

IN THE SUPREME COURT OF OHIO

CASE NO.:2006-1148

**TOLEDO BAR ASSOCIATION
RELATOR**

-vs-

**STEVEN L. CROSSMOCK
RESPONDENT**

**OBJECTIONS TO THE FINDINGS OF FACTS AND RECOMMENDATION OF
THE BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE OF
THE SUPREME COURT OF OHIO AND BRIEF IN SUPPORT**

Stevin J. Groth (#0064181)
Groth & Associates
416 N. Erie Street, Suite 100
Toledo, Ohio 43606
Telephone 419-930-3030
Facsimile: 419-930-3032
Email: stevingroth@hotmail.com

Attorney for Respondent
Steven L. Crossmock

Michael J. Manahan
Michael C. Bonfiglio
c/o Toledo Bar Association
311 N. Superior St.
Toledo, Ohio 43606
Telephone (419) 242-9363
Facsimile (419) 242-3614

Attorneys for Relator Toledo
Bar Association

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I. COMBINED STATEMENT OF FACTS AND CASE

On August 8, 2005, Relator, Toledo Bar Association, filed a complaint charging Respondent, Steven Crossmock, with the following professional misconduct.

Count I alleged that between 1993 and 2003, Respondent converted for his own use funds that belonged to his law firm. His actions violated the agreements that he made with his firm for dividing fees from judgments and settlements in the firm's personal injury cases. Respondent deposited checks payable to the firm in his own escrow account, paid all amounts owed to the firm's clients, and then converted the balance of the settlement or judgment proceeds for his own use, rather than sharing that balance with his law firm as he had agreed to do. The total amount of the firm's money that Respondent converted for his own use appeared to exceed \$300,000. In 2003, Respondent left the law firm and repaid the all money that he had improperly taken.

Count II alleged that Respondent represented a client in a personal-injury matter between 1999 and 2003. During the representation, Respondent made roughly 40 payments either to the client directly or to others for that client's benefit. Most payments were permissible advances to cover litigation-related or investigation-related expenses, but seven payments totaling more than \$6,500 were not. At least one of the seven improper payments covered medical treatment for the client, and two others paid for health insurance coverage on the client's behalf.

At a hearing before a panel in May 2006, Respondent admitted, and the Board found, that his actions violated the following disciplinary rules: DR 1-102(A)(4) (prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation); DR 1-102(A)(6) (barring conduct that adversely reflects on a lawyer's fitness to practice law);

and DR 5-103(B) (prohibiting a lawyer from providing financial assistance or advancing funds to a client for expenses other than litigation costs).

As aggravating factors, the Board found that Respondent had acted with a dishonest or selfish motive and had engaged in a pattern of misconduct.

Mitigating factors identified by the Board were the absence of any prior disciplinary record, Respondent's timely and good-faith effort to provide restitution to his law firm, and his cooperative attitude during the disciplinary proceedings. The Board also noted that: Respondent did not harm any clients or misappropriate any client funds. In addition, Respondent testified that he had sought and received mental-health treatment for a bipolar disorder since 2003, and he presented letters from his treating psychiatrist and clinical counselor supporting that testimony.

Relator and Respondent both recommended that Respondent be indefinitely suspended from the practice of law. The panel and the Board issued similar recommendations.

The Supreme Court agreed with the recommended sanction, and on November 15, 2006, indefinitely suspended Respondent from the practice of law. The Court ordered that if Respondent petitioned for reinstatement, he must: (1) demonstrate that he has continued to receive treatment for his bipolar disorder as recommended by psychiatrist, psychologist, or other licensed health care professional; (2) demonstrate that he has taken as directed all medications prescribed for him by a licensed health care professional; and (3) be evaluated by a psychiatrist, psychologist, or other licensed mental health professional within 60 days prior to his petition for reinstatement and present a written report from that professional stating that Respondent is able to return to the competent

and ethical practice of law. See *Toledo Bar Assn. v. Crossmock*, 11 Ohio St.3d 278, 2006-Ohio-5706.

On July 11, 2011, Respondent filed a petition for reinstatement. As part of the petition for reinstatement, Respondent attached to his petition a report from his treating Psychiatrist stating that Respondent was is able to return to the competent and ethical practice of law. The petition also stated that Respondent had continued to receive treatment for his bipolar disorder as recommended by psychiatrist, psychologist, or other licensed health care professional and that he had taken as directed all medications prescribed for him by a licensed health care professional.

A hearing on Respondent's petition was held on November 18, 2011.

Prior to that hearing, Respondent through counsel supplied all of Petitioner's medical records from both his psychiatrist and psychologist. In addition, Petitioner underwent an exam from Dr. Stephen Noffsinger, of Cleveland, Ohio who was selected by the Relator, who conducted a record review and an evaluation of Respondent, in order to have an independent evaluation of Respondent's mental health and his suitability for the practice of law. Dr. Noffsinger's report was admitted into evidence without objection. Dr. Noffsinger's opined with reasonable medical certainty that Respondent can return to the competent and ethical professional practice of law and that his mental condition/disorder does not impair his ability to practice law or to meet the demands of the practice of law.

Dr. Noffsinger did recommend the following:

- Respondent should remain in the care of a qualified psychiatrist for medication management.
- Respondent should comply with all medications prescribed by his Psychiatrist.
- Respondent should authorize his treating psychiatrist to send quarterly reports to the Board of Commissioners describing Respondent's compliance with treatment and psychiatric status, should the Board so desire.
- Respondent should see his treating psychiatrist more often - at least once monthly - for monitoring and medication management.
- Should Respondent experience significant mood symptoms, he should temporarily suspend his law practice until his symptoms have resolved.

Hearing of November 18, 2011, Joint Ex. 4, pp. 5-6

At the time of the petition was filed as well as at the time of the hearing as well as currently; there are no formal disciplinary proceedings pending against the Respondent. Respondent has completed CLE attendance as required by the order of suspension, and by Gov. Bar R. X, Section 3(G), and is in compliance with the CLE and registration requirements in the state of Ohio. Respondent has paid all costs.

On February 14, 2012, the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio issued their findings of facts and recommendations.

Exhibit A. The Board recommended that Respondent's petition for reinstatement be

denied. On February 24, 2012 this Court entered an order directing the parties to show cause why the Recommendation of the Board should not be adopted.

