

ORIGINAL

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

In re: : Case No. 12-098 13-1995

Complaint against : AMENDED

Beauregard Maximillion Harvey : Findings of Fact,  
Attorney Reg. No. 0078717 Conclusions of Law, and

Respondent Recommendation of the  
Board of Commissioners on

Toledo Bar Association Grievances and Discipline of  
the Supreme Court of Ohio

Relator

FILED  
JAN 19 2014  
CLERK OF COURT  
SUPREME COURT OF OHIO

OVERVIEW

{¶1} This matter was heard on May 30, 2013, in Columbus, before a panel consisting of Judge Robert R. Ringland, Teresa Sherald, and Judge Matthew W. McFarland, chair. None of the panel members resides in the district from which the complaint arose or served as a member of a probable cause panel that reviewed the complaint pursuant to Gov. Bar R. V, Section 6(D)(1).

{¶2} Respondent was present and appeared pro se. Michael A. Bonfiglio, Bradley F. Hubbell, and Gordon R. Barry appeared on behalf of Relator.

{¶3} Respondent is charged in a five-count complaint with violating various disciplinary rules as alleged in Relator's second amended complaint. Based on the evidence presented at the hearing, the panel concludes Relator has proven by clear and convincing evidence that Respondent engaged in various acts of professional misconduct and recommends a suspension of two years with six months stayed on the conditions set forth below.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶4} Respondent was admitted to the practice of law in the state of Ohio on May 9, 2005. Respondent is subject to the Code of Professional Responsibility, Rules of Professional Conduct, and Rules of the Government of the Bar in Ohio.

{¶5} The Supreme Court of Ohio previously disciplined Respondent in *Toledo Bar Ass. v. Harvey*, 133 Ohio St.3d 228, 2012-Ohio-4545, where the Court found he had committed six violations of Prof. Cond. R. 1.3, five violations of Prof. Cond. R. 1.4(a)(3), and five violations of Prof. Cond. R. 8.4(d). The Court ordered a one-year suspension all stayed upon the condition that Respondent commit no further misconduct and submit to a one-year period of monitored probation.

### **Count One-Jennifer Hassall**

{¶6} In April 2010, Jennifer Hassall retained Respondent to file a Chapter 13 bankruptcy. The evidence revealed Hassall wanted to file a Chapter 7 proceeding, but was not eligible because of a prior filed on December 12, 2002. Because a debtor may only receive a Chapter 7 discharge once every eight years, she would not be eligible for another discharge until after December 12, 2010. Ex. 33, ¶3.

{¶7} Hassall advised Respondent to obtain the Chapter 7 discharge on March 22, 2011, however, Respondent did not take any action until July 14, 2011 when a motion to convert the pending Chapter 13 to a Chapter 7 bankruptcy. Hassall's bankruptcy was ultimately dismissed by the bankruptcy court.

{¶8} Relator offered the testimony of former bankruptcy Chapter 7 trustee Elizabeth Vaughan. She testified that "the Code, as amended in 2005, places limits on the number of times a person can file the various forms of bankruptcy. For Chapter 7, its eight years, and that the

date of filing to date of filing.” Hearing Tr. 276. In Exhibit 28, the August 16, 2011 trustee’s motion to deny discharge or dismiss Chapter 7, in notes: “Section 727(a)(8) of the Bankruptcy Code provides in relevant part that the Court shall deny a discharge of the debtor if the debtor has been granted a discharge under this section in a case commenced within eight years before the date of the filing of the petition.” Vaughan indicated that this knowledge of bankruptcy law would be “bankruptcy 101.” Hearing Tr. 280.

{¶9} At the hearing, Respondent testified incorrectly that the eight years ran from the date of the prior discharge, and not from the date of the prior filing, indicating that he misunderstood the nature of bankruptcy law. Hearing Tr. 49-51.

{¶10} Respondent failed to correct the Chapter 7 discharge after initially filing the Chapter 13 bankruptcy and he also failed to timely explain to Hassall the importance of the trustee’s motion to dismiss. Hearing Tr. 182-183. Respondent did not respond to the trustee’s motion and failed to advise Hassall of the hearing on the motion. Hearing Tr. 188. Respondent also did not attend the hearing on the motion. Hearing Tr. 51.

