

IN THE SUPREME COURT OF OHIO

Disciplinary Counsel
250 Civic Center Drive, Suite 325
Columbus, OH 43215
Relator

CASE NO. 2010-1601

**RELATOR'S MOTION TO
STRIKE RESPONDENT'S AFFIDAVIT
FILED IN SUPPORT OF HIS
APPLICATION FOR REINSTATEMENT**

Vincent A. Stafford
Reg. No. 0059846
55 Erieview Plaza, 5th Floor
Cleveland, OH 44114
Respondent

**RELATOR'S MOTION TO STRIKE RESPONDENT'S
AFFIDAVIT FILED IN SUPPORT OF HIS APPLICATION FOR REINSTATEMENT**

INTRODUCTION

Now comes relator, Disciplinary Counsel, and hereby asks this Court to strike the "affidavit" filed on April 6, 2012 by respondent, Vincent A. Stafford, in support of his application for reinstatement to the practice of law. For the reasons set forth in the following memorandum, this Court should strike respondent's "affidavit," deny his request for reinstatement to the practice of law; and, impose the remaining six months of respondent's suspension.

FILED
APR 16 2012
CLERK OF COURT
SUPREME COURT OF OHIO

MEMORANDUM

On April 5, 2011, respondent was suspended from the practice of law for 18 months. Appendix A. Six months of respondent's suspension were conditionally stayed. Id.

On April 6, 2012, at the conclusion of the first 12 months of his suspension and pursuant to Gov. Bar R.V(10)(A), respondent filed an Application for Reinstatement to the Practice of Law. Appendix B. Gov. Bar R.V(10)(A)(1) states, in relevant part, that an application for reinstatement "shall be accompanied by an affidavit executed by the respondent[.]" (Emphasis added). This Court has not yet acted upon respondent's request for reinstatement.

Respondent's application was filed pro se and was accompanied by a two-page document titled "affidavit" and professing to be the sworn statements of respondent. Id. Respondent's "affidavit" purports to have been "subscribed and sworn before" "Notary Public, Karen Koenig" on April 5, 2012. Id. Upon information and belief, the "signature" of "Karen Koenig" is a forgery.

In the absence of Koenig's actual signature, i.e. the signature of the notary, there is no proof that the document was sworn to by respondent before an officer authorized to administer oaths in the state of Ohio. See, R.C. Chapter 147. Accordingly, respondent's affidavit is not valid and should be stricken.

To be complete, an affidavit must contain three elements: (1) a written oath embodying the facts as sworn to by the affiant; (2) the signature of the affiant; and, (3) the attestation by an officer authorized to administer the oath that the affidavit was actually sworn by the affiant before the officer. See, e.g., *In re Disqualification of*

Pokorny, 74 Ohio St.3d 1238, 657 N.E.2d 1345 (1992). Although the notary's name and her commission expiration date appear upon the document, the scrawl above the name does not appear to have been affixed to the document by Koenig, i.e. the notary.

Attached hereto as Appendix C is an "affidavit of compliance" submitted to this Court by Joseph G. Stafford, respondent's brother, in Case No. 2011-0408.¹ Joseph G. Stafford's "affidavit" also purports to have been "notarized" by Koenig. A side-by-side examination of the two documents, Appendix A and Appendix C, indicates that the same person did not sign both of the documents. One of the signatures purporting to be that of Koenig, appears to be a forgery.

Also attached is a letter dated March 15, 2012, from "Stafford & Stafford Co., LPA," to Attorney Ellen S. Mandell. Appendix D. This letter also purports to be signed by "Karen A. Koenig" as "Paralegal." Again, a side-by-side comparison of Appendix D with respondent's "affidavit," Appendix A, indicates that the same person did not sign both documents.

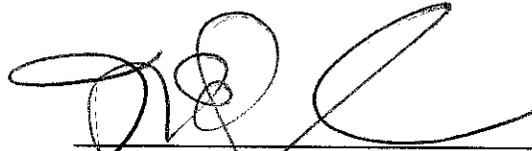
Civ. R.12(F) permits this Court to strike "from any pleading an insufficient claim or defense or any redundant, immaterial, impertinent, or scandalous matter." The document purporting to be respondent's "affidavit" is wholly impertinent and scandalous and should be stricken from his application. Striking respondent's "affidavit" makes his application for reinstatement entirely deficient and the application should, therefore, be denied. See, Gov. Bar R.V(10)(A)(1).