II. ASSIGNMENT OF ERROR

THE PANEL AND THE BOARD ERRED WHEN IT FOUND THAT THE PETITION FOR REINSTATMENT SHOULD BE DENIED BECAUSE THE RESPONDENT VIOLATED THIS COURT'S ORDER OF SUSPENSION DATED NOVEMBER 16, 2006

The Panel and the Board concluded from the evidence presented at the November hearing that:

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

- The Respondent possesses all of the mental, educational and moral qualifications that were required of an applicant for admission to the practice of law in the state of Ohio at the time of his original admission;
- Respondent has complied with the CLE requirements of Gov. Bar R. X, Section 3(G); and
- Respondent is now a proper person to be readmitted to the practice of law in the State of Ohio, notwithstanding the previous disciplinary action,- but for his violation of the Supreme Court's order of November 15, 2006.

Thus, the only reason why the petition for reinstatement was denied was the fact that the Panel and the Board found that the Respondent had violated the Supreme Court's order of November 15, 2006 by preparing pleadings for other attorneys at their direction and under their supervision.

This Court's November 15, 2006 order stated that Respondent was hereby forbidden to counsel or advise or prepare legal instruments for others. (Hearing of November 18, 2011, Joint Exhibit 2.) The Panel did not find and the Board did not adopt any findings that the Respondent counseled or advised anyone. The Panel and the Board found "he prepared legal instruments for others." The real question is what does the term "for others" mean when it is read in conjunction with the rest of the sentence which stated or "in any manner perform such services." *Id.*

The Panel and the Board found that Respondent violated that Order when he prepared pleadings for three attorneys in the Toledo, Ohio area in 2007 and 2008 at their direction and under their supervision. Respondent was not employed by these attorneys at the time those pleadings were prepared nor was he compensated for that work. Report and Recommendation at ¶ 22.

Although Respondent prepared those pleadings, they were prepared under the supervision of a licensed attorney and the licensed attorney was responsible for the editing and filing of the pleading. Report and Recommendation at ¶ 22.

The Panel and the Board in recommending that Respondent's Petition for Reinstatement be denied only found an "arguable failure to follow the November 15, 2006 order of the Supreme Court." Report and Recommendation at ¶ 21, The Panel and the Board also concluded that Gov. Bar R. V, Section 8(G)(1) "may not have covered this factual situation", since Respondent was not employed at the time.¹ *Id.* at ¶ 24

¹ This rule has been amended and would prohibit Respondent's conduct absent conditions which were not in effect at the time. It should be noted that Counsel for the Respondent has filed the necessary paperwork with Board of Commissioners to allow Respondent to work for counsel for the Respondent in accordance with this amended rule.

Despite the uncertainty as to whether the Respondent's conduct violated the order of the Supreme Court, the Panel and the Board concluded that it did. The Panel and the Board stated:

More problematic, however, is the original order that Respondent may not "prepare legal instruments for others" or "in any manner perform such services." Admittedly, these terms are broad and Respondent's actions did not cause Relator any concern. However, Respondent's answers give the panel considerable pause in granting reinstatement at this time. Considering his original violations involved dishonesty and a failure to follow the rules governing the Bar, this "ghostwriting" could be construed as a continuation of his disregard for following the rules and orders of the Court.

Thus, even the Panel and the Board thought the actions of the Respondent were only an **arguable** violation of the Supreme Court's Order of November 15, 2006 and that the applicable Gov. Bar Rule V. Section 8(G) (1) may not have covered this conduct, the Panel and the Board still felt that Respondent's conduct was dishonest and he did not follow the rules and orders of the Court even though the Relator did not express any concern to the Panel about the actions of the Respondent.

However, this conclusion is not supported by the Rules which govern the conduct of attorneys in Ohio and is contrary to the advisory opinions issued by the Board of Commissioners on Grievances and Discipline. The actions of the Respondent were not in violation of the November 16, 2006 order nor were they dishonest or were they a continuation of his disregard for the rules and orders of the Supreme Court of Ohio.

Respondent would argue that the Order of Suspension must be read in context and be harmonized with applicable case law, the Rules for the Government of the Bar as well

as the Board's advisory opinions. When Respondent's conduct is considered in context with these rules, it is clear that the preparation of pleadings for other attorneys was not in violation of the November 16, 2006 order.

At the time these pleading were prepared. Gov. Bar R. V, Section 8(G) (1) was in effect which governed **employment** of suspended or disbarred attorneys. In this case, the Panel and the Board found that Respondent's action were not covered by this section, since he was not employed by any of the attorneys in question. The amended section which would have covered Respondent's actions did not take effect until September 1, 2008. As the Panel noted this amendment was necessary to control situations where the suspended/disbarred attorney was not employed.

It should be noted that nothing in that Rule prohibited a suspended/disbarred attorney who was hired from preparing legal pleadings when the preparation of the pleadings is under the direct supervision of a licensed attorney.

While not binding authority, the Board of Commissioners on Grievances and Discipline had issued an opinion that dealt with the preparation of legal pleadings for attorneys. The Board in its advisory opinion stated: "Providing legal research and writing services exclusively for lawyers and law firms is not considered engaging in the practice of law. A person who conducts such a service exclusively for lawyers and law firms is not engaged in the practice of law." The Board also stated "It is our opinion that because a legal research and writing service for other lawyers does not involve representing or advising clients, that it should not be considered the practice of law. Board of Commissioners on Grievances and Discipline, Advisory Opinion 88-018.

This same opinion is again cited almost 13 years later when the Board issued an advisory opinion that an attorney who provides research and writing services on a contract basis to other attorneys, but who is not engaged by, does not meet with, and does not offer advice to clients is not considered to be engaged in the practice of law and is not subject to the professional liability insurance notice requirements of DR 1-104. Board of Commissioners on Grievances and Discipline, Advisory Opinion 2005-1.

This Court has zealously upheld the rule that only licensed attorneys can engage in the practice of law. It has prohibited and punished people and companies which have practiced law without a valid license to practice law in the State of Ohio. *Cleveland Bar Assn. v. Sharp Estate Serv., Inc.*, 107 Ohio St.3d 219, 2005-Ohio-6267. This Court has defined the unauthorized practice of law as "the rendering of legal services for another person by any person not admitted to practice in Ohio." Gov.Bar R. VII (2) (A).

Consistent with this rule, and advisory opinions, the unauthorized practice of law is confined to situations when the person who is engaged in the unauthorized practice of law is "practicing law" as that term has been defined, on behalf of someone other than himself or herself. *Miami Cty. Bar Assn. v. Wyandt & Silvers, Inc.*, 107 Ohio St.3d 259, 2005-Ohio-6430, preparing incorporation forms for clients and giving legal advice to third parties.

These facts are not present here. The Respondent testified at the hearing that he believed that the order meant that he "couldn't prepare a complaint for somebody, meaning a person who would then file it pro se." He also testified: "I don't think I could prepare wills or those type of documents. I don't think I could prepare any legal instrument that someone who was not an attorney would use." Report and Recommendation at ¶ 22. This testimony is consistent with this Court's decisions, the

applicable rules of conduct as well as the Board's advisory opinions. It is also consistent with the Order of November 16, 2006.