{¶11} As to the bankruptcy trustee’s motion to disgorge fees, the panel finds that Respondent did file a response, albeit the day before the hearing and did attend the hearing. Yet, Respondent did admit he did not review any office materials prior to attending the hearing. At the hearing in this matter, the following exchange took place:

Q. Now, even though you filed a response on November 8<sup>th</sup> —

A. Yep.

Q. — and there was a hearing on November—November 9<sup>th</sup>—

A. Uh-huh.

Q.—you did not prepare for the hearing, did you?

A. No.

Q. In fact, when you got the motion to disgorge your fee, you did not review your office materials to know what you had been paid, did you?

A. I did not.

Hearing Tr. 56.

{¶12} The bankruptcy court, however, did ultimately permit Respondent to retain his fees of \$800.

{¶13} In Count One, Respondent was charged with the following rule violations: Prof. Cond. R. 1.1 [competence]; Prof. Cond. R. 1.3 [diligence]; Prof. Cond. R. 1.4(a)(1) [a lawyer shall promptly inform a client of any decision or circumstance with respect to which the client's informed consent is required]; Prof. Cond. R. 1.4(a)(2) [a lawyer shall consult with the client about the means by which the client's objective are to be accomplished]; Prof. Cond. R. 1.4(a)(3) [a lawyer shall keep client reasonably informed about the status of the matter]; Prof. Cond. R. 1.4(b) [a lawyer shall explain the matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation]; Prof. Cond. 3.3(a)(1) [knowingly make a false statement of fact to a tribunal]; Prof. Cond. R. 8.4(a) [a lawyer shall not violate the Ohio Rules of Professional Conduct]; 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 a lawyer's fitness to practice law.

{¶14} Based on the evidence presented at the hearing and the stipulations filed herein, the panel finds Relator has proven by clear and convincing evidence that Respondent lacked the knowledge necessary to accomplish a Chapter 13 bankruptcy, failed to provide Hassall with

competent representation, and failed to act with reasonable diligence and promptness in violation of Prof. Cond. R. 1.1 and Prof. Cond. R. 1.3. The panel further finds Respondent violated Prof. Cond. R. 1.4(a)(1), Prof. Cond. R. 1.4(a)(2), Prof. Cond. R. 1.4(a)(3), and Prof. Cond. R. 1.4(b) by failing to inform his client and obtain consent, by not consulting with his client or keeping her reasonably informed so she could make informed decisions about her bankruptcy case. These acts also constitute a violation of Prof. Cond. R. 8.4(a).

{¶15} The panel however chooses not to infer misrepresentations as to the fees in the bankruptcy case and further finds violations of Prof. Cond. R. 3.3(a)(1), Prof. Cond. R. 8.4(c), Prof. Cond. R. 8.4(d), and Prof. Cond. R. 8.4(h) were not proven by clear and convincing evidence as to this Count. The panel dismisses these charges.

#### **Count Two-Michael Degens**

{¶16} This count involves Relator's fee arbitration committee and a hearing held on January 24, 2012. The hearing was surrounding a fee dispute between Michael Degens and Respondent and Respondent's co-counsel.

{¶17} The fee arbitration panel found in favor of Degens, and in its January 26, 2012 decision and award, ordered Respondent and Respondent's co-counsel to pay the sum of \$5,000 to him within 30 days of the date of the decision. Subsequently, Respondent's co-counsel paid on-half of the award to Degens and Respondent paid no funds. Ex. 33, ¶10. At the hearing before the panel, Respondent confirmed that since January 26, 2012 he had paid no money to Degens and indicated that he did not have the funds to pay him. Hearing Tr. 74. Degens had previously been in prison.

{¶18} On March 15, 2012, Degens filed a lawsuit in Toledo Municipal Court seeking recovery from Respondent the other half of the award that remained unpaid. The docket shows

that service was perfected on Respondent and he failed to appear. By judgment entry dated May 7, 2012 the Toledo Municipal Court granted judgment in favor of Degens in the sum of \$2,512 plus costs. Ex. 2A.

{¶19} Respondent testified that he never received the pleadings and claimed the court was without personal jurisdiction over him because “Harvey Law Office is the party by which Mr. Degens contracted to, not Beau Harvey.” Hearing Tr. 69. However, the Toledo Municipal Court entry was based on the fee arbitration award made personally against Respondent. Nevertheless, the evidence does show some confusion as to when Respondent did get actual notice of the initial complaint and the subsequent judgment.