¹ On March 8, 2012, this Court suspended Joseph G. Stafford from the practice of law for 12 months. *Disciplinary Counsel v. [Joseph G.] Stafford*, Slip Op. 2012-Ohio-909. Joseph Stafford's affidavit is included without its attachments.

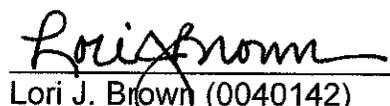
The likely forgery of Koenig's signature indicates that there is no evidence that respondent's "affidavit" was sworn to before anyone authorized to administer oaths. Accordingly, this Court should find that the document submitted by respondent is not an affidavit. See, e.g. *In re Disqualification of Pokorny*, 74 Ohio St.3d 1238, 657 N.E.2d 1345 (1992) ("An affidavit must appear, on its face, to have been taken before the proper officer and in compliance with all legal requisites.")

This Court should also find that respondent's "affidavit" is invalid and void. *State ex rel. Coulverson v. Ohio Adult Parole Auth.*, 62 Ohio St.3d 12, 14, 577 N.E.2d 352 (1991). Declaring his affidavit "invalid and void" and striking it from the record leaves respondent's application for reinstatement deficient under Gov. Bar.V(10)(A)(1). Accordingly, respondent's reinstatement should be denied and this Court should impose the remaining six months of respondent's suspension.

Respectfully submitted,



Jonathan E. Coughlan (0026424)
Disciplinary Counsel

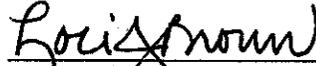


Lori J. Brown (0040142)
Chief Assistant Disciplinary Counsel

Counsel of Record
205 Civic Center Drive, Suite 325
Columbus, Ohio 43215
614.461.0256

CERTIFICATE OF SERVICE

A copy of the foregoing Motion to Strike has been served upon Vincent Arthur Stafford, 55 Erieview Plaza, 5th Floor, Cleveland, OH 44115, via regular U.S. mail, postage prepaid, this 16th day of April, 2012.



Lori J. Brown
Counsel of Record

The Supreme Court of Ohio

Apr 5 2011

CLERK OF COURT
SUPREME COURT OF OHIO

Case No. 2010-1601

Disciplinary Counsel,
Relator,
v.
Vincent A. Stafford,
Respondent.

ON CERTIFIED REPORT BY THE
BOARD OF COMMISSIONERS ON
GRIEVANCES AND DISCIPLINE OF
THE SUPREME COURT

ORDER

The Board of Commissioners on Grievances and Discipline filed its final report in this court on September 13, 2010, recommending that pursuant to Rule V(6)(B)(3) of the Supreme Court Rules for the Government of the Bar of Ohio the respondent, Vincent A. Stafford, be suspended from the practice of law for a period of eighteen months with twelve months stayed on conditions. Respondent and relator filed objections to said final report, respondent and relator filed answer briefs and this cause was considered by the court.

On consideration thereof, it is ordered and adjudged by this court that pursuant to Gov.Bar R. V(6)(B)(3) and consistent with the opinion rendered herein, respondent, Vincent A. Stafford, Attorney Registration Number 0059846, last known business address in Cleveland, Ohio, be suspended from the practice of law for a period of eighteen months with six months stayed. It is further ordered that if respondent engages in further misconduct during the stayed portion of the suspension, the stay will be lifted, and respondent will serve the entire eighteen months.

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.

It is further ordered that the respondent is hereby divested of each, any, and all of the rights, privileges and prerogatives customarily accorded to a member in good standing of the legal profession of Ohio.

It is further ordered that before entering into an employment, contractual, or consulting relationship with any attorney or law firm, the respondent shall verify that the attorney or law firm has complied with the registration requirements of Gov.Bar R. V(8)(G)(3). If employed pursuant to Gov.Bar R. V(8)(G), respondent shall refrain from direct client contact except as provided in Gov.Bar R. V(8)(G)(1), and from receiving, disbursing, or otherwise handling any client trust funds or property.

