

ORIGINAL

IN THE SUPREME COURT OF OHIO

Cleveland Metropolitan Bar Association,

: Case No. 2011-1727

Relator,

v.

Mark Robert Pryatel,

Respondent.

Respondent's Motion to Remand for Hearing

Richard C. Alkire (0024816)
Dean Nieding (0003532)

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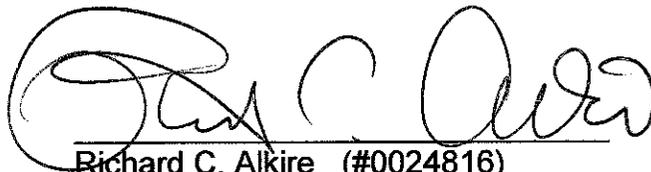
1. Affidavit of Mark Robert Pryatel.
2. Character letter of Attorney David Rowthorn.
3. Character letter of Attorney James A. Vargo.
4. Character letter of Attorney Peter Sackett.

MOTION

Respondent Mark Robert Pryatel, by and through his counsel, hereby moves this Honorable Court for an Order remanding the instant matter to the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court (hereinafter "the Board") so that an Answer can be filed, a Panel appointed and a Hearing held in connection therewith. Presently, the instant matter is before this Honorable Court on the recommendation of the Board in connection with a Motion for Entry of Default. The Master Commissioner recommended an indefinite suspension. However, the Board has recommended permanent disbarment. Respondent submits that good cause exists to ultimately permit a hearing on the merits of this matter.

Accordingly, for the foregoing reasons and those more fully set forth in the Brief attached hereto and incorporated herein by reference, Respondent respectfully requests that this Honorable Court grant his Motion to Remand to permit a Hearing.

Respectfully submitted,



Richard C. Alkire (#0024816)
Dean Nieding (#0003532)

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BRIEF

I. Introduction

The instant matter comes before this Honorable Court as a result of the Findings of Fact, Conclusions of Law and Recommendation of the Board. These findings arise from the Master Commissioner's recommendation on the Motion for Entry of Default brought by Relator Cleveland Metropolitan Bar Association.

The discipline case arose from separate grievances brought by two criminal defendants, Richard J. Troyan and Luis A. Martich, Jr., who Respondent represented commencing in March 2008 and July 2007, respectively.

II. Respondent's Failure to Defend Himself Throughout the History of the Two Grievances

Grievances were brought against Respondent by the Cleveland Metropolitan Bar Association by Richard J. Troyan and Luis A. Martich. The Troyan grievance was brought to Respondent's attention in a letter of inquiry dated December 30, 2009. The Martich grievance was brought to his attention in a letter of inquiry dated August 19, 2010.¹ Respondent failed to obtain representation in connection with these grievances throughout their history at the Cleveland Metropolitan Bar Association.² Instead, he responded to the December 10, 2009 Troyan grievance by providing extensive documentation to the Cleveland Metropolitan Bar Association, meeting with Bar investigator Stuart Lippe on at least three separate occasions, writing Mr. Lippe at least

¹ Mark Robert Pryatel Affidavit, Ex. 1, at paragraph 6; hereinafter references to this Affidavit shall be cited as "Aff. at para. ____."

² Aff. at para. 7.

four times³ and submitting himself for deposition on two separate occasions, on July 1 and 14, 2010.⁴ He also corresponded with Mr. Lippe concerning the Martich grievance.

Thereafter, Respondent was served with a Notice of Intent to File and a draft Complaint by correspondence dated January 24, 2011. He failed to seek the assistance of counsel in connection with a review of this procedural step undertaken under Gov. Bar R. V.⁵ Instead of answering the Complaint, Respondent wrote one letter after he received an entry dated August 23, 2011 from the Board appointing Jeffrey Heintz as a Master Commissioner to review the Motion for Entry of Default.⁶

The Motion for Entry of Default was filed August 22, 2011, and he failed to formally respond thereto. Respondent never received the Motion.⁷ Instead, Respondent wrote a letter to Master Commissioner Heintz indicating his compromised mental status and desire to respond to the Complaint.⁸

On October 7, 2011, the Board considered the report of the Master Commissioner on the Motion for Entry of Default and recommended that Respondent be permanently disbarred, contrary to Master Commissioner Heintz's recommendation that Respondent be indefinitely suspended from the practice of law "...whereby his

³ Aff. at paras. 8-9.

