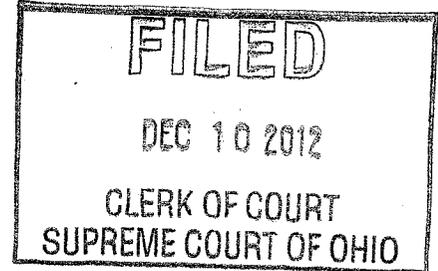


BEFORE THE BOARD OF COMMISSIONERS
ON
GRIEVANCES AND DISCIPLINE
OF
THE SUPREME COURT OF OHIO

12-2069



In re:	:	
Complaint against	:	Case No. 12-007
Sterling Everard Gill II	:	Findings of Fact,
Attorney Reg. No. 0034021	:	Conclusions of Law, and
	:	Recommendation of the
Respondent	:	Board of Commissioners on
	:	Grievances and Discipline of
Columbus Bar Association	:	the Supreme Court of Ohio
	:	
Relator	:	
	:	

OVERVIEW

{¶1} This matter was heard on October 22, 2012, before a panel consisting of Stephen C. Rodeheffer, David L. Dingwell and Lawrence R. Elleman, chair. None of the panel members is from the appellate jurisdiction from which the complaint arose or served on the probable cause panel in this matter. Relator was represented by James Erwin, Bruce A. Campbell, and A. Alysha Claus. Respondent was present at the hearing and represented by Kenneth R. Donchatz. The only witnesses at the hearing were Respondent and Stephanie Krzmarich of OLAP.

{¶2} Respondent's misconduct in this case involves 40 violations of the Ohio Rules of Professional Conduct, including failure to obtain client signatures regarding the absence of malpractice insurance; failure to maintain an IOLTA for the segregation of client funds; failure to explain the basis for calculation of fees, the scope of representation and entering into a flat fee arrangement without written notice to the client regarding the circumstances under which the fee is subject to refund; lack of diligence; dividing a fee with another lawyer without proper

disclosure and consent; failure to explain to his client matters needed to make informed decisions; and failure to cooperate with Relator's investigation and fee arbitration procedures.

{¶3} No client was shown to have been harmed by Respondent's misconduct. No client is entitled to a refund of fees paid. Respondent did not benefit from his misconduct. Respondent did not make any misrepresentations to clients, the courts, or to Relator.

{¶4} Respondent is an alcoholic and, in addition, has been recently diagnosed as having a bipolar mood disorder. Respondent has been in and out of substance abuse treatment programs since at least 1986. Respondent has supposedly successfully completed such treatment programs, but has suffered multiple relapses.

{¶5} The second amended complaint alleges 11 counts and 53 violations. The parties entered into comprehensive written stipulations of facts and 41 stipulated rule violations. Relator dismissed all of the alleged violations contained in the second amended complaint, except for the stipulated violations. Hearing Tr. 18-19.

{¶6} The panel recommends that Respondent be suspended from the practice of law for a period of two years, with 18 months stayed on stringent conditions that are designed to protect the public from a reoccurrence of misconduct.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶7} Respondent is subject to the Ohio Rules of Professional Conduct and the Rules for the Government of the Bar.

{¶8} Respondent was admitted to the Bar of Ohio in 1978. Respondent is 64 years old. Respondent is a graduate of The Ohio State University law school. At the time of the events that are the subject to this proceeding, he was a sole practitioner in Columbus, Ohio.

{¶9} On April 13, 1988, Respondent was indefinitely suspended for endorsing his client's name on a settlement check for \$7,000 and converting \$4,700 of that amount to his own use. *Columbus Bar Ass'n. v. Gill*, 39 Ohio St.3d 4, (1988). Respondent was reinstated on December 21, 1990.

{¶10} The following paragraphs summarize the stipulated facts, other evidence, and stipulated violations regarding Counts One through Eleven.

Count One—Reffitt/Justice Matter

{¶11} The parties stipulated that if called to testify, Ms. Reffitt would testify that Respondent agreed to a flat fee to represent Ms. Reffitt father in a pending criminal matter. Stipulations ¶¶15-16. Respondent testified, upon questioning by the panel, that he did not agree to a flat fee, but he admitted that he failed to explain the basis of his fee arrangement or the scope of the representation. Hearing Tr. 73-77. Respondent did not obtain the client's signature on a "Notice to Client" regarding the absence of malpractice insurance.¹ Stipulation ¶7. Respondent did not deposit the unearned fee in an IOLTA. Stipulation ¶8. Further, he initially did not respond to Respondent's demand for information.² Stipulations ¶¶9-10; Joint Ex. 2. Relator has proven by clear and convincing evidence that Respondent committed all of the violations described in ¶28 of the stipulations, except for Prof. Cond. R. 1.5(d)(3) regarding the alleged flat fee. Relator failed to prove by clear and convincing evidence that Respondent agreed to a flat fee. The panel recommends dismissal of that claimed violation.

