

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

12-1001

In Re:	:	
Complaint against	:	Case No. 11-084
Rebecca Christine Gee	:	Findings of Fact,
Attorney Reg. No. 0076007	:	Conclusions of Law and
	:	Recommendation of the
Respondent	:	Board of Commissioners on
	:	Grievances and Discipline of
Disciplinary Counsel	:	the Supreme Court of Ohio
	:	
Relator	:	
	:	

OVERVIEW

{¶1} A formal hearing was held in this matter on April 30, 2012 in Columbus, Ohio before a panel consisting of members Lisa M. Lancione Fabbro, McKenzie K. Davis and William J. Novak, chair. None of the panel members resides in the district from which the complaint arose or served as a member of the probable cause panel that reviewed the complaint pursuant to Gov. Bar R. V, Section 6(D)(I). Respondent, Rebecca C. Gee, was present at the hearing and acted *pro se*. Relator, Disciplinary Counsel, was represented at the hearing by Lori J. Brown.

{¶2} Following the filing of a complaint and Respondent's answer, the parties submitted joint stipulations of facts, stipulated exhibits 1 through 13, and stipulated mitigation. The panel was also presented evidence by way of additional documents, Exhibits 1 through 3 as well as the testimony of Respondent and Stephanie S. Krznarich, Clinical Director of the Ohio Lawyers Assistance Program, Inc. (OLAP).

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CLERK OF COURT
SUPREME COURT OF OHIO

{¶3} Except as noted below, the panel unanimously adopts the stipulations of fact as set forth in the joint stipulation and agreed violations. In addition, the panel accepts the recommended sanction from Relator that Respondent be suspended from the practice of law for eighteen months with twelve months stayed and that Respondent comply and adhere to the terms of the OLAP contract that was entered into on April 9, 2012.

CHARGES

{¶4} Respondent was charged in a complaint certified on October 10, 2011 with misconduct in violation of the following:

Count I

- Prof. Cond. R. 1.16(a)(1) [a lawyer shall not represent or, where representation has commenced shall withdraw from the representation if the representation will result in violation of the Ohio Rules of Professional Conduct];
- Prof. Cond. R. 5.5(a) [unauthorized practice of law];
- Prof. Cond. R. 8.4(c) [conduct involving dishonesty, fraud, deceit or misrepresentation];
- Prof. Cond. R. 8.4(d) [conduct that is prejudicial to the administration of justice]; and
- Prof. Cond. R. 8.4(h) [conduct that adversely reflects on the lawyer's fitness to practice law].

Count II

- Prof. Cond. R. 8.1(a) [in connection with a disciplinary matter, a lawyer shall not knowingly make a false statement of material fact];
- Prof. Cond. R. 8.1(b), [in connection with a disciplinary matter, a lawyer shall not fail to disclose a material fact];
- Prof. Cond. R. 8.4(c);
- Prof. Cond. R. 8.4(d); and
- Prof. Cond. R. 8.4(h).

Count III

- Prof. Cond. R. 8.4(h); and
- Gov. Bar R. VI [each attorney who is registered for active status shall keep the Office of Attorney Services apprised of the attorney's current residence address and office address and office telephone number and shall notify the Office of Attorney Services of any change in the information on the certificate of registration].

FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶5} Respondent, Rebecca C. Gee, was admitted to the practice of law in the state of Ohio on May 9, 2003. Respondent is subject to the Ohio Rules of Professional Conduct and the Rules for the Government of the Bar of Ohio. Respondent was also licensed in the state of Kentucky, however, on March 22, 2012, Respondent was disciplined by the Supreme Court of Kentucky for engaging in the practice of law in Kentucky while her license was suspended. Respondent practices law in the city of Cincinnati and focuses on the representation of plaintiffs in personal injury cases.