{¶20} Respondent was charged with the following rule violations in relation to Count Two: Gov. Bar R. V, Section 4(G) [failure to cooperate]; Prof. Cond. R. 8.1(b) [knowingly failed to respond to demand for information from a disciplinary authority]; Prof. Cond. R. 8.4(d); and Prof. Cond. R. 8.4(h).<sup>1</sup>

{¶21} Based on the evidence, the panel finds by clear and convincing evidence that Relator has proved misconduct by Respondent. Based on Gov. Bar R. III, Section 3(A)<sup>2</sup>, Respondent’s argument that the judgment is against him individually and not his LLC in unpersuasive. Because Respondent has not paid any money to Degens, the panel finds clear and convincing evidence that he violated Gov. Bar R. V, Section 4(G), Prof. Cond. R. 8.1(b), Prof. Cond. R. 8.4(d), and Prof. Cond. R. 8.4 (h).

### **Count Three-Andrea DeBagio**

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<sup>1</sup> The complaint charges Respondent with a violation of Prof. Cond. R. 8.4(e), yet recites the prohibition contained in Prof. Cond. R. 8.4(h). The Board finds the typographical error immaterial and that Respondent received proper notice of the charges against him.

<sup>2</sup> “Participation in a \* \* \* limited liability company \* \* \* shall not relieve an attorney of or diminish any obligation under the Ohio Rules of Professional Conduct or under these rules.”

{¶22} Andrea DeBagio retained Respondent on October 8, 2010 to file a Chapter 7 bankruptcy and paid to him a check in the sum of \$999. Ex. 4.

{¶23} The agreement for legal services between Respondent and DeBagio provided that \$299 was for filing fees and the remaining \$700 was for Respondent's legal fees. Ex. 5. The check was negotiated on October 8, 2010 and deposited as follows: \$299 into the IOLTA account and the remaining \$700 into another account.

{¶24} DeBagio understood that the bankruptcy would be filed on November 2, 2010. Hearing Tr. 226-227. Upon learning it was not filed by getting calls from her creditors, she began calling Respondent. Hearing Tr. 228-229. DeBagio started calling on December 14 and testified that "there were a lot of messages left with a secretary or on a voicemail." Hearing Tr. 232. DeBagio testified that she finally spoke with Respondent on December 29, where he informed her that he had not filed the bankruptcy "because it was so close to the end of the year, that since I was expecting a refund check the first week of February, that he suggested I just wait until I get my refund check so I could use that money and file as soon as I receive my – my refund check." Hearing Tr. 232. DeBagio ultimately agreed to wait on the filing the bankruptcy. Hearing Tr. 233.

{¶25} DeBagio then tried to call Respondent on February 17, 2011 and left a message and subsequently left messages on February 22, 23, March 1, and March 4, 2011 but did not receive a return call or response from Respondent. Hearing Tr. 234-235. In fact during one call, she testified that Respondent did answer the phone only to say that he would have to call her back and he never did. Hearing Tr. 236.

{¶26} As a result of no contact from Respondent, DeBagio retained new counsel, Drew Wood, at an additional cost of \$1,050 and her new attorney did file a new bankruptcy on April 15, 2011. Hearing Tr. 236-237.

{¶27} By an undated letter with a handwritten note in the top right corner stating “received 6/1/11 (approx.)” from Respondent to Wood, Respondent informed that he would only be refunding the filing fee as he had “performed all but a de minimis amount of work.” Ex. 15.

{¶28} In a letter dated September 1, 2011, DeBagio stated that she had received a copy of the letter Respondent had sent to Mr. Wood, and she disputed the amount of work claimed for the \$700 fee but she was willing to accept her filing fee back “as soon as possible.” In the same letter, she noted that “I left several messages with your secretary and you with no response. Weeks later without hearing from you I was forced to file with another attorney since I was getting court notices and disconnection notices from my creditors.” Ex. 16.

{¶29} The panel finds that despite DeBagio’s and her new counsel requests to return funds as shown in Exhibits 16 and 37, Respondent did not repay the filing fee until October 19, 2012 more than a year and a half after he was initially asked to. Hearing Tr. 95.