⁴ Throughout the two depositions, although Respondent never protested or objected, he was subjected to questioning by both Bar Counsel Ann Zimmerman and the Bar's investigator Stuart Lippe. (See e.g., Pryatel Depo at 1, 78, 108-109, 128, 133-136, 140, 143, 191, 199, 203-206, 208 and 211.)

⁵ Aff. at para. 7.

⁶ Aff. at para. 25, Ex. B.

⁷ Aff. at para. 24.

⁸ Aff. at para. 26.

readmission to the practice will be conditioned on compliance with all of the conditions of Gov. Bar R. V, Section 10, including restitution to Troyan and Martich.”⁹ Master Commissioner Heintz reasoned that this was the appropriate sanction because of Respondent’s failure to participate in the formal disciplinary process undertaken before the Board.¹⁰ Master Commissioner Heintz noted “[t]his is puzzling, given Respondent’s initial participation in these proceedings and his lack of a prior record of discipline. A sanction of disbarment permanently forecloses Respondent from ever demonstrating fitness to re-enter the practice of law. Even though the unanswered questions about Respondent arise from his unexplained failure to participate in these proceedings, a sanction of indefinite suspension, with appropriate conditions, is consistent with this notion, repeatedly expressed by the Supreme Court, that the primary purpose of disciplinary sanctions is to protect the public...”¹¹

III. Respondent has a Meritorious Defense, Including Substantial Factors of Mitigation, Which Militate Against Permanent Disbarment

A. Introduction

It is understood that procedurally the time has passed for Respondent to challenge the recommendation of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio in connection with its recommendation of permanent disbarment. That Respondent has failed to defend himself in this proceeding appears to counsel to be a serious lack of appreciation on Respondent’s part as to the potential consequences of this proceeding when it was instituted in

⁹ Hereinafter, references to this Report shall be cited as “Report at para. ____.” Report at para. 17.

¹⁰ Report at para. 17.

¹¹ Report at para. 17.

February 2011, the lack of an understanding as to how to respond to the allegations of the grievance, both during the grievance process and thereafter, the result of everyday life pressures which interfered with Respondent's capacity to defend himself (including the illness and subsequent death of his mother) and heretofore undiagnosed psychological issues which most likely have inhibited his capacity to take appropriate action in his own defense.

In this regard, it is clear to counsel, based upon a review of documents collected by Respondent since the inception of the grievances and several meetings with him, that Respondent totally misjudged the seriousness of the allegations, much less the necessity of seeking representation to defend himself.

Further, the totality of Respondent's deposition testimony attached to the Motion for Entry of Default and relied upon by the Master Commissioner in connection with his recommendation likewise reflects such misjudgment.¹²

During his second deposition, Relator's counsel noticed Respondent's hand tremors which Respondent attempted to explain.¹³

In regard to Respondent's state of mind due to stress in his personal life, during his first deposition, he explained to Relator's counsel his responsibilities concerning his

¹² While the Master Commissioner relies upon Respondent's deposition testimony in depositions taken on July 1, 2010 and July 14, 2010, neither of these depositions were appropriately filed. Instead, min-u-script versions were attached to the Motion for Entry of Default as Exs. E and F. The certificate by the court reporter for the July 1, 2010 deposition misstates the name of the deponent in the notarized certificate (James Pryatel rather than Mark Pryatel). Further, there is no affirmation that the witness waived his signature or that the required period of time elapsed after being notified that the deposition was available for review. As it relates to the July 14, 2010 deposition, there is no affidavit of the court reporter concerning providing the deposition to Mr. Pryatel for review.