¹ Respondent testified he sometimes used an engagement letter which notified the client that he had no malpractice insurance but the engagement letter did not call for the signature of the client to a notice to client as required by Prof. Cond. R. 1.4(c). Hearing Tr. 108-109.

² Respondent stipulated that he did not provide timely written responses to Relator regarding the notices of grievances on each of Counts One through Eleven. Stipulation 10. However, at a later time, he did produce substantial documents, submitted to depositions, cooperated in the hearing, and negotiated a comprehensive stipulation of facts and rule violations.

Count Two—Corley Matter

{¶12} Respondent did not act with reasonable diligence and did not reasonably consult with Ms. Corley about her case. Respondent entered into a flat fee arrangement without explaining the basis of the fee, the scope of the representation, and without providing written notice as to the circumstances under which a portion of the fee would be refunded. As with several other counts in the amended complaint, he did not obtain the client's signature on a notice to client that he did not carry malpractice insurance. Respondent failed to respond to Relator's demand for information and to cooperate in the certified grievance committee's ADR procedure. Stipulations ¶¶7-10, 29-39; Joint Ex. 7. Relator has proven by clear and convincing evidence that Respondent committed all the violations described in ¶40 of the stipulations.

Count Three—Hicks Grievance

{¶13} Respondent failed to respond to Relator's demand for information. Stipulations ¶¶9-10, 41-45; Joint Ex. 9. Relator has proven by clear and convincing evidence that Respondent committed all of the violations set forth in ¶46 of the stipulations.

Count Four—Martin/Toney Matter

{¶14} Respondent entered into a fee arrangement with Ms. Martin to represent her son without explaining the basis of the fee or the scope of representation. Respondent divided the fee with another lawyer without proper disclosure and written consent. Respondent did not obtain the client's signature on the notice to client regarding malpractice insurance, and did not establish an IOLTA account or deposit into a trust account unearned fees and expenses paid by the client. Respondent knowingly failed to respond to the demand for information from Relator. Stipulations ¶¶7-10, 47-65; Joint Ex. 12. Relator has proven by clear and convincing evidence that Respondent committed all the violations set forth in ¶66 of the stipulations.

Count Five—Criminal Traffic Matter

{¶15} Respondent was involved in an automobile accident wherein he rear ended a car that had been stopped in traffic. Respondent left the scene of the accident because his car was disabled in freeway traffic, and he walked home intending to report the accident to the police when he got home. There is no evidence in connection with this particular count that Respondent was driving under the influence of alcohol. Hearing Tr. 38-40, 63-64, 68-70. As with the other counts, Respondent failed to respond to Relator's demand for information. Stipulations ¶¶8-10, 67-76; Joint Ex. 13-14. Relator proved by clear and convincing evidence that Respondent committed all the violations set forth in ¶77 of the stipulations.

Count Six—Henderson/Hackney³ Matter

{¶16} Respondent agreed to represent Mr. Hackney in a criminal matter with Hackney's mother, Ms. Henderson, paying for the representation. When Ms. Henderson requested fee arbitration from the Columbus Bar Association, Respondent knowingly failed to respond to Relator's demand for information and did not cooperate with Relator regarding the ADR procedure. Stipulations ¶¶9-10, 78-89; Joint Ex. 16. Relator has proven that Respondent committed all the violations set forth in ¶90 of the stipulations.

Count Seven—Fitness to Practice; Franklin County Municipal Court

{¶17} On November 4, 2011, Respondent appeared in Franklin County Municipal Court three hours late and with a breath alcohol content of 0.022. There is no contention that Respondent committed any misrepresentation to the judge regarding same. Stipulations ¶¶91-100; Hearing Tr. 88-91. Relator has proven by clear and convincing evidence that Respondent violated Prof. Cond. R. 8.4(h) by engaging in conduct adversely reflecting on his fitness to practice law as set forth in ¶101 of the stipulations.

³ Mr. Hackney is also referred to as "Hachney" and "Hechney" in the complaint and stipulations.