The amended Gov. Bar R. V, Section 8(G) (1) now specifically governs conduct of suspended/disbarred attorneys. The amended rule states those attorneys who are suspended/disbarred can be employed by attorneys. There are however universal restrictions on employment of suspended/disbarred attorneys within this rule. Those universal restrictions are not relevant to this case.

Further this rule requires that when a suspended/disbarred attorney provides work or services in connection within any client matter the client must be informed in writing before the disqualified or suspended attorney performs any work or provides any services in connection with the client matter. Thus, the new rule is silent as to what work or services a suspended or disbarred attorney may provide in connection with any client matter.

The Board in another advisory opinion stated that in situations where the suspended/disbarred attorney is employed and the hiring lawyer or law firm limits the duties of a disqualified or suspended attorney to activities such as receptionist, mail room services, copying services, filing pleadings in court, or other similar conduct, the requirement of notification to clients would not be invoked since these activities do not directly involve performing work or providing services on a client matter. Board of Commissioners on Grievances and Discipline, Advisory Opinion 2008-7.

However if a hiring lawyer or law firm expands the duties of a disqualified or suspended attorney to performing legal research and writing on client matters, the

requirement of notification to the clients is invoked since the activity involves performing work or providing services on a client matter. *Id.*

This rule change and the advisory opinion are instructive as to what the Board has held to be permissible work that can be done by a suspended/disbarred attorney. The Board has stated that a suspended/disbarred attorney may perform research and writing work on client matters as long as the client has been notified properly.

Respondent's conduct was research and writing on a client matter. His conduct was not the unauthorized practice of law because he did not prepare those pleadings for anyone other than a licensed attorney. His work was exactly what was permitted of a suspended/disbarred attorney in Ohio and was not in violation of this Court's order.

This Court has dismissed a disciplinary complaint when a Respondent had an arguably viable legal support for his actions. *Toledo Bar Assn. v. Rust*, 124 Ohio St.3d 305, 2010-Ohio-170. Respondent's Petition for Reinstatement should be denied when his conduct was not in violation of the Court's order of suspension or was arguably supported by opinions from Board of Commissioners on Grievances and Discipline.

III. CONCLUSION

Respondent objects to the Findings of Facts and Recommendation of the Board of Commissioners on Grievances and Discipline. The Respondent did not violate this Court's order of suspension. Therefore, Respondent's petition should be granted subject to the conditions as suggested by Dr. Stephen Noffsinger, the medical doctor selected by Relator.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S. J. Groth', written over a horizontal line.

Stevin J. Groth
Attorney for Respondent

CERTIFICATION

This is to certify that a copy of the foregoing was sent this

23rd

day of March 2012, to:

Michael A. Bonfiglio, Esq.
Bar Counsel, Toledo Bar Association
311 North Superior St.
Toledo, Ohio 43604

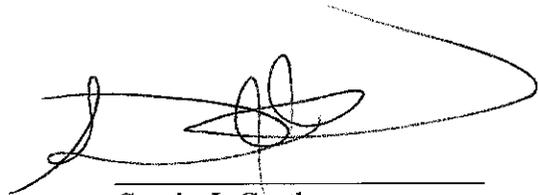
And

Michael J. Manahan
Rohrbachers, Cron, Manahan, Trimble, Zimmerman, Co., L.P.A.
PNC Building, 8th Floor
405 Madison Avenue
Toledo, Ohio 43604

And

Richard Dove
Board of Commissioners on Grievances and Discipline
65 S. Front Street,
5th Floor
Columbus, Ohio 43215

Respectfully submitted,



Stevin J. Groth
Attorney for Respondent

ORIGINAL

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

In Re:	:	SCO Case No. 2006-1148
Reinstatement of	:	BOC Case No. 05-068
Steven Lynn Crossmock Attorney Reg. No. 0041947	:	Findings of Fact, Conclusions of Law, and Recommendation of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio
Respondent		
Toledo Bar Association		
Relator		

FILED
 FEB 14 2012
 CLERK OF COURT
 SUPREME COURT OF OHIO

REINSTATEMENT TO THE PRACTICE OF LAW

{1} This matter came on for hearing in Columbus, Ohio on November 10, 2011, upon the petition of Respondent, Steven L. Crossmock, for reinstatement to the practice of law, pursuant to Rule V, Section 10 of the Rules for the Government of the Bar of Ohio, before a panel consisting of Judge John Street, Paul DeMarco, and Judge Robert Ringland, chair, all of whom are duly qualified members of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio. None of the panel members resides in the appellate district in which Respondent resided at the time of his suspension. Respondent appeared and was represented by Steven Groth at the hearing, and Relator was represented by Michael Bonfiglio and Michael Manahan.

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

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

{¶3} For the reasons set forth below, the panel recommends the denial of Respondent's petition for reinstatement.

FINDINGS OF FACT

{¶4} On August 8, 2005, Relator, Toledo Bar Association, filed a complaint charging Respondent, Steven Crossmock, with the following professional misconduct.

{¶5} Count I. Between 1993 and 2003, Respondent converted for his own use some funds that belonged to his law firm. His actions violated the agreements that he made with his firm for dividing fees from judgments and settlements in the firm's personal injury cases. Respondent deposited checks payable to the firm in his own escrow account, paid all amounts owed to the firm's clients, and then converted the balance of the settlement or judgment proceeds for his own use, rather than sharing that balance with his law firm as he had agreed to do. The total amount of the firm's money that Respondent converted for his own use appeared to exceed \$300,000. In 2003, Respondent left the law firm and repaid the money that he had improperly taken.

{¶6} Count II. Respondent represented a client in a personal-injury matter between 1999 and 2003. During the representation, Respondent made roughly 40 payments either to the client directly or to others for that client's benefit. Most payments were permissible advances to cover litigation-related or investigation-related expenses, but seven payments totaling more than

\$6,500 were not. At least one of the seven improper payments covered medical treatment for the client, and two others paid for health insurance coverage on the client's behalf.

{¶7} At a hearing before a panel in May 2006, Respondent admitted, and the Board found, that his actions violated the following disciplinary rules: DR 1-102(A)(4) (prohibiting conduct involving dishonesty, fraud, deceit, or misrepresentation); DR 1-102(A)(6) (barring conduct that adversely reflects on a lawyer's fitness to practice law); and DR 5-103(B) (prohibiting a lawyer from providing financial assistance or advancing funds to a client for expenses other than litigation costs). Joint Ex. 3.