¹³ Pryatel Depo at 209-210. A separate Motion to this Court will be made to supplement the record in regard to Respondent's current mental status.

mother and taking care of her given her hospitalizations on two instances within the past year (as of July 1, 2010).¹⁴ Indeed, just prior to this deposition, he had brought his mother home.¹⁵ On July 11, 2011, his mother died.¹⁶ During the period of time between his depositions taken during the Bar Association's investigation of the Troyan grievance and after the formal Complaint had been filed before the Board, Respondent had been preoccupied with caring for his mother, and then, after her death, dealing with his grief.¹⁷

Additionally, Respondent is well regarded in the legal community in the Cleveland, Ohio area. He has a reputation for professionalism and ethical behavior.¹⁸

B. Troyan Grievance

The Board found that Respondent violated R. 1.15 concerning safekeeping of funds and property and R. 8.4(c)¹⁹ concerning dishonest conduct. Also, a R. 1.5 excessive fee allegation is made. However, the Board makes no specific finding concerning excessive fees, but focuses on Respondent's alleged misrepresentation of facts to the tribunal, a R. 3.3 violation, as well as misappropriation of client funds in respect to the Troyan and Martich counts.

¹⁴ Pryatel Depo at 67.

¹⁵ Pryatel Depo at 67.

¹⁶ Aff. at para. 12.

¹⁷ Aff. at paras. 11-12.

¹⁸ See Exs. 2, 3 and 4, letters from colleagues who have personal knowledge of Respondent's good reputation in the legal community and his honesty.

¹⁹ While R. 8.4(b) is alleged in the Complaint, the quoted portion of the rule corresponds to R. 8.4(c). Apparently, the Board presumed this was the violation alleged as well.

Importantly, the record presented in connection with the Motion for Default does not support misappropriation of client funds in either of the representations. The R. 3.3 allegation is not supported by the record either.

Instead, Respondent's deposition testimony reveals that he reluctantly accepted responsibility to manage the \$50,000 Workers' Compensation award provided to him by Mr. Troyan's Worker's Compensation lawyer, James Martello.

It was Mr. Martello who requested that Respondent take the Worker's Compensation check to Mr. Troyan in jail and have him endorse it. Respondent did this, and at that time requested that Mr. Troyan sign a fee agreement with him for future representation. (Pryatel Depo at 19, 23)²⁰

As it relates to the alleged violation of R. 3.3, Respondent did explain that choice of language in his deposition. The Board quoted a portion of it, including Respondent's own observation that Troyan was "capable of performing certain tasks of employment."²¹

While Relator's counsel chose not to develop this testimony, Respondent did indicate that the allegation was made so that the Court "...could discuss with him

²⁰ The fee agreement is Ex. 1 to the Pryatel Depo. This fee agreement does not reference a specific legal proceeding. Throughout Respondent's two depositions, Mr. Lippe mischaracterizes this fee agreement as only applicable to the probation violation matter pending before Judge Hollie Gallagher. Multiple times during the two depositions, Respondent indicated that the fee agreement applied to all activities thereafter. In essence, the fee agreement specifically mentioned that \$100 per hour would be charged for "legal services including court appearances, motion filings, research of ORC., **letters**, phone calls and supporting administrative actions." See Pryatel Depo at 57-58 (Relator's counsel interrupted him at this point while he was trying to explain the application of the contract), 59-60, 88-89, 131 and 138.

²¹ Pryatel Depo at 62-63.

[prospects for him to return to employment] when they had an actual hearing.²²

Indeed, having met with Mr. Troyan on a number of occasions, Respondent was aware that Mr. Troyan did have prospects for employment, including drywall work on an occasional basis and security guard work. The Court denied the Motion without an evidentiary hearing.²³

As it relates to the alleged R. 8.4(c) violation, in no way does the record before this Court support such allegation. Throughout his deposition, Respondent attempts to explain in great detail what happened to the money that he was asked to take control of when Mr. Troyan was imprisoned. His explanations do not amount to misappropriation, dishonesty, fraud, deceit or misrepresentation. At worst, his testimony supports a contention that the money was not initially properly deposited in an IOLTA account. However, he explains the circumstances surrounding this as well.²⁴ After depositing the money, Respondent was able to account for it.²⁵ Respondent specifically disputed in his testimony that he failed to account for these funds to Mr. Troyan.²⁶

