ORIGINAL

IN THE SUPREME COURT OF OHIO

Disciplinary Counsel, Relator, vs. **Eric Charles Deters** Respondent.	:	**CASE NO. 2012-0353**

RELATOR'S REPLY TO RESPONDENT'S RESPONSE TO THE ORDER TO SHOW CAUSE

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IN THE SUPREME COURT OF OHIO

Disciplinary Counsel,	:	
Relator,	:	
vs.	:	**CASE NO. 2012-0353**
Eric Charles Deters, Esq.	:	
Respondent.	:	

RELATOR'S REPLY TO RESPONDENT'S RESPONSE TO THE ORDER TO SHOW CAUSE

On or about February 23, 2012, the Supreme Court of Kentucky suspended respondent, Eric C. Deters, for 61 days after finding that he engaged in multiple instances of ethical misconduct.

This Court issued an Order to Show Cause regarding respondent's reciprocal discipline on or about March 21, 2012. Respondent filed a response to the Order to Show Cause on or about April 30, 2012.

Gov. Bar R. V(11)(F)(4)(a) states that there are two grounds on which an attorney can object to reciprocal discipline: first, a lack of jurisdiction or fraud in the other jurisdiction's disciplinary proceeding; or second, that the misconduct warrants a substantially different sanction in Ohio. Respondent states that both grounds apply to his case. They do not.

Respondent argues that there was fraud in the proceeding based on several factors. Respondent's main argument is that the trial commissioner had a conflict of interest which resulted in bias. Respondent claims that the trial commissioner's conflict of interest and alleged bias equal fraud. An alleged conflict of interest does not equate to fraud in the disciplinary proceeding. Further, the Supreme Court of Kentucky found that respondent waived the

purported conflict at the hearing after the trial commissioner revealed the possible conflict.[1] *Kentucky Bar Ass'n v. Deters*, 360 S.W.3d 224 (Ky. 2012).

Respondent asserts that because the majority of the charges brought against him were not sustained by the trial commissioner, there was fraud in the proceeding. Responded was charged with 19 counts of ethical misconduct and 4 were ultimately sustained by the Board of Governors of the Kentucky Bar Association and the Supreme Court of Kentucky. The fact that charges brought against respondent were not sustained does not establish that there was fraud in the disciplinary proceeding.

In essence, respondent's argument seems to be that because he was found to have engaged in ethical misconduct there must have been fraud. This is not borne out by the decision of the Supreme Court of Kentucky.

Respondent also states that if he were to have been found to have engaged in the same misconduct in Ohio the sanction would be less severe that the one issued by Kentucky. However, respondent only discusses one of the charges he was found to have violated; that being the charge where he was found to not have timely refunded an unearned fee.

In fact, respondent was found to have violated four professional conduct rules. He made false statements about a judge (Prof. Cond. R. 8.2(a)[2]); directly solicited someone to be a client (Prof. Cond. R. 7.3(a)); included the name of someone who was not his client as a petitioner in a petition for the appointment of a guardian (Prof. Cond. R. 3.3(a)(1)); and failed to refund unearned fees. (Prof. Cond. R. 1.16(e)).

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[1] Respondent's exhibits submitted with his response reveal that he waived the conflict at the hearing and did not attempt to have the trial commissioner recused until after the hearing concluded. Exhibit 1(c), Exhibit 3, Exhibit 4.
[2] Referencing the Ohio Rules of Professional Conduct equivalent to the Kentucky Rules of Professional Conduct violated by respondent.

An attorney found to have violated these provisions in Ohio would receive a sanction that is more severe than the 61 day suspension respondent received.

For instance, an attorney who violates Prof. Cond. R. 8.2(a) by making false statements about a judge would likely face an actual suspension of six months. *Disciplinary Counsel v. Gardner,* 99 Ohio St.3d 416, 2003-Ohio4048, 793 N.E.2d 425; *Disciplinary Counsel v. Proctor*, 101 Ohio St.3d 215, 2012-Ohio-684, 963 N.E.2d 806.

Respondent's argument that the sanction would have been less had he been prosecuted for the same violations in Ohio is not persuasive.

CONCLUSION

For the reasons stated above, the arguments made by respondent do not warrant an exception to Gov. Bar R. V(11)(F) and reciprocal discipline should be imposed.

Respectfully submitted,

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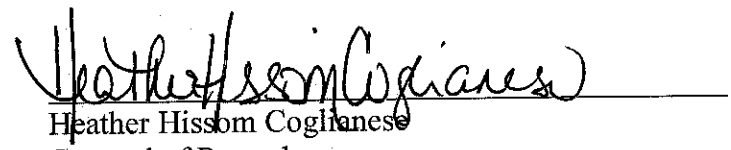
CERTIFICATE OF SERVICE

A copy of the foregoing *Relator's Reply To Respondent's Response To The Order To Show Cause* has been served upon Eric Charles Deters, Esq., Eric C. Deters & Associates, 5247 Madison Pike, Independence, KY 41051, via regular U.S. mail, postage prepaid, this 7th day of May, 2012.



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