{¶8} As aggravating factors, the Board found that Respondent had acted with a dishonest or selfish motive and had engaged in a pattern of misconduct. *Id.*

{¶9} Mitigating factors identified by the Board were the absence of any prior disciplinary record, Respondent's timely and good-faith effort to provide restitution to his law firm, and his cooperative attitude during the disciplinary proceedings. The Board also noted that Respondent did not harm any clients or misappropriate any client funds. In addition, Respondent testified that he had sought and received mental-health treatment for a bipolar disorder since 2003, and he presented letters from his treating psychiatrist and clinical counselor supporting that testimony. *Id.*

{¶10} Relator and Respondent both recommended that Respondent be indefinitely suspended from the practice of law. The panel and the Board issued similar recommendations. *Id.*

{¶11} The Supreme Court agreed with the recommended sanction, and on November 15, 2006, indefinitely suspended Respondent from the practice of law. The Court ordered that if Respondent petitioned for reinstatement, he must: (1) demonstrate that he has continued to

receive treatment for his bipolar disorder as recommended by psychiatrist, psychologist, or other licensed health care professional; (2) demonstrate that he has taken as directed all medications prescribed for him by a licensed health care professional; and (3) be evaluated by a psychiatrist, psychologist, or other licensed mental health professional within 60 days prior to his petition for reinstatement and present a written report from that professional stating that Respondent is able to return to the competent and ethical practice of law. See *Toledo Bar Assn. v. Crossmock*, 111 Ohio St.3d 278, 2006-Ohio-5706, ¶12.

{¶12} The order from the Supreme Court of Ohio also stated:

It is further ordered that the Respondent immediately cease and desist from the practice of law in any form and is hereby forbidden to appear on behalf of another before any court, judge, commission, board, administrative agency or other public authority.

It is further ordered that Respondent is hereby forbidden to counsel or advise or prepare legal instruments for others or in any manner perform such services.

Joint Ex. 2

{¶13} Respondent is now requesting that the Supreme Court readmit him to the practice of law. Respondent alleges that he has undergone rehabilitation and that his mental disorder is now controlled with medication.

{¶14} Relator requested, and counsel for Respondent agreed, to provide all medical and psychiatric treatment records.

{¶15} Since Respondent's mental condition is alleged to have led to the actions that formed the basis for his indefinite suspension, Relator had the records of his care and treatment reviewed by an independent psychiatrist, and the psychiatrist conducted an evaluation and interviewed Respondent prior to the Board's scheduled hearing of November 18, 2011.

{¶16} Respondent now resides in or around the Cleveland, Ohio area. Relator selected Dr. Stephen Noffsinger, of Cleveland, Ohio, who conducted a record review and an evaluation of Respondent, in order to have an independent evaluation of Respondent's mental health and his suitability for the practice of law. Dr. Noffsinger's report was admitted into evidence without objection. Dr. Noffsinger's opined with reasonable medical certainty that Respondent can return to the competent and ethical professional practice of law and that his mental condition/disorder does not impair his ability to practice law or to meet the demands of the practice of law. He did recommend the following:

- Respondent should remain in the care of a qualified psychiatrist for medication management.
- Respondent should comply with all medications prescribed by his psychiatrist.
- Respondent should authorize his treating psychiatrist to send quarterly reports to the Board of Commissioners describing Respondent's compliance with treatment and psychiatric status, should the Board so desire.
- Respondent should see his treating psychiatrist more often – at least once monthly – for monitoring and medication management.
- Should Respondent experience significant mood symptoms, he should temporarily suspend his law practice until his symptoms have resolved.

Joint Ex. 4, pp. 5-6

{¶17} Respondent has not previously petitioned for reinstatement, and five years have elapsed since his indefinite suspension was imposed.

{¶18} There are no formal disciplinary proceedings pending against the Respondent.

{¶19} Respondent has completed CLE attendance as required by the order of suspension, and by Gov. Bar R. X, Section 3(G), and is in compliance with the CLE and registration requirements in the state of Ohio as of the filing of his petition.

{¶20} All costs of the prior proceeding have been paid.

{¶21} However, Respondent disclosed evidence of an arguable failure to follow the November 15, 2006 order of the Supreme Court which stated in part:

It is further ordered that the Respondent immediately cease and desist from the practice of law in any form and is hereby forbidden to appear on behalf of another before any court, judge, commission, board administrative agency or other public authority.

It is further ordered that Respondent is hereby forbidden to counsel or advise or prepare legal instruments for others or in any manner perform such services.

{¶22} At several points in Respondent's testimony at the November 18, 2011 hearing, he testified as follows (Tr. 27, 41, 62-65, and 74-75):

Mr. Groth: Okay. And then over the next several years, you worked as a full-time father, but also had part-time jobs; is that accurate?

Respondent: Absolutely.

Mr. Groth: What did you continue to do to make yourself busy?

Respondent: * * * I ghostwrote some pleadings for a couple attorneys and even my old partner. * * *

* * *

Mr. Manahan: Okay. What kind of arrangement did you have with [attorney Matt Fech]?

Respondent: * * * After my suspension, he [Fech] continued to do all the legal work and handle the case, and I did -- you call it ghostwriting or a pleading for him on that case.

Mr. Manahan: Did you receive any compensation for the work that you were doing?

Respondent: No. I mean, I received compensation for the case, but it was based upon my work that I had done prior to my suspension.

* * *

Panel Member DeMarco: Now, the order of suspension from the Supreme Court required you to cease and desist from the practice of law in any form, and it states that you are, quote, hereby forbidden to – and I'm skipping some words – prepare legal instruments for others or in any manner perform such services.

I'm concerned about the fact that you prepared, for example, a legal brief for someone else, an appellate brief. Can you tell us more about that? When did it occur and, you know, what did it consist of?

Respondent: Well, it was a brief that was prepared in, and I'll say, 2007 or 2008. I just wrote it for another attorney, and they were responsible for filing it and reading it and editing it, and that's all I did.

Panel Member DeMarco: Was it a case that had been yours?

Respondent: Yes, it was.

* * *

Panel Member DeMarco: Was there some reason you prepared the appellate brief instead of someone else who was, you know, at that time entitled to practice law?

Respondent: I was intimately familiar with the facts and the – of the case, as well as had written the – the summary judgment motions.

Panel Member DeMarco: Did you have any employment or contractual relationships with any law firms –

Respondent: No.

Panel Member DeMarco: – after your suspension?

Respondent: No.

Panel Member DeMarco: So –

Respondent: Well, now, let me take that back. I – I have a – we filed a paper with Mr. Groth and the Disciplinary Counsel concerning any future work that I would have done sometime in 2010 or '11 because there was some – Stevin had talked to me about hiring me, and the meaning of the Disciplinary Rules at that time said that that's what you needed to do.