{¶6} On December 5, 2008, the Commission on Continuing Legal Education of the Supreme Court of Ohio issued an order imposing a monetary sanction upon Respondent for failing to comply with Gov. Bar R. X and was sanctioned in the amount of \$490 for not completing the requisite hours during the 2006 through 2007 biennium as required by Gov. Bar R. X(3); not filing the final reporting transcript on or before January 31, 2008; and, not filing evidence of compliance or coming into compliance as required by Gov. Bar R. X, Section 6(B).

{¶7} The \$490 sanction was based upon the number and type of deficiency and also included a \$150 sanction for failing to file the final reporting transcript which was due by January 5, 2009.

{¶8} Respondent did not pay the \$490 sanction by January 5, 2009.

{¶9} Respondent's Kentucky license was also suspended by the Supreme Court of Kentucky on January 15, 2009, based upon Respondent's failure to comply with Kentucky's

continuing legal education requirements. Further, Respondent has not been reinstated to the practice of law in Kentucky.

{¶10} Respondent was unable to provide the panel with a valid excuse for not complying with her CLE requirements in either Ohio or Kentucky. At the hearing, Respondent testified that she fell behind on her CLE, although she recognized that this was not a good excuse. Respondent then testified that she had plans to go to continuing education classes, but would not attend because of work; then fell further behind and it became overwhelming for her. Hearing Tr. at 24.

{¶11} The panel heard from Stephanie S. Krznarich from (OLAP) who testified that Respondent has low-level depression and generalized anxiety disorder. While Respondent has an excellent reputation in the community and in dealing with her clients, she feels very conflicted when she has to be out of the office to attend to other matters such as CLE. However, Krznarich could not testify as to a “definitive” connection between her mental health diagnosis and her misconduct. Hearing Tr. At 36-37; 40-44.

{¶12} On September 17, 2010, the Supreme Court of Ohio issued a “suspension and sanction order” in Case No. CLE 2010-76007, captioned “*In Re: Continuing Legal Education Sanction, Rebecca Christine Gee, 0076007, Respondent*”.

{¶13} The December 17, 2010 order of suspension reads as follows:

Respondent was mailed notice of noncompliance. Respondent has not completed 36.00 total hours [of CLE], including 2.00 ethics hours, 2.00 professionalism hours, 1.00 hour of substance abuse instruction, on or before December 31, 2009, as required by Gov. Bar R. X, Section 3(A)(1); has not filed the final reporting transcript on or before January 31, 2010, as required by Gov. Bar R. X, Section 3(B)(1); and has not filed evidence of compliance or come into compliance as required by Gov. Bar. R. X, Section 6(B). Respondent also has not paid a prior court ordered sanction for noncompliance in the 2008 reporting period.

{¶14} Under the terms of December 17, 2010 order, Respondent was immediately suspended from the practice of law pursuant to Gov. Bar R. X, Section 5(A)(4) and was sanctioned in the amount of \$750 pursuant to Gov. Bar R. X, Section 5(A)(1).

{¶15} Pursuant to the suspension order, Respondent was ordered to immediately cease and desist from the practice of law in any form or manner whatsoever.

{¶16} On or about December 21, 2010, Respondent received formal notice of her suspension.

{¶17} Following the CLE suspension and prior to the filing of this complaint, Respondent completed her requisite number of CLE hours in Ohio, paid the Court ordered sanctions, and was reinstated to the practice of law in Ohio on June 14, 2011.

{¶18} On March 22, 2012, Respondent was formally disciplined by the Supreme Court of Kentucky for engaging in the practice of law while her license was suspended.

{¶19} On April 2, 2012, pursuant to Gov. Bar R. V, Section 11(F)(1), Relator filed a certified copy of the Kentucky disciplinary order with the Supreme Court of Ohio. The Supreme Court issued a show cause order to Respondent on April 11, 2012 to which Respondent did not reply. On June 5, 2012, the Supreme Court of Ohio imposed reciprocal discipline in the form of a 61-day suspension from the practice of law and further ordered that Respondent will not be reinstated to the practice of law in Ohio until she is reinstated in Kentucky. At the hearing, Respondent indicated her intent to resign from the practice of law in Kentucky.