Count Eight—Judge Nusbaum Contempt Matter

{¶18} Respondent was scheduled to appear before Judge Nusbaum for a jury trial on May 1, 2012. On April 30, 2012, Respondent spoke with his client and the charge nurse at Grant Hospital, who notified Respondent that Respondent's client was in the hospital. Respondent notified the judge's bailiff later on April 30 that his client could not attend the trial the next day. The bailiff asked for documentary proof that the client was in the hospital. Respondent sent the documents to the clerk's office instead of the judge's chambers so the judge was unaware of the receipt of the documents. Unbeknownst to the Respondent, his client was released from the hospital in the "wee hours" of April 30 and the documents that had been sent to the clerk's office confirmed that fact. The following morning, the jury was scheduled to report for duty. The judge instructed his bailiff to order Respondent to appear for trial at 8:30 a.m. on May 1. Respondent did not appear in court until 9:45 a.m., at which time Respondent mistakenly stated to the judge that his client was still in the hospital. Ultimately, Respondent was held in contempt of court for being late to trial on May 1 and ordered to pay \$200 to charity and to pay the costs associated with bringing in the jury in for the May 1st trial. Relator did not contend at the hearing that Respondent had deliberately misrepresented the facts to Judge Nusbaum and dismissed its claimed violation of Prof. Cond. R. 8.4(c) [conduct involving dishonesty, fraud, deceit, or misrepresentation]. Stipulations ¶¶102-124; Hearing Tr. 42-45, 70-73; Joint Ex. 21-23. Respondent knowingly failed to respond to Realtor's demand for information. Stipulations ¶¶9-10. Relator has proven by clear and convincing evidence that Respondent committed all the violations described in ¶125 of the stipulations.

Count Nine—Representation in Matters before the Fourth District Court of Appeals

{¶19} Respondent missed due dates for filing the notices of appeal and two successive filing dates for merit briefs. Relator did not contend at the hearing that Respondent had deliberately misrepresented that his “associate” was unable to get the notices of appeal filed timely, and voluntarily dismissed its claimed violation of Prof. Cond. R. 8.4(c) [conduct involving dishonesty, fraud, deceit, or misrepresentation]. Respondent knowingly failed to respond to Relator’s demand for information. Stipulations ¶¶9-10, 126-139; Hearing Tr. 45-49, 64; Joint Ex. 26-28. Relator has proven by clear and convincing evidence that Respondent committed all of the violations described in ¶140 of the stipulations.

Count Ten—Roach Matter

{¶20} Respondent missed a filing date for a merit brief and failed to respond to a motion for reconsideration. Respondent failed to respond to two requests from Relator to respond to the grievance. Stipulations ¶¶9-10, 141-152; Joint Ex. 31. Relator has proven by clear and convincing evidence that Respondent committed all of the violations described in ¶153 of the stipulations.⁴

Count Eleven—Rogers Matter

{¶21} Respondent stipulated that if called to testify, Rogers, who retained Respondent to represent him in a criminal matter, would testify that he had been unable to communicate with Respondent by telephone and that when he visited Respondent at his home, Respondent was intoxicated. Stipulations ¶¶162-164. Rogers was present at the disciplinary hearing but was not called as a witness by either party. Respondent denied Rogers’ version of these facts. Hearing Tr. 98-102. Respondent failed to respond to requests by Relator for information about these

⁴ The stipulated violation of Prof. Cond. R. 8.1(b) was mistakenly identified by the parties in ¶ 153 of the stipulations as Prof. Cond. R. 1.8(b).

allegations. The panel needs not to decide whether the facts regarding stipulations ¶¶162-164 are true because the other stipulated facts and evidence (Stipulations ¶¶9-10, 154-166; Hearing Tr. 51-53, 98-102; Joint Ex. 35) are sufficient to establish by clear and convincing evidence that Respondent committed all of the violations described in ¶165 of the stipulations.

Other Factual Findings

{¶22} The evidence clearly establishes that Respondent is an alcoholic and has, in the past, abused other drugs. In 1986, after being charged with misconduct, he admitted himself into an inpatient detoxification center and one week later entered into a substance abuse program offered for professionals by Shepherd Hill Hospital in Newark, Ohio. *See Columbus Bar Ass'n. v. Gill, supra*. He was involved in that program for about six or seven months. Hearing Tr. 21-22, 77-80.