Panel Member DeMarco: Okay. I was going to ask you if you had

made any records of relationships with the Office of Disciplinary Counsel. And that's the only one?

Respondent: Yes.

Panel Member DeMarco: Okay. So in the other instances that I think you alluded to where you prepared an appellate brief -- what were the other things that -- that you did?

Respondent: For John Kuhl, I did --

Panel Member DeMarco: You say you ghostwrote something for him?

Respondent: Pardon?

Panel Member DeMarco: You say you ghostwrote something for him?

Respondent: Yeah.

Panel Member DeMarco: What was it?

Respondent: I think replies to summary judgment. And I think maybe an appellate brief on that -- on one of his cases, but I'm not real positive. And on the case over in Indiana was a summary judgment reply.

Panel Member DeMarco: Okay. The other work that you did where you also didn't get paid, what was -- what was the payment arrangement for that? I thought you said that you were -- your old partner, you did some work for your old partner.

Respondent: That was the appellate brief.

Panel Member DeMarco: Okay.

Respondent: One of the appellate briefs.

* * *

Panel Chair Ringland: * * * for that matter, ghostwriting pleadings as well as preparing a brief or briefs, you did not report that to the -- to any disciplinary group that you were doing that kind of work.

Respondent: I didn't.

* * *

Panel Chair Ringland: Okay. Let's -- Let's get down to the order itself. And you've seen and read the order signed by the Chief Justice --

Respondent: Yes.

Panel Chair Ringland: -- and the terms therein.

Part of the order, and it's been discussed by the -- Mr. DeMarco here, is -- and I am not going to quote the whole paragraph, but basically it says, "...hereby forbidden to counsel or advise or prepare legal instruments for others.

How do you interpret that, sir?

Respondent: I think that I would interpret that I couldn't prepare a complaint for somebody, meaning a person who would then file it pro se. I don't think I could prepare wills or those type of documents. I don't think I could prepare any legal instrument that someone who was not an attorney would use.

Panel Chair Ringland: So in your mind, you see no inconsistency with what you did for other attorneys and this -- this particular paragraph?

Respondent: Yes, that's correct.

{¶23} At the time of the suspension, the following version of Gov. Bar R. V,

Section 8(G)(1) was in effect:

Employment of a Suspended Attorney. A suspended attorney may be employed by another attorney during the term of suspension, provided the employment of the suspended attorney does not involve the practice of law. The suspended attorney and employing attorney shall register the employment with the Disciplinary Counsel on a form prescribed by the Disciplinary Counsel that includes all of the following:

(a) A statement that the suspended attorney will not perform work in the course of his or her employment that constitutes the practice of law;

(b) A statement that the employing attorney will supervise and be responsible for the work of the suspended attorney to ensure that the suspended attorney does not engage in the practice of law;

(c) Any other information considered necessary by the Disciplinary Counsel.

{¶24} The rule was later amended to add to “employment” the term “contractual or consulting relationship.” The rationale provided to the Supreme Court in correspondence dated January 8, 2008 from then-Secretary of the Board, Jonathan Marshall, was that the amendment was necessary * * * “to regulate more closely the employment and use of disbarred and suspended lawyers in Ohio.” The necessity of the amendment can be construed to indicate that the term “employment” as indicated in 2006 may not have covered this factual situation in the case at hand since Respondent did not receive actual compensation under the then understanding of what “employment” originally meant under the original Gov. Bar R. V.

{¶25} More problematic, however, is the original order that Respondent may not “prepare legal instruments for others” or “in any manner perform such services.” Admittedly, these terms are broad and Respondent’s actions did not cause Relator any concern. However, Respondent’s answers give the panel considerable pause in granting reinstatement at this time. Considering his original violations involved dishonesty and a failure to follow the rules governing the Bar, this “ghostwriting” could be construed as a continuation of his disregard for following the rules and orders of the Court. For this reason, this panel recommends that reinstatement be denied.

CONCLUSIONS OF LAW

{¶26} Based upon the foregoing, the panel determines, by clear and convincing evidence, that:

- The Respondent possesses all of the mental, educational and moral qualifications that were required of an applicant for admission to the practice of law in the state of Ohio at the time of his original admission;

- Respondent has complied with the CLE requirements of Gov. Bar R. X, Section 3(G); and
- Respondent is now a proper person to be readmitted to the practice of law in the state of Ohio, notwithstanding the previous disciplinary action, but for his violation of the Supreme Court's order of November 15, 2006.

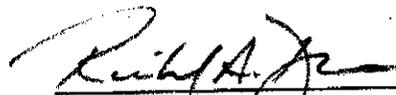
CONCLUSION

{¶27} Respondent's petition for reinstatement should be denied at this time.

BOARD RECOMMENDATION

Pursuant to Gov. Bar Rule V, Section 10(G)(5) and (6), the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio considered this matter on February 10, 2012. The Board adopted the Findings of Fact, Conclusions of Law, and Recommendation of the panel and recommends that Respondent, Steven Lynn Crossmock, be denied reinstatement to the practice of law in the State of Ohio. 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.



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

The Supreme Court of Ohio

BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

1241 SOUTH HIGH STREET-SUITE 3370, COLUMBUS, OH 43215-6105
(614) 644-5800 FAX: (614) 644-5804

OFFICE OF SECRETARY

OPINION 88-018

Issued August 12, 1988

[CPR Opinion-provides advice under the Ohio Code of Professional Responsibility which is superseded by the Ohio Rules of Professional Conduct, eff. 2/1/2007.]

SYLLABUS: Providing legal research and writing services exclusively for lawyers and law firms is not considered engaging in the practice of law. Therefore, such a service can be marketed under a trade name. A person who conducts such a service exclusively for lawyer and law firms is not engaged in the practice of law and therefore, may not hold himself or herself out as a lawyer, though otherwise licensed to practice law.

OPINION: We have before us your request for an advisory opinion regarding the propriety of marketing certain litigation support services under a trade name. In addition to offering litigation support services, you wish to offer legal research and writing services.

As you indicate in your request letter, DR 2-102(B) pertains to practicing law under a trade name. This rule states that, “[a] lawyer in private practice shall not practice under a trade name...” Code of Professional Responsibility DR 2-102(B). In regard to when a lawyer is considered to be engaged in private practice, it is not desirable to formulate a single, specific definition of what constitutes the practice of law. Code of Professional Responsibility, EC 3-5. However, the practice of law has been characterized as “acting in a representative capacity in protecting, enforcing, or defending another person in the exercise of his legal rights and duties and in counseling, advising and assisting him in relation thereto.” In re Unauthorized Practice of Law, 185 N.E.2d 489, 494 (Ohio Ct. App. 1962).

