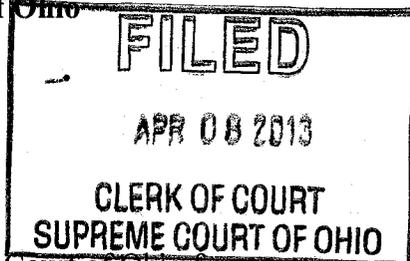


**BEFORE THE BOARD OF COMMISSIONERS
ON
GRIEVANCES AND DISCIPLINE
OF
THE SUPREME COURT OF OHIO**

In re:	:	
Complaint against	:	BCGD Case No. 11-059 SCO Case No. 2012-0692
	:	
Thomas Edward Zena Attorney Reg. No. 0007375	:	Findings of Fact and Recommendation of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio
Respondent	:	
Mahoning County Bar Association	:	
Relator	:	



OVERVIEW

{¶1} This matter came before the panel on remand from Supreme Court of Ohio for further consideration as to whether those clients harmed by Respondent's misconduct should be awarded restitution as well as the status of any settlement between Respondent and Joseph and Laurie Taylor.

{¶2} This matter was originally filed with the Board on June 13, 2011 and assigned Case No. 11-059. A formal hearing was held December 12, 2011, before a panel consisting of William Novak, McKenzie K. Davis and Judge Otho Eyster, chair. On April 13, 2012, the Board adopted the panel report recommending a sanction of a two-year suspension of Respondent's license to practice law, with the two years stayed on conditions. The Board filed its certified report and recommendation in this matter with the Supreme Court of Ohio on April 20, 2012.

{¶3} On remand, the panel chair ordered the parties to file memoranda addressing the issues identified in the Supreme Court's remand order.

Count I—Barbara McOwen

{¶4} As a result of Barbara McOwen's (McOwen) dealings with Respondent, she filed a malpractice action against Respondent in the Mahoning County Court of Common Pleas on August 10, 2009. On August 5, 2010, the common pleas court dismissed McOwen's case based on the one-year statute of limitations. McOwen appealed the court's decision and on September 27, 2012, the Seventh District Court of Appeals reversed the lower court's judgment and remanded the case to the common pleas court where this matter is now pending (Case No. 2009 CV 3019).

{¶5} The pending civil case should resolve all of McOwen's monetary claims against Respondent, and the panel recommends that the specific value of those claims be determined through the pending civil litigation.

Count II—Joseph and Laurie Taylor

{¶6} Respondent represented Joseph and Laurie Taylor (Taylors) in a lawsuit against Terry Harmon Motors and General Motors Corp. General Motors offered the Taylors \$1,500 to settle the case, but the Taylors were either not aware of or failed to accept the settlement offer. The court subsequently dismissed the claims against both defendants.

{¶7} The Taylors have indicated they believed their case to be worth \$5,000, but the panel has no way of determining the merits of their claims or the value of their claims should they be shown to be meritorious. Given the offer from General Motors (\$1,500), the amount the Taylors were willing to accept (\$5,000), the panel finds Respondent's offer of \$3,000 is reasonable under the circumstances and recommends Respondent be ordered make restitution to the Taylors in the amount of \$3,000.

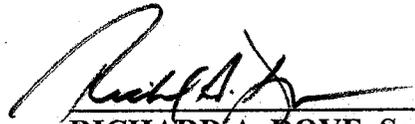
Count III—J. Murphy Crum, D.C.

{¶8} The claims of Dr. Crum against Respondent have been satisfied and there is no restitution owed to Dr. Crum. December 20, 2011 Hearing Tr. 77-78, 87, 95; April 20, 2012 Board Report at ¶113.

BOARD RECOMMENDATION

The Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio considered this matter on April 4, 2013. The Board adopted the findings and recommendation of the panel and addresses the Supreme Court's remand order as follows: (1) that any moneys owed to Barbara McOwen be determined through the pending civil litigation, (2) that Respondent be ordered to make restitution to the Taylors in the amount of \$3,000, and (3) that no restitution be ordered with regard to the claims of Dr. J. Murphy Crum. 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.



RICHARD A. DOVE, Secretary