C. Martich Grievance

In the Martich grievance, Respondent was charged with the failure to deposit the \$2,025 retainer into his IOLTA account. Further, he is also charged with the following rule violations: R. 1.1 (failure to provide competent representation); R. 1.3 (failure to act with reasonable diligence and promptness); R. 1.4(a)(3) (failure to keep a client

²² Pryatel Depo at 62. This rationale does not evince an effort on Respondent's part to misrepresent anything to the Court. Indeed, he expected that the Court would discuss this allegation with Mr. Troyan.

²³ Aff. at para. 14.

²⁴ Pryatel Depo at 33-37.

²⁵ Pryatel Depo Exs. 2, 2A, 3, 4, 4A.

²⁶ Pryatel Depo at 142-143.

reasonably informed of the status of the matter); R. 1.4(a)(4) (failure to communicate in regard to a reasonable request for information); R. 8.4 (engaging in dishonest, fraudulent, deceitful behavior or misrepresentation); and R. 8.4 (engaging in conduct prejudicial to the administration of justice). Martich's Affidavit was supplied in connection with these allegations.

The problem with Martich's Affidavit is that it is of the son of Mr. Martich, Sr. It was Mr. Martich, Sr. who paid the money to Respondent (see Martich Aff. at para. 2-4, Ex. D to Relator's Motion for Entry of Default), and it was Mr. Martich, Sr. with whom Respondent communicated repeatedly between July 3, 2007 and the present.²⁷ Further, the original goal of sealing Mr. Martich, Jr.'s record was thwarted, because while he was on probation from the initial drug-related offense, he was again arrested for drug abuse.²⁸

Despite this complication, and after communicating with Mr. Martich, Sr., in letters dated June 18 and July 11, 2008 and telephone calls thereafter, Mr. Martich, Sr. continued to request that Respondent retain the funds provided in the event that Respondent could accomplish the originally discussed expungement.²⁹

In addition, Respondent did deposit the \$2,025 retainer in his Key Bank IOLTA Account.³⁰

Finally, after the grievance was filed, in connection with the Client's Security Fund, Respondent personally delivered to Mr. Martich, Sr. a bank check dated September 28, 2011 in full refund of the original \$2,025 retainer. Indeed, Mr. Martich,

²⁷ Aff. at paras. 19-21.

²⁸ Aff. at para. 19.

²⁹ Aff. at para. 21.

³⁰ Aff. at para. 18.

Sr. has indicated to Respondent his willingness to assist him to dispel any misunderstandings that the Board or others scrutinizing Respondent's conduct may have concerning these funds and the circumstances surrounding Respondent's retention of them.³¹

IV. Law and Argument

A. Remand is Appropriate Under the Exceptional Circumstances Which Exist in the Instant Matter.

This Honorable Court has previously acknowledged that only upon a showing of exceptional circumstances will it allow the record to be supplemented and remanded back to the Board for that purpose. *Cleveland Bar Assn. v. Witt* (1999), 85 Ohio St.3d 9, 706 N.E.2d 763; *Dayton Bar Assn. v. Stephan* (2006), 108 Ohio St.3d 327, 2006-Ohio-1063. Yet, in exceptional circumstances, this Honorable Court has permitted a record to be supplemented at the current point in the discipline proceedings of this matter, and it has remanded matters to the Board for further development of the facts. See *Disciplinary Counsel v. Carpino* (2005), 106 Ohio St.3d 1454, 2005-Ohio-3493; *Butler Cty. Bar Assn. v. Portman* (2007), 116 Ohio St.3d 1450, 2007-Ohio-6843; *Disciplinary Counsel v. McShane* (2009), 121 Ohio St.3d 169, 2009-Ohio-746 (The Court remanded a matter to the Board after compelling evidence of a mental disability was offered in explanation for the failure to file an Answer, among other reasons.) In the *Carpino* and *Portman* cases, Respondents were permitted to provide additional mitigation evidence. However, in the instant matter, Respondent requests not only to supplement the record in regard to his mental status at or about the time it became

³¹ Aff. at paras. 22-23.

necessary to formally defend himself before the Board, but also to supplement the record on the substantive allegations brought against him in respect to both grievants.