{¶30} Further, Respondent claimed that he thought he had hand-delivered a letter and the filing fee refund to DeBagio’s new counsel sometime in April 2011 and a copy of the same was requested by Relator. During the hearing, Respondent testified that he did locate a copy of that letter and was going to take Wood’s deposition but did not and conceded that he never produced it for Relator. The follow exchange took place at the hearing between Relator and Respondent regarding this letter:

Q. You didn’t provide it to me earlier this week

A. I did not.

Q. You didn't provide it to me since the deposition and you didn't bring it with you today?

A. I did not.

Q. Okay.

A. Well, I don't know if I have it. I may have it.

Hearing Tr. 85-86.

{¶31} Respondent also indicated he would provide Relator with documentation of the April 2011 check being written and the ledger therein and the panel finds he did not do so. Respondent further claimed that he wrote the reimbursement check from his IOLTA account because he didn't have his check book and used a counter check from Huntington Bank, but that the bank "won't let you write a counter check from your IOLTA account." Hearing Tr. 89. The panel finds Respondent did not provide any documentation to support the claim he wrote a counter check. According to Exhibit 31, Respondent during the years 2010 to 2012, was able to write counter checks on his Huntington Bank IOLTA account. Hearing Tr. 94-95.

{¶32} The panel further finds that Respondent's fee contract with DeBagio did not contain a written clause that she may be entitled to a refund based on the value of the representation. Respondent's Deposition Ex. 5.

{¶33} In Count Three, Respondent was charged with the following rule violations: Prof. Cond. R. 1.1; Prof. Cond. R. 1.3; Prof. Cond. R. 1.4(a)(4) [a lawyer shall comply as soon as practical with reasonable requests for information from the client]; Prof. Cond. R. 1.5(d)(3) [a lawyer shall advise the client in writing that she may be entitled to a refund based upon the value of representation]; Prof. Cond. R. 1.15(c) [a lawyer shall deposit into a client trust account legal fees and expenses that had been paid in advance]; Prof. Cond. R. 1.16(d) [promptly return property to the client upon termination of the representation]; Prof. Cond. R. 1.16(e) [promptly

refund unearned fees to the client upon termination of the representation; Prof. Cond. R. 8.4(c); and Prof. Cond. R. 8.4(d).

{¶34} Based on the testimony and exhibits at the hearing and in the record, the panel finds Relator has proven by clear and convincing evidence that Respondent has violated the following: Prof. Cond. R. 1.1, Prof. Cond. R. 1.3, Prof. Cond. R. 1.4(a)(4), Prof. Cond. R. 1.5(d)(3), Prof. Cond. R. 1.15(c), Prof. Cond. R. 1.16(d), Prof. Cond. R. 8.4(c), and Prof. Cond. R. 8.4(d). The panel finds no violation of Prof. Cond. R. 1.16(e) in failing to return unearned fees and dismisses that charge.

#### **Count Four—Andrea DeBagio Documents**

{¶35} This count involves requests for documentation from the investigation as discussed in Count Three. Relator’s investigator requested various documents from Respondent including IOLTA bank statements, general ledgers, spread sheets, receipt book, and documents relative to DeBagio’s retainer and court costs. Ex. 6. Respondent claimed that “there had not been a request for Ms. DeBagio’s accounting specifically.” Hearing Tr. 103-104.

{¶36} However, a review of Exhibit 6, which is a letter from Relator’s investigator to Respondent, clearly indicates that a broad request was made in paragraph one and a specific request was made in paragraph two. In Respondent’s May 6, 2013 deposition, he agreed that Relator “would be entitled to the one record [a client information sheet] that I keep pursuant to the IOLTA account trust account,” and he agreed to provide a copy to Relator. Hearing Tr. 114. Yet, Respondent did not provide the client information sheet, indicating that “you don’t need the ledger sheet for her case.” Hearing Tr. 115.

{¶37} Essentially, Respondent argued that because Relator already had the Huntington Bank records, that Relator had to subpoena, he was relieved from cooperating with Relator regarding the request pertaining to his office management of DeBagio's funds within his control.

{¶38} In Count Four, Respondent was charged with violating the following rules: Prof. Cond. R. 1.15(a)(1) and (2) [a lawyer shall maintain the requisite records of client funds and escrow accounts]; Prof. Cond. R. 1.15(a)(4) [a lawyer shall maintain all bank statements, deposit slips, and cancelled checks for each bank account]; Prof. Cond. R. 8.1(b); and Gov. Bar R. V, Section 4(G).

