

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

11-2049

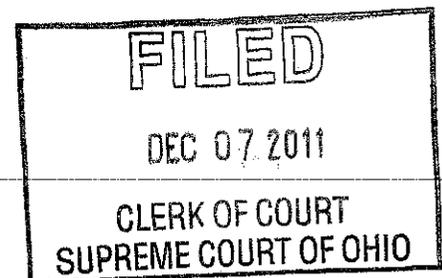
In Re:	:	
Complaint against	:	Case No. 10-089
Eric Maurice Seabrook Attorney Reg. No. 0069118	:	Findings of Fact, Conclusions of Law and Recommendation of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio
Respondent	:	
Disciplinary Counsel	:	
Relator	:	

{¶1} This matter came for hearing on October 12, 2011 before Judge Thomas Bryant, Charles Coulson and Walter Reynolds, chair. All panel members are duly qualified members of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio, and none resides in the judicial district from which the complaint originated or served on the probable cause panel that reviewed the complaint.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

{¶2} On September 30, 2011, the parties entered into agreed stipulations. At the hearing, the agreed stipulations were duly identified and admitted.

{¶3} Respondent, Eric Maurice Seabrook, was admitted to the practice of law in the state of Ohio on May 11, 1998 and is thus subject to the Ohio Rules of Professional Conduct and the Supreme Court Rules for the Government of the Bar of Ohio.



{¶4} On November 3, 2009, Respondent was suspended for failure to comply with attorney registration requirements. *In re Attorney Registration Suspension of Seabrook, 11/04/2009 Administrative Actions, 2009-Ohio-5786*. Respondent was reinstated to the practice on March 5, 2010. Respondent was also suspended for failing to register from December 2, 2005 to March 1, 2006. *In re Attorney Registration Suspension of Seabrook, 12/05/2005 Case Announcements #2, 2005-Ohio-6408*.

Count One – David Tye

{¶5} On February 25, 2010, while still under suspension, Respondent appeared before Magistrate James Lyle in the Franklin County Domestic Relations/Juvenile Court and represented David Tye in an objection to an administrative child support adjustment recommendation.

{¶6} Tye paid Respondent \$400 for the representation and had no idea of Respondent's suspension until after the hearing.

{¶7} Following the hearing, while preparing his decision, Magistrate Lyle reviewed the Supreme Court of Ohio's website and discovered that Respondent had been suspended.

{¶8} Magistrate Lyle thus ordered a mistrial and reset all matters before him for a later date.

{¶9} Tye represented himself thereafter.

{¶10} On March 3, 2010, Magistrate Lyle filed a grievance against Respondent with Relator.

{¶11} On March 5, 2010, Respondent registered with the Supreme Court of Ohio and was reinstated.

{¶12} On May 12, 2010, Relator sent a letter of inquiry to Respondent at his residence address listed in attorney registration records. The certified mail envelope was returned as “unclaimed, unable to forward.” Relator received no response from Respondent.

{¶13} Respondent and Relator stipulated to the facts alleged in Count One and stipulated to the following violations: Prof. Cond. R. 5.5(a) [a lawyer shall not practice in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction]; Prof. Cond. R. 5.5(b)(2) [a lawyer shall not hold out to the public or otherwise represent that the lawyer is authorized to practice law in that jurisdiction when he is not]; Prof. Cond. R. 8.1(b) [a lawyer shall not knowingly fail to respond to a demand for information in a disciplinary investigation]; Prof. Cond. R. 8.4(d) [a lawyer shall not engage in conduct that is prejudicial to the administration of justice]; Prof. Cond. R. 8.4(h) [a lawyer shall not engage in conduct that adversely reflects on the lawyer’s fitness to practice law]; and Gov. Bar R. V, Section 4(G) [no lawyer shall refuse to assist or testify in a disciplinary investigation or hearing].

Count Two – Brittney Hensley

{¶14} On February 17, 2010, Danny Bank, Clinical Administrator and Staff Counsel for the Ohio Legal Clinic, and Brittney Hensley, a legal intern, represented Patricia Woods in an eviction proceeding in the Franklin County Municipal Court.

{¶15} On the above date, Respondent represented Herb James, the plaintiff in the eviction matter.

{¶16} Respondent and his client ultimately dismissed the action on February 17, 2010, because the proper corporate plaintiff had not been named in the complaint.

{¶17} Bank and Hensley agreed to prepare a lease addendum for their client to avoid any future landlord/tenant issues.

{¶18} On March 5, 2010, Hensley accessed the Supreme Court’s website in order to obtain Respondent’s contact information. At that time, she noticed that Respondent had been suspended from November 3, 2009 until March 5, 2010.

