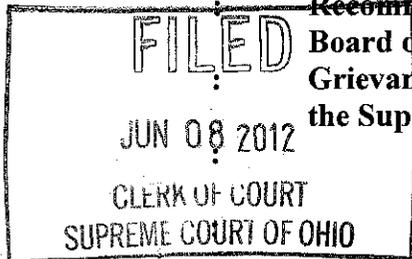


ORIGINAL

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

In Re:	:	SCO No. 2012-0278
Complaint against	:	Case No. 11-055
Christopher Thomas Cicero Attorney Reg. No. 0039882	:	Findings of Fact, Conclusions of Law, and Recommendation of the
Respondent	:	Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio
Disciplinary Counsel	:	
Relator	:	



OVERVIEW

{¶1} This matter is before the Board on remand from the Supreme Court of Ohio because of an error in the November 14, 2011 hearing transcript. Pursuant to the Court’s April 3, 2012 order, the remand is “* * * limited to consideration of the corrected hearing transcript.” The panel has neither received nor considered any additional evidence. The parties agreed that, in lieu of argument or an additional hearing, the Board may consider: (1) Respondent’s motion to remand to board for reconsideration of findings of fact, conclusions of law, and recommendations and to extend or vacate briefing schedule filed with the Supreme Court on March 28, 2012; and (2) Relator’s reply to Respondent’s motion filed on March 29, 2012. See May 2, 2012 entry of panel chair.

{¶2} Respondent’s basis for his motion for remand is that the original transcript of his hearing testimony included the statement: “I quoted him a legal fee and just that’s it.” However,

the corrected transcript says: "I never quoted him a legal fee and just that's it." Corrected Hearing Transcript, 238.¹

{¶3} The panel unanimously concludes that the post-hearing corrections to the transcript do not change the Board's recommendation. The panel finds that Relator proved by clear and convincing evidence that Respondent violated Prof. Cond. R. 1.18 [duties to prospective client] and Prof. Cond. R. 8.4(h) [conduct adversely reflecting upon fitness to practice]. The panel adheres to its original recommendation that Respondent be suspended from the practice of law for six months.

FINDINGS OF FACT

{¶4} The panel repeats and incorporates herein all the findings of fact contained in the February 14, 2012 Board report, except for ¶21 that quoted from the portion of Respondent's testimony affected by the correction in the transcript.

{¶5} Respondent discussed with Rife the possibility of forming a client-lawyer relationship with respect to the potential criminal matter against Rife. *Id.* at 108-112; Relator's Ex. 2, 3.

{¶6} Respondent gave advice to Rife concerning such matter. *Id.* at 112-113, 222-224; Relator's Ex. 3.

{¶7} Regardless of whether Respondent quoted a fee, Rife was, at the time that Respondent sent his email messages to Coach Tressel on April 16, 2010, Respondent's "potential client" for purposes of Prof. Cond. R. 1.18.

¹ Other minor technical and nonsubstantive changes were also made at pages 130, 167 and 199. The corrections appear to have caused a minor change in pagination, which may have caused minor inaccuracies in the citations to the transcript in the original panel report. For example, the above-quoted testimony appeared at page 237 of the original transcript but at page 238 of the corrected transcript.

{¶8} Respondent's testimony on this issue lacks credibility because, among other things, Respondent admitted in two of his emails to Coach Tressel facts sufficient to conclude that the potential client relationship existed and that he considered Rife to be his potential client. In Relator's Exhibit 2, Respondent stated: "If he retains me, and he may, I will try to get these items back that the government now wants to keep for themselves." In Relator's Exhibit 3, Respondent disclosed information about Rife to Coach Tressel and stated that: "I have to sit tight and wait to see if he retains me, but at least he came in last night to do a face-to-face with me."

{¶9} The panel does not believe Respondent's testimony that he did not intend in the email messages to refer to Rife as his prospective client, but that he worded his messages to Coach Tressel only for the purpose of concealing the fact that Epling had been involved in the April 15, 2010 meeting. See February 14, 2012 Board report at ¶31-34.

{¶10} While not dispositive on the issue of whether Rife was a potential client, the panel finds that Respondent did, on April 15, 2010, quote a fee to Rife for representing him. Rife so testified. Corrected Transcript at 111-112. On April 17, 2010, Rife told Palmer that he had been speaking with other attorneys, including Respondent, and that Respondent had quoted Rife a fee of \$10,000 for representing him in the criminal matter. *Id.* at 165-166.

{¶11} Respondent's conduct in revealing information learned in consultation with his prospective client was conduct that adversely reflects on his fitness to practice law within the meaning of Prof. Cond. R. 8.4(c).

CONCLUSIONS OF LAW

{¶12} The panel reaffirms and incorporates all of the conclusions contained in the February 14, 2012 Board report, except for the reference in ¶35 to Respondent's having admitted during his hearing testimony that he quoted a fee to Rife for representing him.

RECOMMENDATION

{¶13} The panel reaffirms its findings regarding aggravating and mitigating factors and its recommendation that Respondent be suspended from the practice of law for six months.