It is further ordered that respondent be taxed the costs of these proceedings in the amount of \$63,342.86, which costs shall be payable to this court by cashier's check or money order on or before 90 days from the date of this order. It is further ordered that if these costs are not paid in



full on or before 90 days from the date of this order, interest at the rate of 10% per annum shall accrue as of 90 days from the date of this order and the matter may be referred to the Attorney General for collection. It is further ordered that respondent may not apply for reinstatement until costs and all accrued interest, are paid in full.

It is further ordered, sua sponte, by the court, that within 90 days of the date of this order, respondent shall reimburse any amounts that have been awarded against the respondent by the Clients' Security Fund pursuant to Gov.Bar R. VIII(7)(F). It is further ordered, sua sponte, by the court that if, after the date of this order, the Clients' Security Fund awards any amount against the respondent pursuant to Gov.Bar R. VIII(7)(F), the respondent shall reimburse that amount to the Clients' Security Fund within 90 days of the notice of such award.

It is further ordered that, pursuant to Gov.Bar R. X(3)(G), respondent shall complete one credit hour of continuing legal education for each month, or portion of a month, of the suspension. As part of the total credit hours of continuing legal education required by Gov.Bar R. X(3)(G), respondent shall complete one credit hour of instruction related to professional conduct required by Gov.Bar R. X(3)(A)(1), for each six months, or portion of six months, of the suspension.

It is further ordered that respondent shall not be reinstated to the practice of law in Ohio until (1) respondent complies with the requirements for reinstatement set forth in the Supreme Court Rules for the Government of the Bar of Ohio; (2) respondent complies with the Supreme Court Rules for the Government of the Bar of Ohio; (3) respondent complies with this and all other orders of the court; and (4) this court orders respondent reinstated.

It is further ordered that on or before 30 days from the date of this order, respondent shall:

1. Notify all clients being represented in pending matters and any co-counsel of respondent's suspension and consequent disqualification to act as an attorney after the effective date of this order and, in the absence of co-counsel, also notify the clients to seek legal service elsewhere, calling attention to any urgency in seeking the substitution of another attorney in respondent's place;
2. Regardless of any fees or expenses due respondent, deliver to all clients being represented in pending matters any papers or other property pertaining to the client, or notify the clients or co-counsel, if any, of a suitable time and place where the papers or other property may be obtained, calling attention to any urgency for obtaining such papers or other property;
3. Refund any part of any fees or expenses paid in advance that are unearned or not paid, and account for any trust money or property in the possession or control of respondent;
4. Notify opposing counsel in pending litigation or, in the absence of counsel, the adverse parties, of respondent's disqualification to act as an attorney after the effective

date of this order, and file a notice of disqualification of respondent with the court or agency before which the litigation is pending for inclusion in the respective file or files;

5. Send all notices required by this order by certified mail with a return address where communications may thereafter be directed to respondent;

6. File with the clerk of this court and the Disciplinary Counsel of the Supreme Court an affidavit showing compliance with this order, showing proof of service of notices required herein, and setting forth the address where the respondent may receive communications; and.

7. Retain and maintain a record of the various steps taken by respondent pursuant to this order.

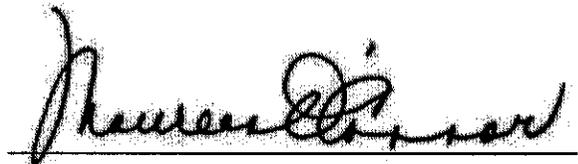
It is further ordered that respondent shall keep the Clerk and the Disciplinary Counsel advised of any change of address where respondent may receive communications.

It is further ordered that on or before 30 days of the date of this order respondent shall surrender his attorney registration card for the 2009/2011 biennium.

It is further ordered, sua sponte, that all documents filed with this court in this case shall meet the filing requirements set forth in the Rules of Practice of the Supreme Court of Ohio, including requirements as to form, number, and timeliness of filings. All case documents are subject to Rules 44 through 47 of the Rules of Superintendence of Ohio which govern access to court records.

It is further ordered, sua sponte, that service shall be deemed made on respondent by sending this order, and all other orders in this case, to respondent's last known address.