Recently, this Honorable Court permitted supplementation of the record in regard to a Respondent's health condition, after Oral Argument had occurred. *Butler Cty. Bar Assn. v. Minamyer* (2011), 129 Ohio St.3d 433, 2011-Ohio-3642 (The remand resulted in evidence that Respondent's mental-health conditions played a significant role in his failure to timely respond to Relator's Complaint. However, the evidence was insufficient to warrant a second remand or alter the Board's Findings of Fact and misconduct.) See also, *Disciplinary Counsel v. Johnson* (2011), 128 Ohio St.3d 1404, 2011-Ohio-807 (The matter was remanded for the consideration of mitigation evidence.)

Insofar as Respondent experienced a very difficult time dealing with his mother's protracted illness and her subsequent death,³² along with his extensive cooperation at the level of the investigation of the Troyan grievance, it is respectfully asserted that exceptional circumstances exist here warranting a remand. Respondent has taken steps to meet with Megan Robertson of OLAP and a psychologist through his family doctor.³³ Indeed, Bar counsel noticed something significant enough about Respondent's demeanor that such observations found their way into the deposition transcript.³⁴ Further, the entire substance of the Martich grievance is mischaracterized in the Affidavit of the party represented, but not the party who provided the money to

³² See Ex. 2, letter of Attorney David Rowthorn who noted Respondent's behavior as distracted and "maybe even depressed."

³³ Aff. at para. 27.

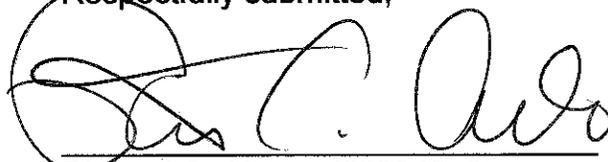
³⁴ Pryatel Depo at 209-210.

Respondent and with whom the Respondent continued to communicate through the time at which a full refund was made.³⁵

V. Conclusion

The extreme sanction of permanent disbarment is not warranted, either under the record as it exists before this Honorable Court or as the underlying facts would warrant should Respondent be permitted to present them to a Panel of the Board upon remand. Given Respondent's heretofore unblemished career, which began in 1983 when he passed the Ohio Bar examination, and the exigent circumstances which explain his failure to defend himself before the Board, this Honorable Court is respectfully urged to remand this matter to the Board, so that a complete record can be developed.

Respectfully submitted,



Richard C. Alkire (#0024816)
Dean Nieding (#0003532)

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Attorneys for Respondent

³⁵ No notation is made of the full refund, as it occurred after the filing of the Motion for Entry of Default Judgment and the time when the Board made its recommendation to this Court. Aff. at para. 23, Ex. A.

APPENDIX

Exhibit Nos.

1. Affidavit of Mark Robert Pryatel.
2. Character letter of Attorney David Rowthorn.
3. Character letter of Attorney James A. Vargo.
4. Character letter of Attorney Peter Sackett.

6. He actively participated in the investigation of the grievance brought against him by Richard J. Troyan having been supplied with a letter of inquiry dated December 30, 2009. He received a letter of inquiry concerning a grievance by Luis Martich, Jr. dated August 19, 2010.

7. He did not seek the assistance of counsel for the Troyan or the Martich grievances or the subsequent disciplinary case arising from these grievances. He first sought help from counsel for this disciplinary matter on November 16, 2011.

8. During the course of the Troyan investigation by the Cleveland Metropolitan Bar Association, he submitted himself for deposition on two occasions, July 1 and July 14, 2010.