{¶23} The Supreme Court of Ohio indefinitely suspended Respondent on April 13, 1988. The Court recited and discussed in detail Respondent's substance abuse illness, his treatment program at Shepherd Hill and concluded "[b]ecause we are impressed with respondent's apparent success in controlling his alcoholism and drug addiction * * * respondent will be permitted to petition for reinstatement in one year. We assume that monitoring and supervision under which respondent is currently functioning will continue throughout the sanction period." *Id.* at 7-9. Respondent was reinstated on December 21, 1990. *Columbus Bar Ass'n. v. Gill*, 56 Ohio St.3d 602, (1990).

{¶24} After his successful completion of the Shepherd Hill program, Respondent remained sober for 14 years. During most of that period of time, he worked as a hearing officer for the Ohio Industrial Commission; and, as appointed by the commissioner on occasion, as

deputy commissioner. In the early 2000s, he left the Industrial Commission and recommenced the practice of law as a sole practitioner. Hearing Tr. 21-23, 67-68, 79-81.

{¶25} Since about 2003, Respondent has had periods of sobriety for up to perhaps six months at a time and then he would relapse. *Id.* at 23. From 2003 to 2005, Respondent was again involved in alcohol treatment programs at Maryhaven for detoxification and then with Southeast Recovery and Mental Health Care Service. *Id.* at 81-83; Joint Ex. 47.

{¶26} In 2010, Respondent was charged with OVI, which was reduced to reckless operation. Hearing Tr. 21-24. As a result, Judge Barrows placed him on probation. Joint Ex. 45. As part of his probation, he completed an intensive alcohol and drug program with the Columbus Health Department on September 29, 2011. Joint Ex. 45. However, he suffered a relapse shortly thereafter. Hearing Tr. 24-25, 91-92.

{¶27} On November 4, 2011, Respondent appeared in court before Judge Brown with a breath alcohol content of 0.022. As a result, Respondent was required to go back before Judge Barrows, who ordered Respondent to be equipped with an ankle monitor device which would detect and alert the probation authorities of the use of alcohol. Hearing Tr. 25-26. Respondent has been completely sober since November 4, 2011. *Id.* at 97. Respondent no longer wears the ankle monitor device.

{¶28} On February 13, 2012, Respondent was admitted to an alcohol treatment program at House of Hope Outpatient Treatment Services. Respondent was discharged on July 10, 2012, with a discharge diagnosis of "Alcohol Dependence-Early Partial Remission." Respondent was released from probation on July 9, 2012. Joint Ex. 40 and 45.

{¶29} Respondent is currently subject to a five-year OLAP contract dated March 18, 2011. Joint Ex. 42. Respondent is in compliance with the OLAP recommended treatment

program, calls OLAP daily, has an AA sponsor, and attends AA meetings three or four times per week. In addition, Respondent began treatment with April Mancuso Psy.D. in August 2012, and has received a new diagnosis from her of “BiPolar Mood Disorder (Not Otherwise Specified in Partial Remission)” in addition to “Alcohol Abuse (in remission).” Until now, he had never been diagnosed with bipolar disease. Respondent sees Dr. Mancuso two to three times per month. Respondent is being treated with psychotherapy drugs. Whereas Respondent often formerly felt “stuck” this sometimes prevented him from even opening his mail. Respondent is now feeling much better and the therapy seems to be working. Hearing Tr. 26-31, 55-59, 114, 121-136.

{¶30} The parties stipulated to the admission into evidence of Joint Ex. 47-48, which are letters from Dr. Mancuso which set forth her diagnosis and her opinion as to the causal relationship between the misconduct and Respondent’s illnesses. The letters describe Dr. Mancuso’s recommendations regarding treatment, including psychotherapy for six months, continued psychiatric medications, continued attendance at AA meetings, maintenance of a sponsor, working with OLAP, and random drug testing. Dr. Mancuso concludes that Respondent will be able to return to the competent ethical practice of law as long as he meets the conditions described above.

{¶31} Stephanie Krznarich of OLAP testified as to her general agreement with Dr. Mancuso. Hearing Tr. 121-137. Her opinion is that with Respondent’s “current plan in place, with pharmaceuticals, with therapy, with the 12-step involvement, his sponsor, his current contract recovery, right now he’s got the best foundation I’ve ever seen in place for him since I started working with him in 2002 because now he’s treating both of his disorders, his mental health disorder in addition to the chemical dependency disorder. And I believe it was a key impact that led to chronic relapses, the mental health disorder was never appropriately diagnosed

or treated.” Hearing Tr. 131-132. She is more optimistic that Respondent may succeed this time even though he has failed in the past. *Id.* at 135-136.