It is further ordered that the clerk of this court issue certified copies of this order as provided for in Gov.Bar R. V(8)(D)(1), that publication be made as provided for in Gov.Bar R. V(8)(D)(2), and that respondent bear the costs of publication.

A handwritten signature in black ink, appearing to read "Maureen O'Connor", written over a horizontal line.

Maureen O'Connor
Chief Justice

THE SUPREME COURT OF OHIO

Disciplinary Counsel, : CASE NO. 2010-1601
Relator, :
Vincent A. Stafford : **RESPONDENT'S APPLICATION FOR**
 : **REINSTATEMENT TO THE PRACTICE**
 : **OF LAW**
Respondent. :

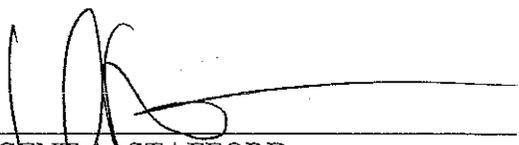
Vincent A. Stafford, pursuant to Gov.Bar.R.V. Section 10(A) and applies for reinstatement to the practice of law based upon the following:

- 1) On April 5, 2011, this Court entered an Order which suspended Respondent from the practice of law for a period of eighteen (18) months, with six (6) months suspended as set forth in *In Re: Vincent A. Stafford, (Respondent) and Disciplinary Counsel (Relator)*.
- 2) Respondent has complied with all Orders and the terms of reinstatement have been satisfied. *See, Affidavit of Vincent A. Stafford.*
- 3) Since the April 5, 2011 suspension, Respondent has participated in the required eighteen (18) hours of continuing legal education, which includes three (3) hours relating to professional conduct. Respondent has paid the Court costs of \$63,342.86; \$293.94 and \$99.00.



THEREFORE, Respondent, Vincent A. Stafford, respectfully request this Court to grant his reinstatement based upon the expiration of the twelve (12) month actual suspension and compliance with all conditions of reinstatement.

Respectfully submitted,

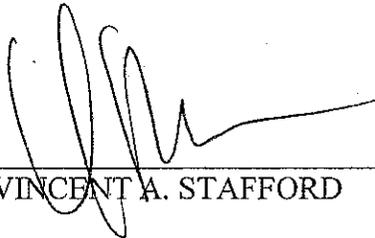


VINCENT A. STAFFORD
55 Erieview Plaza, 5th Floor
Cleveland, Ohio 44114

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Respondent's Application for Reinstatement to the Practice of Law, is being served by regular mail on this 5th day of April, 2012 to:

Jonathan E. Coughlan, Esq.
Disciplinary Counsel
Lori J. Brown, Esq.
First Assistant Disciplinary Counsel
250 Civic Center Drive, Suite 325
Columbus, Ohio 43215



VINCENT A. STAFFORD

STATE OF OHIO

)

COUTY OF CUYAHOGA

)

)

SS:

AFFIDAVIT

VINCENT A. STAFFORD, first being duly sworn according to law, deposes and states the following:

1. AFFIANT states that on or about April 5, 2011, an Order of suspension was rendered by the Supreme Court of Ohio for a period of eighteen (18) months with six (6) months suspended.
2. AFFIANT states further that the term of the actual twelve (12) month suspension has expired.
3. AFFIANT states further that since the suspension he has performed the required eighteen (18) hours of continuing legal education, which includes at least three (3) hours of continuing legal education relating to professional conduct, as required by Gov. Bar. X, Section (3)(G) and the Order of this Court.
4. AFFIANT states further that he has paid all court ordered costs of \$63,342.86; \$293.94 and \$99.00.
5. AFFIANT states that there are no formal disciplinary proceedings pending against the Affiant.

6. AFFIANT states further that he has complied with all Orders to qualify for reinstatement.

AFFIANT FURTHER SAYETH NAUGHT.



VINCENT A. STAFFORD

SUBSCRIBED AND SWORN BEFORE ME this 5th day of April, 2012



Notary Public, Karen Koenig
My Commission Expires
March 17, 2015

IN THE SUPREME COURT OF OHIO

DISCIPLINARY COUNSEL

:

Relator

:

Case No. 2011-0408

:

v.

:

JOSEPH G. STAFFORD, ESQ.