It is our opinion that because a legal research and writing service for other lawyers does not involve representing or advising clients, that it should not be considered the practice of law. An attorney who is not engaged in the practice of law is not bound by the Code and therefore may use a trade name to market his or her legal research and writing services.

Op. 88-018

However, because you are admittedly not engaged in the practice of law, holding yourself out as a lawyer in your marketing information would be misleading. See, Code of Professional Responsibility DR 2-101(A). The ABA has held in an advisory opinion that “[a] man cannot advertise that he is a lawyer even though he has no intention of engaging in the practice of law. A man who is a lawyer can shed the cloak which surrounds him as a lawyer and stop practicing law, but when he does he must not advertise the fact that he is a lawyer.” ABA Committee on Ethics and Professional Responsibility, Informal Op. 610 (1963). In other words, a person who intends to use the title of lawyer is required to follow the Code of Professional Responsibility even though not engaged in the practice of law.

In regard to EC 3-6, which you mention in your request letter, it is our opinion that a lawyer may delegate tasks to other non-lawyers as long as the lawyer supervises and maintains responsibility for the work. Code of Professional Responsibility, EC 3-6.

In conclusion, it is our opinion and you are so advised that a legal research and writing service exclusively for lawyers and law firms is not considered the practice of law and therefore may be marketed under a trade name. An attorney who provides a legal research and writing service is not engaging in the practice of law and therefore should not hold himself or herself out as an attorney. Of course, a lawyer wishing to be identified as an attorney is required to comply with the Code of Professional Responsibility and may not practice law under a trade name.

This is an informal, non-binding advisory opinion based upon the facts presented and limited to questions arising under the Code of Professional Responsibility.

James W. Mason, Esq.
Secretary, Board of
Commissioners

The Supreme Court of Ohio

BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

65 SOUTH FRONT STREET, 5TH FLOOR, COLUMBUS, OH 43215-3431
(614) 387-9370 (888) 664-8345 FAX: (614) 387-9379
www.sconet.state.oh.us

OFFICE OF SECRETARY

OPINION 2005-1

Issued February 4, 2005

[CPR Opinion-provides advice under the Ohio Code of Professional Responsibility which is superseded by the Ohio Rules of Professional Conduct, eff. 2/1/2007.]

SYLLABUS: An attorney who performs research and writing on a contract basis to other attorneys, but who is not engaged by, does not meet with, and does not offer advice to clients is not considered to be engaged in the practice of law and is not subject to the professional liability insurance notice requirements of DR 1-104.

OPINION: This opinion addresses the applicability of professional liability insurance notice requirements in the Ohio Code of Professional Responsibility to attorneys who provide legal research and writing to other attorneys on a contract basis.

Is an attorney who performs research and writing on a contract basis to other attorneys subject to the disciplinary rule requirements regarding notice of professional liability insurance?

Since July 1, 2001, Ohio attorneys are required to either maintain professional liability insurance or provide written notice to clients that professional liability insurance is not maintained. The rule, with its notice requirement, is set forth in full below.

DR 1-104. DISCLOSURE OF INFORMATION TO THE CLIENT.

- (A) A lawyer shall inform a client at the time of the client's engagement of the lawyer or at any time subsequent to the engagement if the lawyer does not maintain professional liability insurance in the amounts of at least one hundred thousand dollars per occurrence and three hundred thousand dollars in the aggregate or if the lawyer's professional liability insurance is terminated. The notice shall be provided to the client on a separate form set forth following this rule and shall be signed by the client.
- (B) A lawyer shall maintain a copy of the notice signed by the client for five years after termination of representation of the client.

(C) The notice required by division (A) of this rule shall not apply to a lawyer who is engaged in either of the following:

- (1) Rendering legal services to a governmental entity that employs the lawyer;
- (2) Rendering legal services to an entity that employs the lawyer as in-house counsel.

NOTICE TO CLIENT

Required by DR 1-104

Ohio Code of Professional Responsibility

Pursuant to DR 1-104 of the Ohio Code of Professional Responsibility, I am required to notify you that I do not maintain professional liability (malpractice) insurance of at least \$100,000 per occurrence and \$300,000 in the aggregate.

Attorney's Signature

CLIENT ACKNOWLEDGEMENT

I acknowledge receipt of the notice required by DR 1-104 of the Ohio Code of Professional Responsibility that [insert attorney's name] does not maintain professional liability (malpractice) insurance of at least \$100,000 per occurrence and \$300,000 in the aggregate.

Client's Signature

Date

Under DR 1-104(C)(1) and (2), there are two stated exceptions to the rule. The notice requirement does not apply to a government lawyer (a lawyer who is engaged in rendering legal services to a government entity that employs the lawyer) or to in-house counsel (a lawyer who renders legal services to an entity that employs the lawyer as in-house counsel).

The professional liability insurance notice requirements of DR 1-104(A) apply to attorneys who are engaged by clients to provide legal services. The rule is not applicable to attorneys who provide legal research and writing to other attorneys on a contract basis, but who are not engaged by, do not meet with, and do not offer advice to clients. "[A] legal research and writing service exclusively for lawyers and law firms is not considered the practice of law." Ohio Sup.Ct., Bd. Commrs. Grievances & Discipline, Op. 88-018 (1988).

In conclusion, the Board advises that an attorney who performs research and writing on a contract basis to other attorneys, but who is not engaged by, does not meet with, and does not offer advice to clients is not considered to be engaged in the practice of law and is not subject to the professional liability insurance notice requirements of DR 1-104.

Advisory Opinions of the Board of Commissioners on Grievances and Discipline are informal, nonbinding opinions in response to prospective or hypothetical questions regarding the application of the Supreme Court Rules for the Government of the Bar of Ohio, the Supreme Court Rules for the Government of the Judiciary, the Code of Professional Responsibility, the Code of Judicial Conduct, and the Attorney's Oath of Office.