{¶19} Bank and Hensley drafted a letter to Respondent providing him until March 31, 2010 to report the violation.

{¶20} Hensley attempted to contact Respondent on March 24, and April 1, 2010 to follow up with regard to the suspension, and the lease addendum was mailed and faxed to Respondent.

{¶21} Neither Bank nor Hensley heard from Respondent again.

{¶22} On April 14, 2010, Hensley filed a grievance against Respondent with Relator.

{¶23} On May 12, 2010, Relator forwarded a letter of inquiry to Respondent at his residence address listed in attorney registration records. The certified mail return receipt was returned as “unclaimed.” Relator received no response from Respondent.

{¶24} Respondent and Relator stipulated to the facts alleged in Count Two and to the following violations: Prof. Cond. R. 5.5(a); Prof. Cond. R. 5.5(b)(2); Prof. Cond. R. 8.1(b); Prof. Cond. R. 8.4(d); Prof. Cond. R. 8.4(h); and Gov. Bar R. V, Section 4(G).

{¶25} Based upon the above agreed stipulations and the evidence presented at the hearing, the panel finds by clear and convincing evidence that Respondent’s conduct violated the Professional Conduct rules alleged in Counts One and Two.

#### **AGGRAVATION AND MITIGATION**

{¶26} In aggravation, Respondent failure to register is a prior disciplinary offense. See *e.g., Columbus Bar Assn. v. Larkin*, 128 Ohio St.3d 368, 2011-Ohio-762. As for mitigation, Respondent offered no evidence of his good character or his reputation in the community. In his

closing argument, Respondent asserted that no harm came to any of his clients and admitted that his failure to timely maintain his registration was caused by oversight, neglect, and inattention. There was no evidence that any of Respondent's clients were harmed by his misconduct, and there was no evidence that Respondent acted with a dishonest or selfish motive. ¶27 Relator is recommending that Respondent be suspended from the practice for one year, with six months stayed conditioned upon Respondent attending courses in law office practice and time management so that he may implement good practices and procedures to ensure that he avoids the problems which caused the filing of the current grievances. Relator provided several cases supporting this recommended sanction. At the conclusion of Respondent's closing, the panel asked if Respondent agreed with the sanctions recommended by Relator. Respondent suggests that perhaps six months to a year of oversight, without an actual suspension might be more appropriate. (Hearing Tr. 33-34) In his May 3, 2011 deposition, Respondent also agreed with Relator's observation that he would benefit by entering into a contract with the Ohio Lawyers Assistance Program (OLAP). (Agreed Stipulations, Ex. 7 at 39-43)

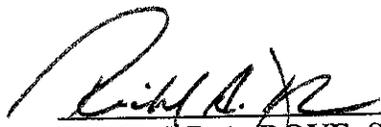
¶28 In reaching its recommendation, the panel considered *Disciplinary Counsel v. Lape*, Slip Opinion No. 2011-Ohio-5757 wherein Ms. Lape was sanctioned for six months, all stayed on conditions. In *Lape*, respondent's license was suspended for failure to register, but there was no alleged misconduct for practicing law while her license was suspended. However, she was found guilty of misconduct involving neglect of a client's bankruptcy matter, failure to safeguard and return client's property, and failure to cooperate in the disciplinary investigation. Based upon all of the evidence presented, and considering that the Supreme Court has stated on numerous occasions that "[t]he primary purpose of disciplinary sanctions is not to punish the offender, but to protect the public", *Disciplinary Counsel v. O'Neill*, 103 Ohio St.3d 204, 2004-

Ohio-4704, the panel recommends that Respondent be suspended from the practice for two years, all stayed based on the following conditions: (1) that Respondent enter into a two-year contract with OLAP; (2) that a mentor be appointed to help Respondent with law office practices, time management, and other strategies for running a successful practice; (3) that Respondent takes at least six hours of CLE courses related to law office practice and time management; and (4) no further discipline.

### **BOARD RECOMMENDATION**

Pursuant to Gov. Bar R. V, Section 6(L), the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio considered this matter on December 2, 2011. The Board adopted the Findings of Fact, Conclusions of Law, and Recommendation of the panel and recommends that Respondent, Eric Maurice Seabrook, be suspended from the practice of law for a period of two years, with the suspension stayed in its entirety on the conditions set forth in ¶28 of this report. The Board further recommends that the cost of these proceedings be taxed to Respondent in any disciplinary order entered, so that execution may issue.

**Pursuant to the order of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio, I hereby certify the foregoing Findings of Fact, Conclusions of Law, and Recommendation as those of the Board.**

  
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**RICHARD A. DOVE, Secretary  
Board of Commissioners on  
Grievances and Discipline of  
the Supreme Court of Ohio**