9. He met with Bar investigator attorney, Stuart Lippe, on at least three occasions prior to those depositions, and wrote Mr. Lippe at least four letters.

10. He produced all records requested of him, which comprised all of the records he had concerning his multiple representations of Mr. Troyan. Among the documents he supplied to the Bar Association were about 70 letters sent to him by Mr. Troyan and his 43 responses.

11. His mother became ill prior to the Bar Association's investigation, and just before his first deposition she had been released from the hospital for the second time.

12. During the entire Bar investigation, he was preoccupied with his mother's physical and emotional wellbeing and remained preoccupied up to the time of her death on July 11, 2011. He was his mother's primary caregiver, although she did live in her own residence independently.

13. During this period of time, he experienced depression and anxiety associated with his mother's condition. After her death, he continued to experience sadness and depression.

14. As it relates to Mr. Troyan's ability to arrange for employment as alleged in his Motion for Judicial Release, he had spoken to Mr. Troyan before drafting the Motion which he provided Mr. Troyan and which Mr. Troyan did not indicate was inaccurate. Indeed, Mr. Troyan had advised him before he drafted the Motion that he could do light duty work, including security work which he had done in the past. He also advised that he had done drywall work in the past and could do it now on an occasional basis. As Affiant indicated in his deposition, he recognized that the Court would question Mr. Troyan about this. He full well expected that Judge Gallagher would question Mr. Troyan about employment potential. The Court denied this Motion without an evidentiary hearing.

15. In respect to the Troyan matter, he engaged in no dishonest behavior and has accounted for the funds which came into his possession.

16. He has a good-faith dispute with the Bar Association over his entitlement to fees for work he performed at the specific request of Mr. Troyan over the 23 months he represented Mr. Troyan. He continues to have a disagreement with the Cleveland Metropolitan Bar Association concerning the lack of a contract for representation, as he has indicated all along that the contract he obtained on March 19, 2008 covered all the activities which occurred thereafter, including his letter writing.

17. As it relates to the Martich matter, he took no money whatsoever from Luis A. Martich, Jr. It was Mr. Martich, Jr. who was the subject of the criminal conviction in

the Cuyahoga County Common Pleas Court. It was Mr. Martich, Sr. who engaged him to seal the criminal conviction and who provided him a retainer of \$2,025.00.

18. He deposited these funds in his Key Bank IOLTA Account as the July 2007 statement (Ex. C attached hereto) indicates. This deposit corresponds with the Receipt attached to Relator's Motion for Entry of Default, as Ex. 1 to the Ex. D Martich Affidavit.

19. The complexity of the expungement case changed shortly after he was retained, because Mr. Martich, Jr. was arrested again in connection with marijuana drug abuse. He did apprise Mr. Martich, Sr. of these developments, who requested that he retain the original money which Mr. Martich, Sr. had provided him by check in the amount of \$2,025. He did exactly what Mr. Martich, Sr. had requested.

20. It was his belief that after the passage of time, circumstances could change which would allow for the record to be sealed. He advised Mr. Martich, Sr. of this, who did not request that his money be refunded.

21. Mr. Martich, Sr. at no time requested a return of the money, although Affiant had offered to return it on a number of occasions.

22. Ultimately, in 2011, Mr. Martich, Sr. advised that he would like to meet and keep the matter of the money between Affiant and Mr. Martich, Sr. It was Affiant's impression that Mr. Martich had been contacted by the Clients' Security Fund which had also contacted Affiant.

23. He and Mr. Martich, Sr. met, and he provided a check dated September 28, 2011 in the amount of \$2,025. (Ex. A) At the time of the meeting, Mr. Martich

expressed to him that he held no ill-will concerning this matter, and that he would "stand up" for Affiant should he be called upon to do so in the future.

24. At the request of counsel, he has searched his home at 250 East 264 Street, Euclid, Ohio for the Motion for Entry of Default. He has not located it. He does not remember ever receiving it.