:

Respondent

:

AFFIDAVIT OF JOSEPH G. STAFFORD
IN COMPLIANCE WITH MARCH 8, 2012 ORDER

Joseph G. Stafford
55 Erieview Plaza, Fifth Floor
Cleveland, Ohio 44114
Tel: (216) 241-1074 / Fax: (216) 241-4572
Affiant

Jonathan E. Coughlan (0026424)
Lori J. Brown (0040142)
Disciplinary Counsel
250 Civic Center Drive, Suite 325
Columbus, Ohio 43215
Tel: (216) 687-1311 / Fax: (216) 687-1841
Attorneys for Relator

APPENDIX

IN THE SUPREME COURT OF OHIO

DISCIPLINARY COUNSEL :
Relator : Case No. 2011-0408
v. :
AFFIDAVIT OF COMPLIANCE
JOSEPH G. STAFFORD, ESQ. :
Respondent :
STATE OF OHIO :
COUNTY OF CUYAHOGA : SS.

Affiant, Joseph G. Stafford, being duly sworn according to law, deposes and states the following:

1. Affiant states that he is the Respondent.
2. Affiant states further that he may receive correspondence and communications at:
55 Erieview Plaza, Fifth Floor
Cleveland, Ohio 44114
(216) 241-1074 Telephone
(216) 241-4572 Facsimile
3. Affiant states further he has notified by certified mail all clients currently being represented in pending matters of his suspension in compliance with Paragraphs One (1) and Five (5) of the March 8, 2012 Order. Copies of the correspondence and proof of service of said notifications are attached hereto.

4. Affiant states further that he has filed in each pending matter a Notice of Disqualification notifying each opposing counsel in any pending litigation of his disqualification to act as an attorney after March 8, 2012.

5. Affiant states further that he is in compliance with the March 8, 2012 Order.

6. Affiant states further that he has retained and will maintain a record of the various steps taken pursuant to this Order.

FURTHER, AFFIANT SAYETH NAUGHT.



JOSEPH G. STAFFORD

SUBSCRIBED AND SWORN TO BEFORE ME this 6th day of April, 2012.



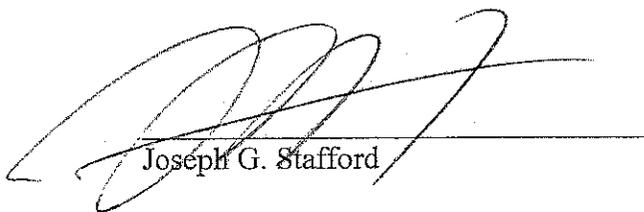
NOTARY PUBLIC KAREN A. KOEMIG

My Commission Expires
MARCH 17, 2015

CERTIFICATE OF SERVICE

A copy of the foregoing Affidavit of Compliance has been served upon the following by regular U.S. mail on this 6th day April, 2012:

Lori J. Brown
Jonathan E. Coughlan
Disciplinary Counsel
250 Civic Center Drive, Suite 325
Columbus, Ohio 43215-7411



Joseph G. Stafford

Stafford & Stafford Co LPA

ATTORNEYS AT LAW

March 15, 2012

VIA FACSIMILE: (216) 771-8404

AND VIA REGULAR U.S. MAIL

Ellen S. Mandell, Esq.
55 Public Square, Suite 1717
Cleveland, Ohio 44113

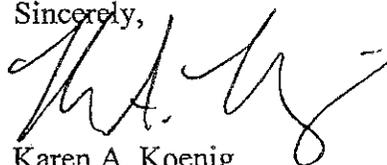
RE: Charles Frederick Buckholz, Jr. v. Elizabeth Merida Buckholz
Cuyahoga County Court of Common Pleas
Division of Domestic Relations
Case No.: DR-11-336697

Dear Ms. Mandell:

Enclosed find a copy of the *Plaintiff's Motion for continuance* which is being filed with the Court, relative to the above referenced matter.

Should you have any questions or concerns, please feel free to contact our office.

Sincerely,



Karen A. Koenig
Paralegal

/kk

Enclosure

cc: Mr. Charles Buckholz, Jr. (*w. enclosure*)
Jennifer Malensek, Esq., Guardian *ad Litem* (via certified mail 7011 2000 0002 4947 5125)