Count I—Practicing While Under Suspension

{¶20} Commencing in April 2006, Respondent was employed as an associate attorney by Magelaner, Keating & Associates (“the Magelaner firm”).

{¶21} The Magelaner firm had offices in Cincinnati, Columbus, and Akron, Ohio; however, Respondent was the only attorney in the Cincinnati office that was owned by principals Thomas Magelaner and Bradley Keating.

{¶22} At the Magelaner firm, Respondent's practice focused on representing plaintiffs in personal injury matters arising from motor vehicle accidents.

{¶23} Despite receiving notice in December 2010 that her license to practice law had been suspended, and up until her reinstatement on June 14, 2011, Respondent engaged in the practice of law while her license was suspended and did not share that information with the Magelaner firm's principal attorneys, her clients, opposing counsel or anyone else.

{¶24} While her license to practice law was suspended, Respondent authored, signed, and filed pleadings and entries of dismissal. In addition, Respondent represented clients in depositions; sent demand letters and settlement packages; negotiated settlements with insurance companies; received and handled client funds; attended pretrial conferences; and communicated on behalf of clients with insurance companies and opposing counsel. Respondent testified that she did not have a good reason for practicing law while under suspension. When she received the notice of suspension she thought that her employer would fire her immediately. Respondent testified that all she could "do is continue to do my best and to practice." Respondent recognized that she should have let her employer know immediately and start taking CLE courses which the employer would pay for; but for some reason, that was not what "initially came to mind."

{¶25} Respondent frequently communicated with opposing counsel and claims examiners on Magelaner firm letterhead identifying herself as an associate attorney "Rebecca C. Meyer, Esq." and with a signature block stating "Rebecca C. Meyer, Attorney at Law."

{¶26} The panel unanimously finds by clear and convincing evidence the rule violations to which the parties have stipulated. In continuing to practice law while her license was suspended, Respondent violated the following: Prof. Cond. R. 1.16(a)(1); Prof. Cond. R. 5.5(a); Prof. Cond. R. 8.4(c); and Prof. Cond. R. 8.4(h).

{¶27} In the absence of clear and convincing evidence, Relator moves to dismiss Prof. Cond. R. 8.4(d), and the panel accepts the dismissal of that charge.

Count II—Response to Disciplinary Charges

{¶28} On or about April 22, 2011, Respondent received a letter of inquiry from Relator regarding a grievance that had been filed alleging that Respondent was engaging in the practice of law while her license was suspended.

{¶29} By letter dated May 19, 2011, Respondent submitted a response to Relator's letter of inquiry which contained misleading statements about Respondent's conduct to wit:

While I have continued to work at Magelaner, Keating & Associates since my suspension, I do not believe that I have "engaged in the practice of law" during that period. I have not appeared before any court for any trial, hearing, arbitration, or mediation. Nor have I noticed or taken any depositions. I have not filed any new complaints since my suspension and any case that was filed prior to my suspension, as has always been the practice, contained both my name as well as the name of my managing partner, Thomas Magelaner, as Plaintiff's counsel. Following my suspension, I continued to monitor these claims in a paralegal capacity.

{¶30} In fact, Respondent had attended pretrial conferences while her license was suspended and represented Magelaner firm clients at various depositions conducted while she was suspended.

{¶31} The panel finds by clear and convincing evidence and unanimously adopts the rule violations stipulated to the following: Prof. Cond. R. 8.1(a); Prof. Cond. R. 8.1(b); and Prof. Cond. R. 8.4(h).

{¶32} In the absence of clear and convincing evidence, Relator moves to dismiss Prof. Cond. R. 8.4(c) and (d), and the panel accepts the dismissal of those charges.

Count III—Use of Last Name For Professional Activities

{¶33} When Respondent was admitted to the bar of Ohio in May of 2003, her name was Rebecca Christine Gee.

{¶34} On or about September 4, 2004, Respondent married Robert E. Meyer and used the name “Rebecca Gee Meyer” or “Rebecca C. Meyer” in connection with her professional activities as an attorney.