The Supreme Court of Ohio

BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

65 SOUTH FRONT STREET, 5TH FLOOR, COLUMBUS, OH 43215-3431
(614) 387-9370 (888) 664-8345 FAX: (614) 387-9379
www.sconet.state.oh.us

OFFICE OF SECRETARY

OPINION 2008-7

Issued December 5, 2008

SYLLABUS: A lawyer or law firm may employ an attorney who is disqualified (disbarred or resigned with discipline pending) or suspended from the practice of law, but only in compliance with the conditions set forth in Gov. Bar R.V(8)(G) and (H). This governing bar rule imposes conditions upon *both* the employing lawyer or law firm *and* the employed disqualified or suspended lawyer. An employing lawyer or law firm must register the employment, contractual, or consulting relationship with the Office of Disciplinary Counsel on a form provided by that office and provide an affidavit that the employing or supervisory attorney has read and understands the limitations of the order of disbarment, suspension, or resignation with discipline pending. An employing lawyer or law firm must receive written confirmation from the Office of Disciplinary Counsel before commencing the employment relationship. An employing lawyer or law firm is required to provide written notice to every client on whose matters the disqualified or suspended attorney will perform work or provide services. A disqualified attorney is not permitted to enter an employment, contractual, or consulting relationship with a lawyer or law firm with which the disqualified attorney was associated at the time of the misconduct which resulted in the attorney's disbarment or resignation with discipline pending. A suspended attorney may enter an employment, contractual, or consulting relationship with a law firm with which the suspended attorney was associated at the time of the misconduct resulting in the suspension. A disqualified or suspended attorney must have no direct client contact other than as observer at a meeting, hearing, or interaction between an attorney or client and must not receive, disburse, or otherwise handle client trust funds or property. A disqualified or suspended attorney does not violate the condition of no direct client contact by serving as a receptionist at a law firm provided that any communication with a client is limited to scheduling an appointment, taking a message, or transferring a question or call to the appropriate legal or non-legal staff, or other similar conduct. If a hiring lawyer or law firm limits the duties of a disqualified or suspended attorney to activities such as receptionist, mail room services, copying services, filing pleadings in court, or other similar conduct, the requirement of notification to clients would not be invoked since these activities do not directly involve performing work or providing services on a client matter.

If a hiring lawyer or law firm expands the duties of a disqualified or suspended attorney to performing legal research and writing on client matters, the requirement of notification to the clients is invoked since the activity involves performing work or providing services on a client matter. A disqualified or suspended attorney must not engage in the practice of law in Ohio and must comply with the court's order of disbarment, resignation with discipline pending, or suspension. A judge or a lawyer who is concerned that a disqualified or suspended attorney is engaging in the practice of law should direct those concerns to the Office of Disciplinary Counsel.

OPINION: This opinion addresses questions regarding employment of an attorney who is disqualified (disbarred, or resigned with discipline pending) or suspended from the practice of law.

Is it proper for a lawyer or law firm to employ an attorney who is disqualified (disbarred, or resigned with discipline pending) from the practice of law? If, so what work may be performed?

Introduction

When an attorney is suspended without stay of the suspension from the practice of law, disbarred from the practice of law, or resigned from the practice of law with discipline pending, that attorney is no longer authorized to practice law. Yet, these attorneys may need employment and may look to a lawyer or law firm for such employment.

Applicable Rule

A lawyer or law firm is permitted to employ an attorney who is suspended, disbarred, or resigned from the practice of law with discipline pending, but only under the conditions set forth in Section 8(G) and (H) of Rule V of the Supreme Court Rules for the Government of Ohio, as amended, effective September 1, 2008.

Gov.Bar R. V(8)(G) and (H), by its terms, applies to the employment of a "disqualified or a suspended attorney."

A "disqualified attorney" is defined in Gov.Bar R. V(8)(H) as "a former attorney who has been disbarred or who has resigned with discipline pending."

A "suspended attorney" is not defined in the rule but logically describes an attorney who is under an unstayed disciplinary suspension, interim remedial

suspension, felony interim suspension, child support interim suspension, or mental illness suspension imposed by the Supreme Court of Ohio pursuant to Gov.Bar R. V, Jud. Rule II, or Jud. Rule III; a registration suspension imposed pursuant to Gov.Bar R. VI; and or a continuing legal education suspension pursuant to Gov.Bar R. X.

Gov.Bar R. V (8)

(G)(1) Employment of a Disqualified or Suspended Attorney. A disqualified or suspended attorney subject to division (G) of this rule shall not do either of the following:

(a) Have any direct client contact, other than serving as an observer in any meeting, hearing or interaction between an attorney and a client;

(b) Receive, disburse, or otherwise handle client trust funds or property.

(2) On or after September 1, 2008, a disqualified attorney subject to division (G) of this rule shall not enter into an employment, contractual, or consulting relationship with an attorney or law firm with which the disqualified attorney was associated as a partner, shareholder, member, or employee at the time the attorney engaged in misconduct that resulted in his or her disqualification from the practice of law.

(3) An attorney or law firm seeking to enter into an employment, contractual, or consulting relationship with a disqualified or suspended attorney shall register the employment, contractual, or consulting relationship with the Office of Disciplinary Counsel. The registration shall be on a form provided by the Office of Disciplinary Counsel and shall include all of the following:

(a) The name of and contact information for the disqualified or suspended attorney;

(b) The name of and contact information for the attorney or law firm seeking to enter into the relationship with the disqualified or suspended attorney;

(c) The name of and contact information for the attorney responsible for directly supervising the disqualified or suspended

attorney, if different than the attorney identified in division (G)(3)(b) of this section;

(d) The capacity in which the disqualified or suspended attorney will be employed, including a description of duties to be performed or services to be provided;

(e) An affidavit executed by either the attorney filing the registration or the supervising attorney indicating that the attorney has read the Supreme Court's order disbaring, accepting the resignation of, or suspending the attorney to be employed and understands the limitations contained in that order;

(f) Any other information considered necessary by the Office of Disciplinary Counsel.

(4) Upon receipt of a completed registration form, the Office of Disciplinary Counsel shall send a written acknowledgement to the attorney or law firm that filed the registration form and any supervising attorney identified on the form. Upon receipt of the written acknowledgement, the employment, contractual, or consulting relationship may commence.

(5) An attorney who registers the employment of a disqualified or suspended attorney shall file an amended registration form with the Office of Disciplinary Counsel when there is any material change in the information provided on a prior registration form and shall notify the Office of Disciplinary Counsel upon termination of the employment, contractual, or consulting relationship.

(6) If a disqualified or suspended attorney will perform work or provide services in connection with any client matter, the employing attorney or law firm shall inform the client of the status of the disqualified or suspended attorney. The notice shall be in writing and provided to the client before the disqualified or suspended attorney performs any work or provides any services in connection with the client matter.

(H) Definition. As used in this section, "disqualified attorney" means a former attorney who has been disbarred or who has resigned with discipline pending.

Distinct features of rule

An employing lawyer or law firm, as well as an employed disqualified or suspended attorney, should give careful consideration to the distinct features of Gov.Bar Rule V(8)(G) and (H). The rule imposes conditions upon both an employing lawyer or law firm *and* the disqualified or suspended attorney who is employed.

