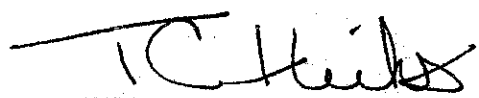
This matter is before the board pursuant to the appeal filed by the applicant, Jeffrey Vincent Gueli, in accordance with Gov. Bar R. I, Sec. 12(B).

A duly appointed panel of three Commissioners on Character and Fitness was impaneled for the purpose of hearing testimony and receiving evidence in this matter. The panel filed its report with the board on June 28, 2011.

Pursuant to Gov. Bar R. I, Sec. 12(D), the board considered this matter on July 8, 2011. By unanimous vote, the board adopts the panel report as attached, including its findings of fact and recommendations, with the amended recommendation that the applicant be permitted to file a new Application to Register as a Candidate for Admission to the Practice of Law no sooner than November 1, 2013, prior to filing an Application to Take the Bar Examination for the July 2014 bar examination.

Therefore, the Board of Commissioners on Character and Fitness recommends that the applicant, Jeffrey Vincent Gueli, be disapproved, and that he be permitted to reapply to take the July 2014 Ohio bar examination upon filing a new Application to Register as a Candidate for Admission to the Practice of Law no sooner than November 1, 2013, followed by an Application to Take the Bar Examination for the July 2014 bar examination. The board further recommends that the applicant continues treatment with Dr. Wolf and Mr. Hunkins and follows their treatment recommendations, and that the applicant enters into a contract with the Ohio Lawyers Assistance Program (OLAP) for a three-year period and fully complies with all terms and conditions of that contract and the recommendations of OLAP.

FILED
AUG 03 2011
CLERK OF COURT
SUPREME COURT OF OHIO

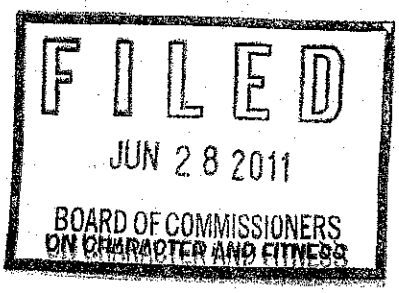


TODD HICKS, Chair, Board of Commissioners on Character and Fitness for the Supreme Court of Ohio

THE BOARD OF COMMISSIONERS ON
CHARACTER AND FITNESS OF THE SUPREME COURT OF OHIO

IN RE: APPLICATION OF
JEFFREY VINCENT GUELI

CASE NO. 426



PANEL REPORT AND RECOMMENDATION

Introduction

The matter is before a panel of the Board of Commissioners on Character and Fitness on applicant's appeal from a recommendation of disapproval by the Cleveland Metropolitan Bar Association. The members of the panel appointed to hear the appeal are the Honorable Nancy D. Hammond, Gregory L. Arnold, and Suzanne K. Richards, chair. At the hearing held on April 20, 2011, the applicant, Mr. Gueli, represented himself and Ms. Susan Audey represented the Cleveland Bar Association.

The Bar Association in a thorough memorandum set forth its multiple concerns concerning the applicant's fitness for admission to the Bar. See Admissions Committee Report of Disapproval. Based upon both its initial interview and the hearing held before the Bar Association's appeals sub-committee, the Bar Association had two primary concerns. First, it found the applicant had unresolved mental health issues, specifically that he appeared delusional with no real sense of reality. Second, the applicant evidenced an inability to take responsibility for his financial obligations and affairs.

For the reasons discussed below, the panel agrees with the Bar Association that Mr. Gueli does not presently possess the fitness to be admitted to the practice of law in Ohio.

Statement of the Case

Mr. Gueli is a 2005 graduate of Stetson Law School. Following his graduation, he took and passed the Florida bar, and was admitted in Florida later that year. His first employment was in the Office of the State Attorney in Florida where his tenure was short — from September 2005 until March 2006 — and not particularly sweet. He got cross-wise with his superiors after they refused him permission to prosecute criminal charges against a teacher for alleged abuse of a child. Because he failed to investigate sufficiently before filing charges, failed to review the charges with a supervisor before filing and discussed the case with the media, he was reprimanded. Mr. Gueli's testimony regarding these events exhibited what would be a continuing pattern — that is, testifying one way on an issue and when questioned changing his testimony. Despite admitting that he interviewed no witnesses to the alleged incident between the teacher and the student, Mr. Gueli was convinced that the teacher should be charged. When his supervisors did not agree, he took the file and went to the press to argue his case. Initially, Mr. Gueli stated that he was not aware of any policy that would preclude him from talking with the press. However, when questioned about this, he admitted that during his orientation training he had been told about a policy regarding statements to the media.