{¶35} As of December 2011 and despite the requirements of Gov. Bar R. VI, Section 1(D), Respondent has not updated information regarding her name with the Supreme Court of Ohio’s Office of Attorney Services.

{¶36} The panel finds by clear and convincing evidence, and unanimously adopts the stipulated violation of Prof. Cond. R. 8.4(h) and Gov. Bar R. VI, Section 1(D).

MITIGATION

{¶37} The parties stipulated to the following mitigating factors in this matter: Respondent has no prior disciplinary record; and Respondent has displayed a cooperative attitude toward these proceedings.

{¶38} Although Respondent, at the time of the hearing in this matter, had no prior disciplinary record, that fact was altered by the Supreme Court’s imposition of reciprocal discipline on June 5, 2012. Accordingly, the panel cannot accept the first stipulation but does accept and find the second stipulated mitigating factor. Further, Respondent has since updated her name with the Office of Attorney Services.

SANCTION

{¶39} Respondent practiced law while her license was suspended. Respondent ignored the Court order suspending her from the practice of law for four months. Upon commencement of the investigation, Respondent provided the investigator with misleading information. Finally, Respondent failed to update her attorney registration information.

{¶40} While recognizing that the customary penalty for practicing law while under suspension is disbarment, see, *Disciplinary Counsel v. Koury*, 77 Ohio St.3d 433, 436, 1997-Ohio-91, Relator did not advocate for disbarment in this case during the hearing. The Court has also routinely imposed indefinite suspensions upon attorneys who have continued to practice law while under CLE and registration suspensions. See, *Disciplinary Counsel v. Higgins*, 117 Ohio St.3d 473, 2008-Ohio-1509, and *Toledo Bar Assn. v. Crandall*, 98 Ohio St.3d 444, 2003-Ohio-1637.

{¶41} In *Disciplinary Counsel v. MacLean*, 106 Ohio St.3d 50, 2005-Ohio-3672, the Court was confronted with an attorney who continued to represent a client while under CLE suspension. The respondent was unaware of the suspension and when opposing counsel filed a motion to disqualify, he immediately ceased practicing law. The respondent was suspended from the practice of law for two years and credited with time served under existing Gov. Bar R. X suspension.

{¶42} As noted above, Respondent also violated Prof. Cond. R. 8.1(a), Prof. Cond. R. 8.1(b), and Prof. Cond. R. 8.4(c). Following the Court's previous decisions including *Disciplinary Counsel v. Fowerbaugh*, 74 Ohio St.3d 187, 191, 1995-Ohio-261 actual suspension time is necessary.

{¶43} While Respondent recently contracted with OLAP and her conduct was cooperative toward these proceedings, this matter raises serious questions on the appropriate sanction for "never ceasing to practice law while her license was suspended." Respondent's conduct cannot be taken

lightly, and at the hearing, Respondent understood the gravity of her conduct. While she did not provide the required medical evidence necessary for mitigation under the rules, she clearly experienced significant mental health issues including depression which impacted her ability to prioritize. The panel also recognizes that no clients were compromised during the period of Respondent's suspension. If anything, Respondent placed her clients and their cases above the time required to satisfy her mandatory CLE requirements. It should also be noted that while this investigation was taking place, Respondent's primary concern was the welfare of the employees in her office, should she face actual time off from the practice of law. Therefore, this panel accepts the recommendation of Relator that Respondent be suspended from the practice of law for eighteen months with twelve months stayed with the additional condition that she fully complies with her contract with OLAP.

BOARD RECOMMENDATION

Pursuant to Gov. Bar R. V, Section 6(L), the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio considered this matter on June 7, 2012. The Board adopted the Findings of Fact and Conclusions of Law as recommended by the panel. After discussion, the Board amended the recommendation of the panel and recommends that Respondent, Rebecca Christine Gee, be suspended from the practice of law for eighteen months with six months stayed on the condition set forth in ¶43 of the report. The Board further recommends that the cost of these proceedings be taxed to Respondent in any disciplinary order entered, so that execution may issue.

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



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