BOARD RECOMMENDATION

Pursuant to the April 3, 2012 remand order from the Supreme Court of Ohio, the Board of Commissioners on Grievances and Discipline considered this matter on June 7, 2012. The Board adopted the Findings of Fact, Conclusions of Law, and Recommendation of the panel and recommends that Respondent, Christopher Thomas Cicero, be suspended from the practice of law for a period of six months. 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**

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

I am in receipt of the following items regarding Board Case No. 11-055/SCO No. 2012-0278

Disciplinary Counsel v. Christopher Thomas Cicero

Original File (1) ✓

Transcript of Hearing 11-14-2011 and 11-14-2011 corrected Transcript of Hearing ✓✓

Exhibits accompanying transcript:

Relator's exhibit 1 – email correspondence between Respondent and Tressel 4-2-2010 ✓

Relator's exhibit 2 – email correspondence between Respondent and Tressel 4-16-2010 ✓

Relator's exhibit 3 – email correspondence between Respondent and Tressel 4-16-2010 ✓

Relator's exhibit 4 – email correspondence between Respondent and Tressel 4-16-2010 ✓

Relator's exhibit 5 – email correspondence between Respondent and Tressel 4-16-2010 ✓

Relator's exhibit 7 – Respondent response to Relator's letter or inquiry 4-22-2011 ✓

Relator's exhibit 8 – Affidavit of Joseph Epling 4-9-2011 ✓

NO 97

Respondent's exhibit A – 3-11-2011 grievance filing of Mr. Rife ✓

Respondent's exhibit B – phone message log from Cicero law office ✓

Respondent's exhibit C1 – 12-25-2010 sportsbybrooks picture ✓

Respondent's exhibit D2 – facebook message string between Mr. Rife and Mr. Epling 7-12 through 7-13-2011 ✓

Respondent's exhibit D6 – photo from Mr. Rife's facebook page 7-30-2011 ✓

Respondent's exhibit E1 – character letter from Mark J. Barrett, Chief Deputy ✓

Respondent's exhibit E2 – character letter from Judge David E. Tyack ✓

Respondent's exhibit E3 – character letter from Judge Paul M. Herbert ✓

Respondent's exhibit E4 – character letter from Jennifer L. Brunner, Esquire ✓

Respondent's exhibit E5 – character letter from Judge Mark A. Hummer ✓

Respondent's exhibit E6 – character letter from Judge John P. Bessey ✓

Deposition of Edward Alan Rife 11-8-2011 ✓

Exhibits attached:

Exhibit 1 – Grievance form from Edward Rife ✓

Exhibit 2 – sportsbybrooks pictures ✓

Exhibit 3, 4 and 5 – pictures ✓

Exhibit 6 – 7-13-2011 facebook message to Epling from Rife ✓

Deposition of Christopher T. Cicero 10-5-2011 ✓

Exhibits attached:

Relator's exhibit 1 – message to Tressel from Cicero 4-2-2010 ✓

Relator's exhibits 2, 3 & 4 – message to Tressel from Cicero 4-16-2010 ✓✓✓

Relator's exhibit 5 – message to Cicero from Tressel 6-1-2010 ✓

Relator's exhibit 6 – 3-9-2011 Columbus Dispatch article ✓

Relator's exhibit 7 – 4-22-2011 letter of inquiry answer from Cicero ✓

Relator's exhibit 9 – affidavit of Joseph Epling ✓

Deputy Clerk

Date

Disciplinary Counsel v. Christopher Thomas Cicero
Board Number 11-055
Supreme Case No. 2012-0278

<u>ITEM NUMBER</u>	<u>DESCRIPTION</u>	<u>DATE FILED</u>
1 ✓	Certified complaint-served on Relator and Respondent	06/13/11
2 ✓	Agreed Extension to Answer to Complaint	06/29/11
3 ✓	Entry-granting extension	06/29/11
4 ✓	Respondent's Notice of Appearance of Additional Counsel	06/30/11
5 ✓	Subpoena Request	07/11/11
6 ✓	Answer of Respondent	07/20/11
7 ✓	Entry-Panel Appointment	07/22/11
8 ✓	Entry-Prehearing Telephone Conference	08/02/11
9 ✓	Entry-Scheduling the hearing and Discovery Deadlines	08/16/11
10 ✓	Notice of Formal Hearing	08/16/11
11 ✓	Subpoena Request	10/25/11
12 ✓	Entry-Changing hearing room	10/26/11
13 ✓	Entry-Media request	11/02/11
14 ✓	Respondent's Trial Brief regarding Recommended Sanction	11/02/11
15 ✓	Respondent's Witness and Exhibit List	11/03/11
16 ✓	Entry-Changing start time of hearing	11/04/11
17 ✓	Relator's Exhibit List	11/4/11
18 ✓	Respondent's Notice of Filing of Deposition	11/10/11

19	✓	Relator's Notice of Filing of Deposition	11/10/11
20	✓	Relator's Witness List	11/04/11
21	✓	Relator's Pre-Hearing Brief	11/08/11
22	✓	Respondent's Amended Witness and Exhibit List	11/09/11
23	✓	Notice of Filing of Original Deposition	11/10/11
24	✓	Relator's Notice of Filing of Deposition	11/14/11
25	✓	Relator's Amended Exhibit List	11/14/11
26	✓	Relator's Pre-Hearing Brief Regarding Recommended Sanction	11/14/11
27	✓	Findings of Fact, Conclusions of Law and Panel Recommendations	02/14/12
28	✓	Letters to the Commissioners, Relator, Respondent and Counsel of Record	02/14/12
29	✓	Findings of Fact, Conclusions of Law and Recommendations of the Board of Commissioners On Grievances and Discipline	02/14/12
30	✓	Order-Remand	04/03/12
31	✓	Entry-Prehearing telephone conference	04/19/12
32	✓	Entry	05/02/12