{¶39} The panel finds by clear and convincing evidence that Respondent has breached his duty to cooperate in Relator's investigation in violation of Gov. Bar R. V, Section 4(G); failed to maintain the requisite records of clients funds and escrow accounts in violation of Prof. Cond. R. 1.15(a)(1) and (2); did not maintain all banks statements, deposit slips, and cancelled checks for each bank account in violation of Prof. Cond. R. 1.15(a)(4); and Prof. Cond. R. 8.1(b) by not providing material facts in response to Relator's demand for information.

#### **Count Five—Matt Spaulding**

{¶40} This count involves improper communication with a person who was represented by counsel. Respondent was counsel for the plaintiff in *Andrew Zepeda v. Cumulus Broadcasting LLC*, Lucas County Court of Common Pleas, Case No. CI2013-01940.

{¶41} By letter dated February 25, 2013, captioned "Notice of Demand to Cease and Desist — Andrew Zepeda," Corporate Counsel for Cumulus, Attorney Ashley Herd, advised Respondent of his client's "continuing obligations under the Employment Agreement between him and Cumulus" and requested the he contact her on or before March 1, 2013 "to discuss the serious breach of Mr. Zepeda's Agreement" and the same was copied to Spaulding. Ex. 18.

Spaulding was and at the time of the hearing the Cumulus' Vice President and Market Manager of the Toledo, Ohio market and was represented by counsel.

{¶42} Respondent responded to Herd's February 25, 2013 letter via email on February 28, 2013, where he refuted her claims and offered "to allow Cumulus to settle these potential liabilities by paying my client \$25,000.00 on or before March 8, 2013. Ex. 33, Stipulation 20-22. On February 28, 2013, Respondent sent a text message at 2:01 p.m. to Spaulding who was represented by counsel as follows: "you should seriously convince them to pay 25K or else face my wrath...it will be fun for sure." Followed up with these messages, "And, your company is on the losing end on this one." A response from Spaulding at 2:06 p.m. that said: "As I have told you multiple times, this is not a discussion I will get into. Your threats would be better served elsewhere." To which Respondent replied at 2:07 p.m. "Come on Matt, this surely isn't a threat...don't be silly." And then a final message from Respondent reading: "I don't think you understand.... This is fun stuff. Its intellectually challenging and it matters to someone. I only throw you shit on the side bc I like you." Ex. 20, 20A, 20B.

{¶43} Respondent admitted he knew Spaulding was an employee of Cumulus and was represented by counsel at the time he sent the above mentioned texts. Ex 33, Stipulation 22. Further, Respondent downplayed the threatening tone and testified that he was only "bantering" with a friend. Hearing Tr. 132. But in response to a panel question, Spaulding testified that his impression was that Respondent wanted him to "intervene in order to get his client paid \$25,000," and he thought it was "extorsionary" [sic] and he took it seriously. Hearing Tr. 163. Spaulding also testified in response to a question from the panel as follows:

Q. Mr. Spaulding, thank you for your testimony today. I have one – just one question.

Would you characterize your relationship with Mr. Harvey as – as a friendship—

A. No.

Q. In any way?

A. No.

Hearing Tr. 164.

{¶44} In Count Five, Respondent was charged with violating the following rules: Prof. Cond. R. 4.2 [a lawyer shall not communicate about the subject of his representation with a person known to be represented by another lawyer in the matter]; Prof. Cond. R. 8.4(d); and Prof. Cond. R. 8.4(h).

{¶45} The panel finds that as Respondent has stipulated that he impermissibly communicated about the subject of his representation with a person he knew to be represented by another lawyer in the matter in violation of Prof. Cond. R. 4.2 and the same is proven by clear and convincing evidence. The panel finds the language in the text messages threatening to the recipient and sent under the alleged guise of a friendship. As such, Relator has also proven by clear and convincing evidence that in sending the text message that he engaged in a Prof. Cond. R. 8.4(d) violation.

{¶46} The panel further finds a violation of Prof. Cond. R. 8.4(h) was not proven by clear and convincing evidence and is dismissed.