AGGRAVATION, MITIGATION, AND SANCTION

{¶32} The panel finds the following aggravating factors:

- Respondent has received a prior indefinite suspension based on conduct that the Supreme Court found was related to his substance abuse problem;
- Respondent exhibited a pattern of misconduct by his repeated inattention to the details of the practice of law required of attorneys in the State of Ohio;
- Respondent has committed multiple offenses;
- Respondent initially failed to cooperate in the disciplinary process; and
- After having been notified that disciplinary charges were pending against him for, among other things, failure to maintain an IOLTA account, Respondent continued to violate the Rules of Professional Conduct regarding IOLTA accounts. The original complaint was filed against Respondent in February 2012. By at least that time Respondent knew or should have known of the IOLTA requirements, yet Respondent still did not establish an IOLTA account, even though Respondent continued to receive retainers from clients for legal work. Hearing Tr. 110-112.

{¶33} The panel finds the following mitigating factors:

- Absence of any dishonest or selfish motive. Respondent made no misrepresentations to his client, the courts, or to Relator;
- No client was shown to have been damaged as a result of his misconduct. No client is entitled to a refund of fees paid. Stipulation ¶11;
- Once Respondent obtained an attorney in this disciplinary proceeding, Respondent fully and freely disclosed and admitted his misconduct, exhibited a cooperative attitude toward these proceedings, and entered into comprehensive stipulations of facts and rule violations, as well as comprehensive conditions for reinstatement;
- Respondent acknowledges the wrongfulness of his misconduct; and
- Respondent has received a diagnosis of chemical dependency and mental disability by a qualified health care professional, which chemical dependency and mental disability contributed to the cause of the misconduct. Respondent has successfully completed approved treatment programs and has had a one year sustained period of successful treatment. The prognosis from a qualified health care professional is that

Respondent will be able to return to the competent, ethical professional practice of law as long as he meets certain conditions described above. Stipulation ¶166.

{¶34} Respondent recommends a completely stayed suspension upon stipulated conditions to prevent the reoccurrence of misconduct. Stipulation ¶167. Relator recommends that Respondent receive a two-year actual suspension from the practice of law with the same stipulated conditions to reinstatement.

{¶35} Respondent cites as authority for a completely stayed suspension the recent cases of *Butler Cty. Bar Assn. v. Minamyers*, 129 Ohio St.3d 433, 2011-Ohio-3642 (one-year stayed suspension for neglect, communication issues with client, and misleading a client as to status of matter); and *Disciplinary Counsel v. Meehan*, 133 Ohio St.3d 51, 2012-Ohio-3894 (two-year stayed suspension for unknowingly practicing law after he had receive a registration suspension). The panel concludes that the cases cited by Respondent for a completely stayed suspension are not convincing authority in this case because Respondent has been previously sanctioned for serious misconduct and because Respondent's misconduct in this case is more widespread than in the cited cases. The panel therefore concludes that an actual suspension is required in this case.

{¶36} Relator cites numerous cases as authority for the imposition of an actual suspension, with sanctions ranging from indefinite suspensions to two-year suspensions with some portions stayed. The case law does not support the imposition of a two-year actual suspension. However, the panel is troubled by Respondent's previous relapses from sobriety, thus suggesting that a two-year suspension, with a portion of the suspension stayed, is appropriate so as to allow time for Respondent to devote to his treatment programs and to further incentivize Respondent's recovery efforts.

{¶37} Several recent cases have imposed two-year suspensions with 12 or 18 months stayed with stringent conditions to reinstatement so as to prevent reoccurrence of misconduct and at the same time allow for continued substance abuse or mental disability treatment. *Akron Bar Assn. v. McNerney*, 122 Ohio St.3d 40, 2009-Ohio-2374 (two-year suspension, with the second year stayed on stringent conditions, including monitored probation and formal reinstatement proceedings pursuant to Gov. Bar. R. V, Section 10(C) through (G) for malpractice insurance and attorney registration violations); *Erie-Huron Grievance Commt. v. Stoll*, 127 Ohio St.3d 290, 2010-Ohio-5985 (two-year suspension, with 12 months stayed on stringent conditions plus two-year monitored probation for mishandling 20 estate proceedings); *Disciplinary Counsel v. Burchinal*, 133 Ohio St.3d 38, 2012-Ohio-3882 (two-year suspension, with 18 months stayed with a monitored probation on condition of completion of OLAP contract for misappropriation of funds, neglect and concealment); *Disciplinary Counsel v. Johnson*, 131 Ohio St.3d 372, 2012-Ohio-1284 (two-year suspension, with 18 months stayed); and *Erie-Huron Counties Joint Certified Grievance Commt. v. Derby*, 131 Ohio St.3d 144, 2012-Ohio-78 (two-year suspension, with 18 months stayed).