Under Section (8)(G)(1)(a) a disqualified or suspended attorney is not permitted to have any direct client contact, other than as an observer in any meeting, hearing, or interaction between an attorney and a client. Direct client contact would include communication in person, by telephone, mail, e-mail, or any other form of communication. Nevertheless, a reasoned application of this rule does not prohibit a disqualified or suspended attorney from serving as a receptionist provided that any communication with a client is limited to scheduling an appointment, taking a message, or transferring a question or call to the appropriate legal or non-legal staff, or other similar conduct.

Under Section (8)(G)(1)(b) a disqualified or suspended attorney is not permitted to receive, disburse, or otherwise handle client trust funds or property. Pursuant to this restriction, a disqualified or suspended lawyer should not have any duties related to client trust funds or property.

Under Section (8)(G)(2) a disqualified attorney is treated differently than a suspended attorney. A disqualified attorney is not permitted to enter an employment, contractual, or consulting relationship with a lawyer or law firm with which the disqualified attorney was associated at the time of the misconduct which resulted in the attorney's disbarment or resignation with discipline pending. A suspended attorney may return to a prior working relationship with a lawyer or law firm even though the misconduct resulting in the suspension occurred during the prior working relationship.

Under Section (8)(G)(3), a lawyer or law firm seeking to enter an employment, contractual, or consulting relationship with a disqualified or suspended attorney is required to register the relationship with the Office of Disciplinary Counsel on a form provided by the office. The form requires, among other things, the duties to be performed, the name of the attorney responsible for directly supervising the disqualified or suspended attorney and an affidavit that the attorney has read and understands the disbarment order, the resignation order, or the suspension order. Under Section (8)(G)(5), the employing lawyer or law firm must file an amended form when there is a material change in the information and give notification to the Office of Disciplinary when the relationship ends. A lawyer or a law firm that entered into an employment, contractual, or consulting relationship

with a disqualified or suspended attorney prior to September 1, 2008, is required to register such relationship, as provided for in Gov. Bar R. V, Section 8(G)(3), no later than November 1, 2008. Gov.Bar R. XX(2).

Under Section (8)(G)(4) the employment, contractual, or consulting relationship between a disqualified or suspended attorney shall not commence until after the employing lawyer or law firm receives a written acknowledgment from the Office of Disciplinary Counsel.

Under Section (8)(G)(6) written notification of the status of a disqualified or suspended attorney must be provided by the employing lawyer or law firm to a client prior to commencement of a disqualified or suspended attorney's work or services on any client matter.

Scope of employment activities of a disqualified or suspended attorney

Pursuant to Gov.Bar R.V(8)(G) and (H), a lawyer or law firm may employ a disqualified or suspended attorney as a non-attorney employee, only if the employment can be accomplished within the conditions of the rule including no direct contact with any client other than as an observer at a meeting, hearing, or interaction between an attorney or client; no handling of client trust funds or property; provision of written notification to every client on whose matter the disqualified or suspended attorney will perform work or provide services. The no direct client contact condition is not violated by a disqualified or suspended attorney serving as a receptionist provided that any communication with a client is limited to scheduling an appointment, taking a message, or transferring a question or call to the appropriate legal or non-legal staff, or other similar conduct.

If a hiring lawyer or law firm limits the duties of a disqualified or suspended attorney to activities such as receptionist, mail room services, copying services, filing pleadings in court, or other similar conduct, the requirement of notification to clients would not be invoked since these activities do not directly involve performing work or providing services on a client matter.

If a hiring lawyer or law firm expands the duties of a disqualified or suspended attorney to performing legal research and writing on client matters, the requirement of notification to the clients is invoked since the activity involves performing work or providing services on a client matter.

A disqualified or suspended attorney is not permitted to engage in the practice of law in Ohio and must comply with the court's order of disbarment, resignation with discipline pending, or suspension. A judge or a lawyer who is concerned

that a disqualified or suspended attorney is engaging in the practice of law should direct those concerns to the Office of Disciplinary Counsel.

Conclusion

A lawyer or law firm may employ an attorney who is disqualified (disbarred or resigned with discipline pending) or suspended from the practice of law, but only in compliance with the conditions set forth in Gov.Bar R.V(8)(G) and (H). This governing bar rule imposes conditions upon *both* the employing lawyer or law firm *and* the employed disqualified or suspended lawyer. An employing lawyer or law firm must register the employment, contractual, or consulting relationship with the Office of Disciplinary Counsel on a form provided by that office and provide an affidavit that the employing or supervisory attorney has read and understands the limitations of the order of disbarment, suspension, or resignation with discipline pending. An employing lawyer or law firm must receive written confirmation from the Office of Disciplinary Counsel before commencing the employment relationship. An employing lawyer or law firm is required to provide written notice to every client on whose matters the disqualified or suspended attorney will perform work or provide services. A disqualified attorney is not permitted to enter an employment, contractual, or consulting relationship with a lawyer or law firm with which the disqualified attorney was associated at the time of the misconduct which resulted in the attorney's disbarment or resignation with discipline pending. A suspended attorney may enter an employment, contractual, or consulting relationship with a law firm with which the suspended attorney was associated at the time of the misconduct resulting in the suspension. A disqualified or suspended attorney must have no direct client contact other than as observer at a meeting, hearing, or interaction between an attorney or client and must not receive, disburse, or otherwise handle client trust funds or property. A disqualified or suspended attorney does not violate the condition of no direct client contact by serving as a receptionist at a law firm provided that any communication with a client is limited to scheduling an appointment, taking a message, or transferring a question or call to the appropriate legal or non-legal staff, or other similar conduct. If a hiring lawyer or law firm limits the duties of a disqualified or suspended attorney to activities such as receptionist, mail room services, copying services, filing pleadings in court, or other similar conduct, the requirement of notification to clients would not be invoked since these activities do not directly involve performing work or providing services on a client matter. If a hiring lawyer or law firm expands the duties of a disqualified or suspended attorney to performing legal research and writing on client matters, the requirement of notification to the clients is invoked since the activity involves performing work or providing services on a client matter. A disqualified or suspended attorney must not engage in the practice of law in Ohio and must comply with the court's order of disbarment, resignation with discipline pending, or suspension.

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A judge or a lawyer who is concerned that a disqualified or suspended attorney is engaging in the practice of law should direct those concerns to the Office of Disciplinary Counsel.

Advisory Opinions of the Board of Commissioners on Grievances and Discipline are informal, nonbinding opinions in response to prospective or hypothetical questions regarding the application of the Supreme Court Rules for the Government of the Bar of Ohio, the Supreme Court Rules for the Government of the Judiciary, the Ohio Rules of Professional Conduct, the Ohio Code of Judicial Conduct, and the Attorney's Oath of Office.