25. He forwarded the letter, attached hereto as Ex. B, to the attention of Jeffrey Heintz at the Board of Commissioners on Grievance and Discipline of the Ohio Supreme Court after he received the Entry dated August 23, 2011, indicating that this matter was assigned to Mr. Heintz to rule on a Motion for a Default Judgment. At the time he finally received this Entry, which had been sent to an incorrect address, 250 East 26 Street, as had the original Complaint in this matter, he wrote such letter.

26. In this letter, he expressed to Mr. Heintz the reason for not having responded to the Complaint filed against him in February 2011. He indicated to Mr. Heintz that this matter has caused him severe depression and a great deal of anxiety and stress. He indicated that he is paralyzed by fear over the potential outcome. He was then advised by correspondence from the Board of Commissioners that this matter had already been decided and sent to this Honorable Court.

27. At the suggestion of current counsel, he has contacted OLAP for purposes of a mental health evaluation and has an appointment with OLAP's mental illness professional, Megan Robertson, who he will be seeing on December 8, 2011 at 1:00 p.m. in Columbus, Ohio. Further, he has contacted his family physician, Donald Junglas, M.D., to obtain a consultation and appointment with an appropriate mental health professional.

28. He sincerely requests the opportunity to provide all of the facts which apply to each of the grievances and unequivocally indicates that he has not engaged in dishonest behavior in respect to either of them. At worst, he is guilty of inappropriate use of his trust account which he now understands and appreciates.

Further, Affiant sayeth naught.


Mark R. Pryatel

Sworn to and subscribed before me and in my presence this 23rd day of
November, 2011.


Notary Public

RICHARD C. ALKIRE, ATTY.
NOTARY PUBLIC • STATE OF OHIO
My Commission Has No Expiration Date
Section 147.03 O.R.C.

ATTACHMENT NOT SCANNED

Mark R. Pryatel

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October 21, 2011

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

Attn: Master Commissioner
Jeffrey T. Heintz

Re: CMBA v. Pryatel
Case No. 11-023

Dear Master Commissioner Heintz:

This letter will serve to respond to the entry I received regarding the complaint filed against me. My only response to this is that it has caused me to become severely depressed and I have suffered a great deal of anxiety and stress over this matter. I have never been involved in anything close to this during my entire legal career. It is as if I am paralyzed by fear over the potential outcome. I would wish to respond to the complaint and not have it proceed by default but fear the time is too late. I apologize for not responding sooner. I am sorry to have troubled you with this letter. Please let me know if I can be of any assistance to you in this matter.

Very Truly Yours,


Mark R. Pryatel

ATTACHMENT NOT SCANNED

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November 21, 2011

Justices of the Supreme Court of Ohio

Re: Mark Pryatel, Reg. # 0019678

Dear Justices:

I am pleased to respond to a request for a written opinion of Attorney Mark Pryatel.

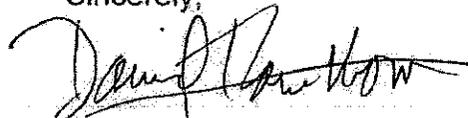
I met him in the mid 1980's. As I have a substantial civil and criminal practice and spend a lot of time in the Justice Center, I have had frequent contact with Mr. Pryatel and our colleagues for about 25 years. We have had co-defendants in cases, we have represented defendants in related cases and I have had numerous opportunities to work with him, work on opposing sides and observe his performance in court and with his clients, their families and with witnesses. He often represents poor clients and difficult clients in desperate circumstances. He does very well even with the most unreasonable clients and always maintains a professional and pleasant demeanor.

I know Mr. Pryatel only in a professional capacity. I do not socialize with him, I never shared an office with him, we are not related by marriage and we have no other personal relationship. My assessment and admiration for his skills and reputation are based solely on my observations of his practice and knowledge of his reputation. I have noticed over a period of months that he seemed to be distracted and maybe even depressed.

Mr. Pryatel is a skilled trial lawyer and negotiator. He is well respected by his colleagues and the bench and his reputation for professionalism and ethics is excellent. He represents his clients zealously and ethically and I would be happy to have him represent me or any of my family members if I ever needed a top notch lawyer.