{¶38} In *Johnson, supra*, the respondent was found to have committed multiple instances of misconduct based on his commingling of personal and client funds, improperly withdrawing client funds from his IOLTA account, failing to keep records for each client and failing to cooperate in the relator's investigation. He used his client trust account for personal transactions to evade an IRS lien on his personal checking account. He represented in deposition testimony that certain funds were in his trust account but they were not. He failed to abide by a court order and falsely stated to that court that he maintained a separate ledger for each of his clients, but he did not. In mitigation, the court noted that respondent had made a timely good

faith effort to make restitution and further that his mental disabilities qualified as a mitigating factor pursuant to BCGD Proc. Reg. 10(B)(2). The Court acknowledged that absent the mitigating factors, a two-year actual suspension would be warranted. “But on remand, Johnson successfully demonstrated that he suffers from mental disabilities that contributed to his misconduct. He sought treatment for those conditions and signed a three-year contract with the Ohio Lawyers Assistance Program to help him deal with them. Having considered these facts and the additional mitigating factors established on remand * * *,” the Court imposed a two-year suspension, with the last 18 months stayed. *Id.* at ¶¶18, 19.

{¶39} In *Derby, supra*, the attorney received substantial retainers and filing fees to file personal bankruptcies. He neglected eight separate personal bankruptcy matters and failed to keep his clients reasonably informed or to reply to their repeated requests for information, which caused the clients personal distress and frustration. In mitigation, the Court found that Derby had made good faith efforts to make restitution or to rectify the consequences of his misconduct. Although Derby’s alcohol abuse and depression did not qualify as a mitigating factor under BCGD Proc. Reg. 10(B)(2), his effort at recovery was accorded some mitigating effect. The Court imposed a two-year suspension, with the final 18 months stayed, followed by two years of monitored probation. *Id.* ¶ 16. In addition, the Court imposed stringent conditions to protect the public from further misconduct, including but not limited to the “certification of a qualified psychiatrist that he is able to return to the competent, ethical, and professional practice of law.” *Id.* at ¶17.

{¶40} In consideration of the relevant factors, including the ethical duties that Respondent violated, the sanctions imposed in similar cases and the aggravating and mitigating factors, the panel recommends that Respondent be suspended for two years, with 18 months

stayed on the conditions set forth below and that there be a monitor appointed pursuant to Gov. Bar R. V, Section 9 for the period of the stayed suspension and for an 18-month probationary period thereafter.

{¶41} Based in part on the stipulated conditions of the parties, the panel recommends the following conditions to reinstatement:

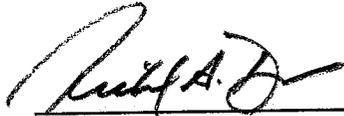
- a. Respondent shall institute and maintain an IOLTA account;
- b. Respondent shall complete 12 hours of CLE classes on law office management, at least six hours of which shall be focused on the proper use and maintenance of his trust account;
- c. Respondent shall comply with the terms of his current five-year OLAP contract and follow all recommendations of OLAP, including, if applicable, contract renewal, attending a specified number of AA meetings, maintaining an AA sponsor, random drug testing, and continued treatment by a qualified mental health provider;
- d. Respondent shall commit no further violations of the Ohio Rules of Professional Conduct; and
- e. In view of Respondent's history of successfully completing substance abuse treatment programs and then subsequently relapsing, the panel recommends as an additional condition to reinstatement, whether for the stayed portion of the suspension or after the entire two-year suspension, Respondent be required to present a certificate from a qualified psychiatrist or psychologist that he is able to return to the competent, ethical, and professional practice of law.

BOARD RECOMMENDATION

Pursuant to Gov. Bar R. V, Section 6, the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio considered this matter on December 6, 2012. The Board adopted the Findings of Fact and Conclusions of Law of the panel. However, the Board concludes the more appropriate sanction for Respondent's misconduct is an indefinite suspension from the practice of law, with reinstatement subject to conditions b. through e. contained in ¶41 of the report, and recommends imposition of that sanction to the Supreme Court. Respondent further shall comply with condition a. contained in ¶41 of the report upon reinstatement. The Board further recommends

that the costs 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.

A handwritten signature in black ink, appearing to read "Richard A. Dove", written over a horizontal line.

RICHARD A. DOVE, Secretary