

THE SUPREME COURT OF OHIO

**Cincinnati Bar Association
Relator**

:

Case No. 2011-0023

:

v.

:

**John W. Hauck,
Respondent**

:

**RESPONDENT'S
MEMORANDUM TO SHOW CAUSE**

:

**AND
ATTACHED AFFIDAVIT**

<p>FILED</p> <p>OCT 15 2012</p> <p>CLERK OF COURT SUPREME COURT OF OHIO</p>
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Respondent, John W. Hauck, pro se, in response to the Order to Show cause entered in the above entitled case on October 10, 2012, states as follows.

1. Respondent states that he did not earlier file an Affidavit Showing Compliance with Order dated March 5, 2012 because Respondent was already under suspension, and had already complied to the best of his ability with the Court's previous Order of suspension, and thus did not realize that it was necessary to file still another Affidavit showing his ongoing compliance with the Court's Orders. Respondent is sorry for this oversight or misunderstanding, and he asks the Court's leniency in forgiving the violation.

2. The procedural history of this case is as follows. Respondent initially was suspended in this case on July 7, 2011 for a period of 12 months, with six months stayed upon condition. Then Respondent on March 5, 2012 was found in contempt of the original Order of suspension. By the Order dated March 5, 2012, the previous six month stay was revoked, and Respondent was suspended for an additional six months as of the date of the Order. Respondent, at the time the second Order was issued on March 5, 2012, had long since complied, except as briefly noted below,

with the original Order issued July 7, 2011. Being in full compliance with the previous Order, except as briefly noted below, Respondent did not appreciate the need to submit a second Affidavit reviewing the same information as submitted in the first Affidavit. Respondent apologizes and seeks the Court's forgiveness in not understanding or appreciating the need to fully comply with the second Order dated March 5, 2012.

3. Specifically, Respondent timely filed an Affidavit in Compliance with the first such Order on August 5, 2011. Thus Respondent states, as a first response to the second Order issued March 5, 2012, that "nothing had changed" since his filing of the first Affidavit on August 5, 2011, with regard to his compliance with the original Order of suspension. Respondent simply did not practice law for the additional six months of imposed suspension beginning March 5, 2012. Moreover, Respondent did not practice law after the expiration of the first ordered suspension, but before the second ordered suspension, nor has he practiced law after the expiration of the second ordered suspension, but before his Application for Reinstatement (now pending) is to be ruled upon. In short, Respondent has not practiced law for the entire period of time from July 7, 2011 to the present date, a period of fifteen (15) months, except for his conduct constituting a violation of the first period of suspension, as set forth in Relator's Motion to Hold Respondent in Contempt, which formed the basis for the second suspension beginning March 5, 2012.

4. The Supreme Court on the second and third pages of its Order dated March 5, 2012, directed the Respondent to take seven (7) specific actions within thirty (30) days of the Order, so as to be in compliance with the Order. Respondent states that he had already taken all seven (7) specific actions, in timely fashion, pursuant to the previous Order issued July 7, 2011. The seven (7) specific actions are reviewed in more detail in the attached Affidavit Showing Compliance with

Order dated March 5, 2012, which Affidavit is proffered to the Court as an attachment to this Memorandum to Show Cause.

5. In short, Respondent states that he had no "clients" whatsoever as of March 5, 2012. Thus he had no "clients" or anyone else to whom additional notices should have been issued, or could have been issued, pursuant to the Court's Order of suspension of that date, nor to whom files should have been, or could have been, delivered. Respondent simply did not have any clients of any sort as of that time. Respondent has not pursued any self-employed business of any sort during the past fifteen (15) months, law related or other, nor has he held any regular employment of any sustained nature, but has had only one or two odd jobs, of short term duration, and has done some volunteer work, all outside and not related in the least to the practice of law. Respondent and his family have received public assistance during practically the entire time of his two suspensions for food and medical treatment. Respondent has no outside income, nor savings, although Respondent has been fortunate to benefit from parental support during his period of unemployment.