Following this problem with his superiors and for reasons that are not entirely clear, Mr. Gueli began to believe that lawyers in the Office of the State Attorney were corrupt and unethical. This, according to Mr. Gueli, caused him to resign from his position with the State Attorney in March 2006. He then set up his own practice, working out of his apartment from March 2006 until November 2006. During this time period, it appears Mr. Gueli became increasingly delusional. In May 2006, he drank an alcoholic beverage in the Atlanta airport

while traveling home to Ohio for a visit. He believed that the authorities laced his drink with a deadly narcotic. Convinced of the unethical and criminal behavior of his supervisors in the Office of the State Attorney, he filed grievances against his former supervisors with the Florida Bar in June 2006, but dismissed them a month later. He began during this time to write letters to the press. When these were not acted upon, he thought that the State officials were blocking his access to the press by some sort of shenanigans with the Post Office. His beliefs that lawyers at the State were out to get him caused him to file a lawsuit in federal court naming as defendants the United States, President George Bush, the State of Florida, Governor Jeb Bush, and his former supervisor, State Attorney Earl Moreland. The lawsuit asserted claims under RICO and for a denial of his First Amendment rights arising out of his contentions that his mail, in particular his letters to the Associated Press, were being interfered with by these various defendants or their agents. Mr. Gueli followed up the filing of the lawsuit with letters to the FBI in which he made irresponsible and unprofessional statements. For example, he referred to the three individual defendants in the lawsuit as the "three stooges." See Exhibit 1. In November 2006 the federal court dismissed the lawsuit. At his hearing before the Cleveland Bar Association, Mr. Gueli represented that he had voluntarily dismissed the lawsuit when in fact it had been involuntarily dismissed by the court. Despite the dismissal, Mr. Gueli continued to believe that defendants were out to get him.

Shortly after filing his lawsuit, Mr. Gueli was pulled over for speeding and when the police officer noticed an open can of beer in his automobile, he was arrested for driving under the influence. While ultimately acquitted of the DUI charge, he thought that the stop and arrest were orchestrated by the authorities because of his filing the federal lawsuit. There were other similar instances where Mr. Gueli convinced himself that the defendants were out to get

him. For example, one of his neighbors tragically committed suicide. Mr. Gueli perceived this as a situation in which the man had been hired to kill Mr. Gueli but, being unable to carry through on the hit, had killed himself instead.

Following the dismissal of his lawsuit, Mr. Gueli in November 2006 left Florida and returned to Ohio where he remained until approximately April 2007. From November until February, Mr. Gueli was unemployed. He then obtained temporary employment with Litigation Management. Although he indicated that he performed essentially paralegal-type duties, on the Ohio application he listed his position as a lawyer.[1] The form filled out by Litigation Management indicated it was a temporary position; however, Mr. Gueli testified that he could have stayed with Litigation Management but voluntarily quit in April 2007 to return to Florida. He was not able to obtain employment in Florida until August 2007 when he began to work as a lawyer for a solo practitioner. Three months later he was terminated from this position for below average work. At that point, November 2007, he returned to Ohio.

In late 2006, the Florida Bar filed two separate complaints against Mr. Gueli arising from his arrest for DUI and his filing of, and conduct with regard to, the federal lawsuit. The two complaints were thereafter consolidated. Mr. Gueli's behavior regarding his dealings with the Florida Bar raises some concerns. First, in response to the complaints, he sent the Bar some inflammatory letters threatening to sue it. (Threats of litigation over perceived slights or actions that he didn't agree with would become repeated behavior for Mr. Gueli.) Additionally, he did not appear for two hearings scheduled by the Bar. His comments in his correspondence to the Bar as to why he did not attend the two hearings are reflective of the attitude he showed during its proceedings:

[1] For a short time, again through a placement agency, Mr. Gueli was employed in 2008 at AEP. He again listed his position as lawyer in the application. Once more, he claims that he was not functioning as a lawyer. The panel questions Mr. Gueli's candor in connection with the information he provided concerning these two employments.