#### **AGGRAVATION, MITIGATION, AND SANCTION**

{¶47} The panel finds several aggravating factors present herein. Respondent has had a prior disciplinary case; Respondent acted with dishonest or selfish motive in not promptly returning fees to DeBagio and in using an alleged friendship with Spaulding to secure a settlement for his client; there are multiple offenses; Respondent showed a lack of cooperation in the disciplinary process by indicating he would provide documents after requested by Relator

and did not; Respondent has not acknowledged the wrongful nature of his conduct as it relates to Counts One, Two, and Four; and Respondent has not made or offered to make restitution to DeBagio for the additional attorney fees she incurred in retaining another attorney to file her bankruptcy. The panel finds Respondent has not offered any evidence in mitigation.

{¶48} When imposing sanctions for attorney misconduct, the Court must consider the relevant factors including the ethical duties violated and sanctions imposed in similar cases. *Stark Cty. Bar Assn. v. Buttacavoli*, 96 Ohio St.3d 424, 2002-Ohio-4743. In making a factual determination evidence of aggravating and mitigating factors are considered. *Disciplinary Counsel v. Broeren*, 115 Ohio St.3d 473, 2007-Ohio-5251.

{¶49} In this matter, sanctions for the conduct committed by Respondent in Counts One, Three, and Four can range from a one-year suspension all stayed to a two-year suspension, with six months stayed. See *Cincinnati Bar Assn. v. Dearfield*, 130 Ohio St.3d 363, 2011-Ohio-5295 (one-year suspension all stayed); *Stark Cty. Bar Assn. v. Marosan*, 106 Ohio St.3d 430, 2005-Ohio-5412 (two-year suspension, with six months stayed); *Cleveland Metro. Bar Assn. v. Gresley*, 127 Ohio St.3d 430, 2010-Ohio-6208 (two-year suspension, with six months stayed); *Akron Bar Assn. v. Dismuke*, 130 Ohio St.3d 1432, 2011-Ohio-5782 (two-year suspension, with one-year stayed); *Disciplinary Counsel v. Ford*, 133 Ohio St.3d 105, 2012-Ohio-3915 (two-year suspension, with one-year stayed and restitution); *Disciplinary Counsel v. Hallquist*, 128 Ohio St.3d 480, 2011-Ohio-1819 (two-year suspension, with six months stayed); and *Disciplinary Counsel v. Noel*, 126 Ohio St.3d 56, 2010-Ohio-2714 (two-year suspension, with six months stayed).

{¶50} As for Count Two, possible sanctions have included one or two-year suspension all stayed. See *Disciplinary Counsel v. McCord*, 96 Ohio St.3d 21, 2002-Ohio-2587 and *Disciplinary Counsel v. McShane*, 121 Ohio St.3d 169, 2009-Ohio-746.

{¶51} For conduct relating to Count Five, sanctions have ranged from a public reprimand to a one-year suspension all stayed. See *Medina Cty. Bar Assn. v. Cameron*, 130 Ohio St.3d 299, 2011-Ohio-5200; *Toledo Bar Assn. v. Savage*, 74 Ohio St.3d 183, 1995-Ohio-60; and *Richland Cty. Bar Assn. v. Bourdeau*, 109 Ohio St.3d 158, 2006-Ohio-2039.

{¶52} Based on the foregoing, the panel recommends Respondent be suspended from the practice of law for two years, with six months stayed upon the following conditions: (1) Respondent shall commit no further misconduct; (2) Respondent shall pay Degens the sum of \$2,512 plus interest and costs; and (3) Respondent shall pay DeBagio the sum of \$1,050, which represents the sum of additional attorney fees she incurred based on Respondent's misconduct. All restitution shall be paid within 60 days the date of the Supreme Court's disciplinary order.

#### **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 13, 2013. The Board adopted the findings of fact and conclusions of law of the panel. The Board further supplements the findings of the panel with respect to Count Two (Degens matter) by citing to a similar violation found by the Board and Supreme Court in *Disciplinary Counsel v. McCord*, 96 Ohio St.3d 21, 2002-Ohio-2587. After discussion, the Board voted to amend the sanction recommended by the panel and recommends that Respondent, Beauregard Maximillion Harvey, be suspended from the practice of law for two years, with reinstatement subject to the conditions

set forth in ¶52 of this report. 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**