6. Further, Respondent was not in contact as of March 5, 2012, nor at any time during the two suspensions, with any former clients who might have been waiting for Respondent to renew his legal practice. Respondent as of March 5, 2012 had "lost" all of his clientele, was not in communication with any prior clientele, and in fact did not intend to resume the practice of law at that time. Respondent had no secretary, no staff, and his office equipment was essentially stored in a warehouse without good heat. Respondent could type on his computer, and read email, and that was about it. After his initial suspension, Respondent applied to numerous potential employers *not* in the area of law about non-law related employment, which applications were entirely unsuccessful. Respondent is now 61 years of age. Respondent also submitted an

application to the Ohio State Board of Education for a temporary teacher's license. The application for a teacher's license was made in September, 2011. The teacher's license was denied much later in 2012, well after the Order dated March 5, 2012, based upon Respondent's suspension from the practice of law. In fact, due to the very slow administrative process followed by the Ohio State Board of Education, no final order of denial of the temporary license has yet been filed, to Respondent's knowledge, but all parties are still awaiting such a final appealable order. (No appeal is expected to be taken by any party to the application.)

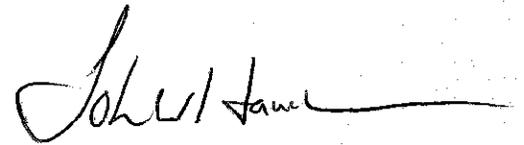
7. Respondent has subsequently re-evaluated his poor economic situation as a result of the two suspensions of his law license, and has decided to apply to reinstate his law license, if at all possible, so as to gain some capacity to earn income in future years. Judges, attorneys, family members and friends all have urged Respondent to return to the practice of law, if granted the privilege by the Supreme Court, so as to utilize his experience and skill to the best of his ability for the benefit of his family and the community. In return, Respondent is keenly aware of the need to maintain his IOLTA account, if it is reopened, in a manner that strictly and fully complies with the Rules, statutes and policies of this Court. Respondent fully understands and appreciates the Rules pertaining to proper maintenance and handling of the IOLTA account, and will not violate those Rules in the future if given another opportunity to practice law.

8. As mentioned above, Respondent attaches hereto an Affidavit Showing Compliance with Order Dated March 5, 2012, which he proffers to the Court for its consideration and hoped-for acceptance and filing. Respondent asks the Court to accept this late filing as part of his effort to "show cause" and to avoid a finding of contempt. Respondent states that he failed to file the Affidavit in timely fashion due to all of the foregoing reasons set forth in this Memorandum and in the Affidavit.

9. For these reasons, Respondent requests the Supreme Court to reinstate his law license as prayed for in his Application for Reinstatement. Respondent states that he will strictly follow and abide by all Rules of the Supreme Court if he is reinstated on his law license.

Respectfully submitted,

By: Respondent pro se

A handwritten signature in black ink, appearing to read "John W. Hauck", with a long horizontal flourish extending to the right.

John W. Hauck
(Previous S. Ct. #0023153)
1600 Central Parkway, 2nd Floor
Cincinnati, Ohio 45202
513/ 621-0805 Office (and cell)

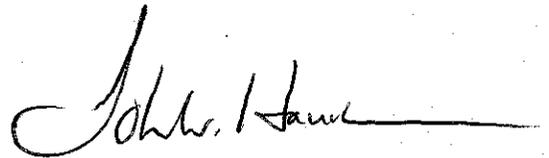
CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Respondent's Memorandum to Show Cause and Attached Affidavit has been sent to the following persons by ordinary U.S. mail on this 12 day of October, 2012.

Jonathan E. Coughlan, Esq.
Disciplinary Counsel
The Supreme Court of Ohio
250 Civic Center Dr., Suite 325
Columbus, Ohio 43215-7411

James K. Rice, Esq. (#0023385)
Cincinnati Bar Association
207 Thomas More Parkway
Crestview Hills, Kentucky 41017

Richard H. Johnson, Esq. (#0019377)
Cincinnati Bar Association
9902 Carver Road
Blue Ash, Ohio 45242



John W. Hauck (previous #0023153)
1600 Central Parkway, Second Floor
Cincinnati, Ohio, 45202

THE SUPREME COURT OF OHIO

Cincinnati Bar Association
Relator

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v.

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Case No. 2011-0023

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John W. Hauck,
Respondent

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RESPONDENT'S
AFFIDAVIT SHOWING COMPLIANCE
WITH ORDER DATED MARCH 5, 2012

:

STATE OF OHIO)
) S.S.
COUNTY OF HAMILTON)

Now comes the **Respondent, John W. Hauck** (previously # 0023153), first being duly cautioned and sworn, who deposes and states as follows:

1. I am the Respondent in the above entitled case. Respondent was ordered by the Supreme Court on March 5, 2012 to file with the Clerk of Court and with the Disciplinary Counsel of the Supreme Court an Affidavit Showing Compliance with the terms of suspension set forth in that Order. Respondent failed to comply with the Order.