> I did not attend the July 26, 2007 hearing. On that date I was living approximately 250 miles from Tampa and had no access to a vehicle, and did not see why I should make extraordinary efforts to attend the hearing when I had been acquitted of the criminal charge which your letters indicated was the basis for the hearing. I did not attend the August 23, 2007 hearing either. On that date I had just begun a new job and had accrued no time off. I did not see why I should make extraordinary efforts to attend the hearing when I had been acquitted of the criminal charge which your letters indicated was the basis for the hearing.

See Exhibit 2, footnote 5.

Eventually, the Bar in May 2008 recommended a diversion to the Florida Lawyers' Assistance program. Mr. Gueli agreed to this. However, Mr. Gueli failed to submit to an evaluation by Florida's program by the prescribed date. Instead, as noted, he had by this time left Florida to come back to Ohio. Florida eventually accepted his obtaining an evaluation and any recommended treatment in Ohio since he had indicated to Florida that he was going to continue to reside in Ohio. Mr. Gueli characterized Florida's action as closing its file unless he failed to get an evaluation. Actually, the Florida recommendation that Mr. Gueli accepted recommended a diversion to Florida Lawyers' Assistance, Inc., his acceptance of any recommendation it made for a contract, and compliance with all FLA, Inc.'s recommendations during the diversion period. Florida's finding then stated that "[i]f respondent successfully complete[d] the diversion recommended hereunder, this disciplinary file shall remain closed." See Exhibit 3. As noted, at Mr. Gueli's request, Florida accepted his request to undergo an evaluaton and treatment in Ohio. Specifically, it found after a review of the OLAP contract that he signed that it was sufficient to satisfy FLA's program. As discussed below, however, Mr. Gueli did not ultimately comply with the contracts he signed with OLAP.

In early 2009, Mr. Gueli, who was still suffering from paranoia delusions, sought psychiatric treatment with a psychiatrist, Dr. Wolf and a therapist, Paul Hunkins. Based upon the medical records submitted in connection with the panel hearing, it is clear that alcohol contributed to and compounded Mr. Gueli's paranoiac views, his employment problems and his inclination to respond inappropriately to the Bar and to others with whom he dealt. At the time he returned for the final time to Ohio, he still was very much under the belief that the President of the United States and the Governor of Florida had been instrumental in tampering with his mail, lacing his drink with a narcotic, and trying to have him killed. Dr. Wolf diagnosed Mr. Gueli at this time as having major depression with psychotic features. After treating with Dr. Wolf and Mr. Hunkins for several months and apparently in response to the Florida Bar proceedings, Mr. Gueli signed the first of two contracts with OLAP in April 2009. While this was OLAP's mental health contract, see Exhibit 6, it did provide that he was to refrain from alcohol as well as other mood altering drugs.

Treatment by Dr. Wolf and Mr. Hunkins was impacted by Mr. Gueli's failure to stay on his prescribed medication and by his excessive drinking which tended to retard the efficacy of the medications and fuel his delusions. From January until March 2010 Mr. Gueli was in an intensive outpatient treatment program for his alcohol dependency at Glenbeigh, a part of the Cleveland Clinic. Throughout his participation in this program, Mr. Gueli was resistant to the treatment. His non-responsiveness to the program and his poor prognosis are specifically discussed in Glenbeigh's discharge summary. Interestingly, Mr. Gueli denies that he knew he was having problems in the program.

As a result of his continuing issues with alcohol, in June 2010, Mr. Gueli entered into a second OLAP contract, this one OLAP's chemical dependency contract. It again required

him to refrain totally from all mood altering substances, including alcohol; to obtain a sponsor within two weeks of the date of the contract; to submit to random alcohol screens, and to participate in the AA program. Virtually from the onset of the contract, Mr. Gueli violated its terms. He did not get a sponsor within two weeks. Indeed, he did not ultimately get a sponsor until December 2010, some 6 months after he signed the contract. He missed random screening tests that were scheduled because he did not call in as required. He failed two of the six tests he did take. When it was clear that the AA meetings and the outpatient treatment he had received were not working, OLAP's Mr. Caimi, after consultation with Dr. Wolf and Mr. Hunkins, recommended Mr. Gueli seek inpatient treatment. Mr. Gueli flatly refused to participate in an inpatient program. When Mr. Caimi pushed the issue, Mr. Gueli sent him an e-mail that initially said he was not willing to enroll in an inpatient program because he did not have the money to do so. However, he immediately followed this excuse with his real reason:

> Even if inpatient treatment were free, I would still decline to enroll in it — I see no reason to spend thirty days in a hospital when I'm not ill. For the past several weeks I have been drinking between zero and ten alcoholic drinks per week — I do not find that is indicative of an illness which requires hospitalization. I am not ill and I do not belong in a hospital. I understand that is OLAP's recommendation, as well as the recommendation of Dr. Wolf, that I enroll in residential treatment. Nevertheless, I will not be enrolling in any such treatment.[2]

Exhibit 9.

Despite explicitly stating in this e-mail that he understood that Dr. Wolf was also recommending inpatient treatment, Mr. Gueli testified at the hearing that Dr. Wolf thought it was a bad idea and she was against it. Dr. Wolf herself testified that she never was against inpatient treatment. Likewise, despite Mr. Caimi advising Mr. Gueli that Mr. Hunkins also favored

[2] Inpatient treatment is residential treatment and does not necessarily mean a hospitalization as characterizzed by Mr. Gueli.

inpatient treatment, Mr. Gueli at the hearing said Mr. Hunkins was also against it. Once again, Mr. Hunkins testified that he did not tell Mr. Gueli that he was against inpatient treatment. See Exhibits 10, 11, 12. Because of Mr. Caimi's persistence on the issue of inpatient treatment, Mr. Gueli sent him a letter reminiscent of the correspondence to the Florida Bar — he threatened to sue Mr. Caimi. See Exhibit 13. At this point in time, Mr. Gueli was not in compliance with the OLAP contract. He had not gotten a sponsor; he was not calling in daily to see if he was scheduled for a urine test; he was not attending AA meetings regularly; and most significantly, he was drinking. Because of his non-compliance, the OLAP contract was terminated in August 2010. When questioned about the effect of this termination on his Florida Bar proceedings, Mr. Gueli testified that he had advised Florida that his OLAP contract was terminated. Despite having previously been asked to provide all documents pertinent to the Florida case, Mr. Gueli had not produced such a letter at the time of the hearing and was asked to provide it. Following the panel hearing, the panel was provided a letter dated September 4, 2010. Frankly, it is difficult to determine the authenticity of this letter. It looks like an original, albeit it is not signed. Of greater concern, however, is the content of the letter even assuming it was sent to Florida. In it, he reports that he is progressing well not only with his depression and paranoid delusions, but also with his alcoholism. Specifically, he claims that he has been regularly attending AA meetings since February 2010. This is not true as the AA attendance records document. See Exhibit 8. In fact, in August 2010, he attended only 6 meetings and in September and October 2010, he attended no meetings. He does report that Mr. Caimi terminated his OLAP contract but says that this was done solely because he would not go into inpatient treatment — not because of his non-compliance with the terms of the contract — and he did not go into a residential treatment program because Dr. Wolf advised against it.

Characterizing Mr. Caimi's demand for inpatient treatment as "irrational," Mr. Gueli claims to have completely abstained from alcohol except for a brief relapse in March 2010. This likewise was not true. In fact, in his e-mail to Mr. Caimi dated August 5, 2010, see Exhibit 9, Mr. Gueli admits that he was drinking up to 10 drinks a week depending on the week. Even at the hearing, Mr. Gueli indicated that he continues to drink a low alcohol beer. That it is very low in alcohol does not alter the fact that there is alcohol in the drink and each of the professionals testified that they absolutely recommend against an alcoholic such as Mr. Gueli drinking any alcohol. But, as in the past, Mr. Gueli continues to believe that his alcoholism is under control when he has either limited the number of his drinks per week or is only drinking a low alcohol beverage.