He is honest, very dedicated and I have absolutely no reservation about him as a lawyer dedicated to the law, his clients and professionalism. To say more would be repetitious but Mr. Pryatel is everything a lawyer should be. I am happy to assist him and add the benefit of my knowledge in his support.

Sincerely,



David Rowthorn

JAMES A. VARGO & ASSOCIATES, LLC

A Legal Professional Association

Attorneys and Counselors at Law

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Email jamesvargo@vargolaw.com

November 21, 2011

Justices of the Ohio Supreme Court

**RE: Mark Robert Pryatel
Supreme Court No. 0019678**

I have known Mark Pryatel since we entered Cleveland-Marshall Law School in 1980. He has been a great and close friend to me since then.

Mark has been there for me throughout the years, assisting me in both professional and personal matters. Mark is the Godfather of my youngest child, Jessica, and he has spent many weekend days at my home for a cookout or other family activity.

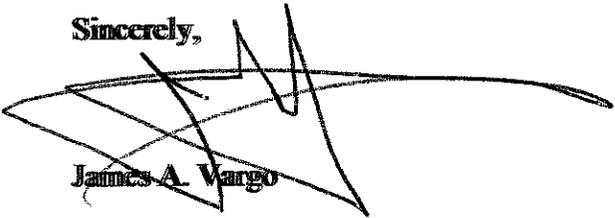
In a professional setting, I have always believed Mark to be of excellent moral character. We have co-counseled on many cases and I have referred clients to him without hesitation, knowing he would address their needs in a professional and timely manner.

He handles many assigned counsel criminal matters in Common Pleas Court, applying that extra effort on behalf of his clients and spending many hours in their assistance without receiving adequate compensation. As such, I know personally that he has an excellent reputation for honesty and good character among judges and other attorneys.

As a private practitioner myself, I can fully appreciate the long hours and dedication that are required to make a living as an attorney. Add to that the undisputed fact that rarely are we adequately compensated for our labors. I know Mark commits himself to the same hard work and strong ethical beliefs every day, to the benefit of both his clients and himself.

Whatever issues may have arisen of late that now may impact Mark Pryatel in an adverse manner, I can state with confidence that it is not the typical behavior or performance of this man. I believe that with support, understanding and the open-mindedness of those who seek to review his actions herein, Mark will be able to overcome this present obstacle and resume his honest commitment to the legal profession.

Sincerely,



James A. Vargo

PETER A. SACKETT
ATTORNEY AT LAW
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November 23, 2011

Honorable Justices of the Ohio Supreme Court
65 South Front Street
Columbus, OH 43215-3431

RE: Mr. Mark Pryatel (0019678)

Dear Honorable Justices:

I am writing on behalf of my friend, Mark Pryatel. I have known Mark professionally since (at least) 1990. I have observed him in his dealings with clients, court personnel, and judges.

Mark carries himself very well; he understands the legal issues he is presented with and works very hard to resolve matters in the best interests of his clients.

I believe Mark's reputation for honesty and good character is excellent in all of the jurisdictions in which he practices.

If you have any questions, please let me know.

Very truly yours,



Peter A. Sackett
Attorney at Law

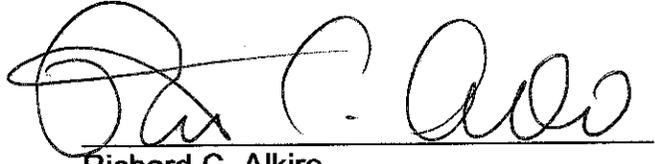
PAS/ms

Certificate of Service

A copy of the foregoing Respondent's Motion to Remand for Hearing has been mailed, postage prepaid, this 25th day of November, 2011 to:

Ian N. Friedman, Esq.
Ronald L. Frey, Esq.
Ian N. Friedman & Associates, L.L.C.
1304 West Sixth Street
Cleveland, OH 44113

Counsel for Relator



Richard C. Alkire
Dean Nieding

Attorneys for Respondent