2. Respondent makes the current filing in an effort to comply with the more recent Court's Order to Show Cause. This Order was issued October 10, 2012. The Order informs Respondent that he may be held in contempt for his having failed in timely fashion to file an Affidavit Showing Compliance with the Order dated March 5, 2012.

3. Respondent states that he did not earlier file an Affidavit Showing Compliance with Order dated March 5, 2012 because Respondent was already under suspension, and had already

complied to the best of his ability with the Court's previous Order of suspension, and thus did not realize that it was necessary to file still another Affidavit showing his ongoing compliance with the Court's Orders. Respondent is sorry for this oversight or misunderstanding, and he asks the Court's leniency in forgiving the violation.

4. The procedural history of this case, in more detail, is as follows. Respondent initially was suspended in this case on July 7, 2011 for a period of 12 months, with six months stayed upon condition. Then Respondent on March 5, 2012 was found in contempt of the original Order of suspension. By the Order dated March 5, 2012, the previous six month stay was revoked, and the additional six months of suspension was imposed as of the date of the Order. Respondent, at the time the second Order was issued on March 5, 2012, had long since complied, except as briefly noted below, with the original Order issued July 7, 2011.

5. Specifically, Respondent timely filed an Affidavit in Compliance with the first such Order on August 5, 2011. Thus Respondent states, as a first response to the Order to Show Cause dated October 10, 2012, that "nothing had changed" as of March 5, 2012, which was the date that the additional six month suspension was imposed, since he had filed his first Affidavit on August 5, 2011, with regard to his compliance with the original Order of suspension dated July 7, 2011. Respondent simply continued not to practice law for the additional six months of imposed suspension beginning March 5, 2012. Moreover, Respondent did not practice law after the expiration of the first ordered suspension, but before the second ordered suspension, nor has he practiced law after the expiration of the second ordered suspension, but before his Application for Reinstatement (now pending) is to be ruled upon. In short, Respondent has not practiced law for the entire period of time from July 7, 2011 to the present date, a period of more than fifteen (15) months, except for his conduct constituting a violation of the first period of suspension, as set forth

in Relator's Motion to Hold Respondent in Contempt, which formed the basis for the second suspension beginning March 5, 2012.

6. The Supreme Court on the second and third pages of its Order dated March 5, 2012, directs the Respondent to take seven (7) specific actions within thirty (30) days of the Order, so as to be in compliance with the Order. Respondent states that he took all seven (7) specific actions, which are summarized below, in the same number and order as set forth in the Supreme Court's Order, after he was first suspended on July 7, 2011. For the purpose of responding to the current Order to Show Cause, Respondent will review the specific actions that he took after he was first suspended on July 7, 2011, in substantial compliance with that Order, and which compliance continued, in full and uninterrupted form, after he was suspended a second time on March 5, 2012.

P 1 Respondent, within thirty (30) days of the original suspension on July 7, 2011, ***notified in writing all clients*** being represented in then-pending matters of Respondent's suspension from the practice of law, and his consequent disqualification to act as an attorney in any legal matter after July 7, 2011. Respondent at the time of his original suspension was not acting as co-counsel with any other attorney on any legal matter. Respondent at that time notified in writing all his clients to seek legal service elsewhere. Respondent at that time had two commercial clients to whom he issued certified mail notices of his suspension. As a result of these written notices, Respondent had a number of individual clients who responded to the notices by picking up their entire files at his office (as is reviewed in more detail in P2 below). Such clients then secured new counsel for their representation. Other Clients terminated their case representation altogether. Respondent still has copies of all written notices referred to in this paragraph. Respondent set forth all of these actions in his Affidavit Showing Compliance that was filed on August 5, 2011.

P 2 Respondent, within thirty (30) days of the original suspension on July 7, 2011, delivered six (6) files to five (5) different clients (one client having two files), with each client

signing and dating a "**Receipt for File**" for Respondent's records. Respondent also timely delivered the files of two commercial clients (referred to in P1 above) to new attorneys. Respondent set forth all of these actions in his Affidavit Showing Compliance that was filed on August 5, 2011.

P 3 Respondent, within thirty (30) days of the original suspension on July 7, 2011, **refunded attorney's fees** of \$100.00 to one criminal client, who also picked up his file from the office (as referred to in P 2 above). Respondent owed no other unearned fees to any person. All money in the IOLTA trust account was dispursed in proper manner. Respondent set forth all of these actions in his Affidavit Showing Compliance that was filed on August 5, 2011.