His lack of honesty in his report to Florida is mirrored in his lack of honesty to Dr. Wolf and Mr. Hunkins. Each of them testified and their notes reflect that Mr. Gueli was telling them he was attending AA meetings when he was not. While each of them opined that so long as he continued with his medications and his therapy and psychiatric sessions, he should be able to practice law, each admitted that his lack of honesty impacted their opinion. While Dr. Wolf acknowledged that the fact that he was still not reporting reliably to her was a "revelation," she was reluctant to allow it to impact significantly her opinion. She felt it did not change her opinion about his ability to comprehend and make reasonable judgments. On the issue of truthfulness, she said that drinking was a problem in society; however she also commented that if an alcoholic who isn't getting themselves into trouble but isn't attending meetings as they claim can't be a lawyer this would disbar a lot of lawyers in the state. Unfortunately, her response misses the critical importance that truthfulness and honesty play in the profession. Mr. Hunkins on the other hand was very clear that if Mr. Gueli was not truthful about his drinking and his

attendance at meetings, it would change his opinion. In his opinion, it reflected on his character and made it inappropriate to serve as a member of the bar of the State.

While this report has discussed at length Mr. Gueli's mental health, alcohol and honesty issues, the Bar Association also had concerns with his financial responsibility. Mr. Gueli has lived at home totally supported by his parents since 2008. He has remained unemployed except for some small periods of work at restaurants from which he has been terminated. This lack of employment is compounded by his failure to present any evidence that he has made real efforts to obtain employment. He has credit card debt of $15,000 and other debt of $3,500 plus deferred student loans. This debt is all delinquent, long-standing and he has not taken any steps to get work and establish a plan for paying off his past debts and paying his current expenses. His only response when asked what steps he has taken was to advise the panel that on the way to the hearing he talked with his father about helping. This is a thirty year old adult who has not taken any action to live on his own or support himself for almost three years. Despite the fact that he and his doctors agree that his paranoia and delusions have been successfully treated by medication, he still has not sought to become self-sustaining.

Recommendation

Under the factors enunciated in Rule 1, Mr. Gueli simply has not shown by clear and convincing evidence that he possesses the character and fitness necessary to be admitted to the practice of law in Ohio. Rule 1, Section 11 (D). His paranoia and delusions appear to have been treated by psychiatric care and medication (which he will continue to need for the rest of his life). His alcohol dependency, however, is a different issue. He has steadfastly resisted effective treatment for this disease. He resisted the Glenbeigh program; he repeatedly and continually breached his obligations under his OLAP contract; he refused inpatient treatment at

the time that other alternatives had failed; and even today he continues to drink alcohol in the form of low alcohol beer.

Admittedly, for some period of time, finding and keeping gainful employment would have been difficult for Mr. Gueli. There could legitimately be a difference of opinion when that time ended, but it appears that for some period of time he has been capable of holding a job, and yet his lack of genuine effort to seek gainful employment continues today. Instead, he seems to have decided that he would simply wait until he took the bar. In the meantime, he continues to be supported by his parents, to ignore his past debts and, more importantly, continues to take no responsibility for supporting himself in any meaningful way.

The most important factor, however, that makes Mr. Gueli unfit at this time is his inability to know or tell the truth. He has not been truthful with Dr. Wolf and Mr. Hunkins; he was not truthful with Mr. Caimi; and even during the hearing there were repeated instances where he testified to matters that simply were not accurate. When questioned, he would inexplicably simply state that he must be wrong but that is what he remembered or thought at the time he made the statements. It brings to mind an observation made by then Senator Patrick Moynihan: "You are entitled to your own opinion, but you are not entitled to your own facts." That is precisely what Mr. Gueli does: he creates his own facts. And he holds to his views until challenged by incontrovertible evidence to the contrary. It is unclear to the panel whether Mr. Gueli always knows that he is creating his own facts, whether he is just is being careless, and/or whether his mental health issues contribute to his perception of reality, but in any event it is clear that he presently is not a person upon whom clients, courts, adversaries and others can rely. To the contrary, he presently manifests "a deficiency in honesty, trustworthiness . . .[and] reliability. . . ." Rule 1, Section 11 (D).

The panel therefore recommends that Mr. Gueli not be approved for admission at this time and that he not be permitted to re-apply for admission until January 2014 (allowing him if approved to take the July 2014 bar examination). It is further recommended that, in the interim, he continue treatment with Dr. Wolf and Mr. Hunkins and follow their treatment recommendations. Finally, he shall further enter into a contract with OLAP for a three-year period and fully comply with all terms and conditions of that contract and the recommendations of OLAP.

Nancy D. Hammond

Nancy D. Hammond, Panel Member

Gregory Arnold, Panel Member

Suzanne K. Richards

Suzanne K. Richards, Panel Chair