P 4 Respondent, within thirty (30) days of the original suspension on July 7, 2011, **notified all opposing counsel** in all of his pending litigation, by U.S. certified mail, return receipt, of Respondent's disqualification to act as an attorney after the effective date of the Order. A total of twelve (12) such U.S. certified mail letters were issued to opposing counsel, of which Respondent has copies in his file. This completed the notification of all counsel on all cases in which Respondent had any involvement of record as of July 7, 2011. Further, counsel timely filed a **Notice of Disqualification** as counsel in fourteen (14) different cases pending as of July 7, 2011 in the Hamilton County Court of Common Pleas, in the Hamilton County Municipal Court, and in one administrative hearing at the City of Cincinnati. These filings are of public record. Respondent set forth all of these actions in his Affidavit Showing Compliance that was filed on August 5, 2011.

P 5 All notices to opposing counsel referred to in the foregoing Paragraphs were issued by **U.S. certified mail**. All notices to commercial clients were issued by **U.S. certified mail**. All notices to other clients were initially issued by **ordinary U.S. mail** (soon after July 7, 2011), but after that time their legal work was **entirely closed out**, with no further legal work needed by the clients,

or the clients *picked up their files* from Respondent at his office, with specific intentions of delivering the files to other counsel. Respondent set forth all of these actions in his Affidavit Showing Compliance that was filed on August 5, 2011.

The additional events not covered in the Affidavit Showing Compliance dated August 5, 2011, and which are set forth here for the first time, were the two or three clients identified in Relator's Motion to Hold Respondent in Contempt, for whom Respondent provided additional services within the thirty (30) days following the Order dated July 7, 2011, and which caused the additional six month suspension to be imposed. Note that even for these last named two or three clients, for whom Respondent tried to be of good if not exceptional service, Respondent fully notified them of his suspension and completely closed out their files within 30 days of receiving the suspension.

P 6 Respondent timely filed with the Clerk of Court and with the Disciplinary Counsel of the Supreme Court his *Affidavit of Compliance* with the Order dated July 7, 2011. This filing, once again, was made on August 5, 2011. Respondent has copies of all notices referred to in the foregoing Paragraphs, and receipts of all the U.S. certified mailings referred to. The *address* where Respondent may receive communications was set forth in the previous Affidavit, and is set forth again below. This address has not changed since the original suspension was imposed..

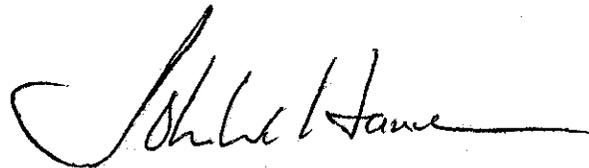
P 7 Respondent has maintained a *record* of all the actions and communications set forth in this affidavit. Respondent set forth this fact in his Affidavit Showing Compliance that was filed on August 5, 2011.

7. Respondent included with the mailing of his Affidavit of Compliance dated August 5, 2011 all of his attorney registration cards then in his possession, and the Certificate of Registration sent to him for the 2011-2013 biennium period.

8. Respondent states that he had no "clients" whatsoever as of March 5, 2012. Thus he had no "clients" to whom additional notices should have been issued, or could have been issued, pursuant to the Court's Order of suspension of that date, nor to whom files should have been, or could have been, delivered. Respondent simply did not have any clients of any sort as of that time. Further, Respondent was not in contact with any former clients who might have been waiting for Respondent to renew his legal practice. Respondent as of March 5, 2012 had "lost" all of his clientele, was not in communication with any prior clientele, and in fact did not intend to resume the practice of law at that time. Likewise, Respondent has had no clients or other persons "waiting" for him to reinstate during any part of his two suspensions.

9. Respondent has subsequently re-evaluated his poor economic situation as a result of the two suspensions, and has decided to apply to reinstate his license so as to gain some capacity to earn income in future years. Respondent will need to "start fresh" in rebuilding his clientele.

10. The foregoing six (6) pages of testimony are true and accurate to the best of my knowledge and recollection. Further affiant sayeth naught.



John W. Hauck (previously #0023153)

Sworn to and subscribed by John W. Hauck before me, a notary public in and for the State of Ohio, on this 12 day of OCTOBER, 2012.



Notary Public

ADAM PRUSSIA
Notary Public, State of Ohio
My Commission Expires 08-18-2016