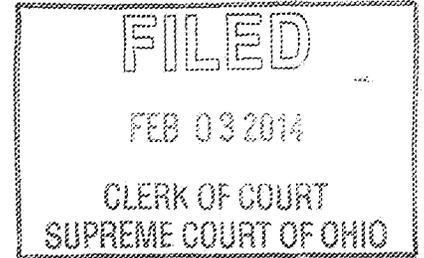


BEFORE THE BOARD OF COMMISSIONERS
ON
GRIEVANCES AND DISCIPLINE
OF
THE SUPREME COURT OF OHIO



In re:	:	
Complaint against	:	Case No. 12-045
William Charles Helbley, Jr.	:	Findings of Fact,
Attorney Reg. No. 0041660	:	Conclusions of Law, and
Respondent	:	Recommendation of the
	:	Board of Commissioners on
Mahoning County Bar Association	:	Grievances and Discipline of
	:	the Supreme Court of Ohio
Relator	:	
	:	

OVERVIEW

{¶1} This matter was heard on May 16, 2013, in Columbus before a panel consisting of Sanford E. Watson, Janica Pierce Tucker, and Judge Otho Eyster, 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 reviewed the complaint pursuant to Gov. Bar R. V, Section 6(D)(1).

{¶2} David C. Comstock, Jr. appeared on behalf of Relator and Respondent was present and represented by John B. Juhasz.

{¶3} The parties introduced into evidence written stipulations as to both facts and violations of Prof. Cond. R. 8.4(c) and Prof. Cond. R. 8.4(d). The parties did not stipulate to a violation of Prof. Cond. R. 8.4(b). The parties also stipulated to aggravating and mitigating factors and agreed that regardless what sanction is imposed, Respondent should be given credit for the interim felony suspension imposed on February 14, 2012. The panel received into

evidence the stipulations, joint exhibits A, B, C, and D, as well as 26 exhibits submitted by Respondent, including 16 character references. The panel finds Respondent pled guilty to a violation of 18 U.S.C. §371, not 18 U.S. Code Ann. §374 as contained in ¶14 of the stipulations.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶4} Respondent is a 60-year-old attorney who was admitted to the practice of law in the state of Ohio on May 8, 1989. Respondent is subject to the Code of Professional Responsibility and the Rules for the Government of the Bar of Ohio.

{¶5} Respondent received an undergraduate degree in Industrial Engineering in 1975. While working in engineering, Respondent attended graduate school, earning an MBA in finance in 1984. While continuing to work full time, Respondent attended law school, graduating in 1988. Respondent was employed as corporate counsel from that point until 2000 when he decided to go into private practice.

{¶6} In 2003, Respondent opened Heritage Title Agency, a licensed title company. In 2004, Respondent was introduced to Romero Minor, who represented himself to be a reverend and a real estate broker.

{¶7} According to the indictment, from May 2004 through May 2005, Respondent conspired with Romero Minor and others in a conspiracy to commit wire fraud through a mortgage fraud scheme designed by Minor.

{¶8} Minor induced straw buyers/investors with good credit to purchase residential properties in their name that would in turn be rented to individuals who were unable to obtain a mortgage loan. Minor indicated to these straw buyers/investors that he would locate a tenant, pay the mortgage and taxes, collect the rent, and maintain the properties. Minor offered to pay

these straw buyers/investors \$5,000 for closing with the understanding after 12 months the property would be refinanced in the name of the tenant.

{¶9} Minor solicited Respondent to act as title agent for 14 properties in the Youngstown area. At Minor's direction, Respondent prepared the necessary settlement statements, or HUD-1's, for the straw buyers/investors to obtain loans for the 14 properties.

{¶10} Respondent was aware that Minor obtained appraisal reports that fraudulently inflated the value of the properties in order to obtain fraudulent mortgage loans.

{¶11} Respondent entered into a plea agreement with the United States Attorney's Office April 12, 2011, in which he admitted conspiring with Romero Minor and others to commit wire fraud through the mortgage fraud scheme designed by Minor, and that from May 2004 through May 2005, Respondent prepared the necessary settlement statements (HUD- 1s) to induce various lenders to approve the purchase of 14 properties at inflated prices.

{¶12} In the settlement statements prepared by Respondent, he made it appear to lenders that the cash distributions representing the difference between the inflated appraisals and the selling price that went to Minor for services and improvements were legitimate when, in fact, they were not.

{¶13} At the hearing, Respondent testified that he first became concerned about Minor's dealings when one of Minor's parishioners approached him requesting Minor to buy back her property. Respondent asked to see Minor's broker's license, which Minor never produced. Respondent continued to close "* * * another maybe two or three transactions * * *" before he quit doing business with Minor. Hearing Tr. 27.

{¶14} On January 12, 2012, judgment was entered against Respondent in the United States District Court, Northern District of Ohio. Respondent was found guilty of one count of

Conspiracy to Commit Wire Fraud and was sentenced to a three-year term of probation, to perform 50 hours of community service, pay an assessment of \$100, and to make restitution in the amount of \$381,827. The court ordered Respondent to pay ten percent of his net income each month toward his restitution obligation. Respondent appears to be in compliance with the court-ordered sanctions.

{¶15} Respondent self-reported his indictment and has been under an interim felony suspension imposed on February 14, 2012.

{¶16} Relator proved by clear and convincing evidence that Respondent violated Prof. Cond. R. 8.4(c) [conduct that involves dishonesty, fraud, deceit, or misrepresentation] as stipulated in paragraph 34 of the stipulations.

{¶17} The panel finds the record does not support a finding that Respondent engaged in conduct constituting a violation of Prof. Cond. R. 8.4(d) [conduct prejudicial to the administration of justice]. It is the panel's recommendation that this stipulated violation be dismissed.

{¶18} The parties have not stipulated a violation of Prof. Cond. R. 8.4(b) [an illegal act that reflects adversely on the lawyer's honesty and trustworthiness]. In the plea agreement in the criminal case, Respondent admitted to conspiring with others to commit wire fraud through a mortgage scheme designed by Romero Minor. Respondent admitted he knowingly falsified settlement statements resulting in a loss to four lenders in the amount of approximately \$381,827. Even though Respondent minimized his culpability in his hearing testimony, the panel finds the illegal acts he committed does reflect adversely on his honesty and trustworthiness. The panel finds by clear and convincing evidence that Respondent violated Prof. Cond. R. 8.4(b).

AGGRAVATION, MITIGATION, AND SANCTION

{¶19} The panel finds the following aggravating factors: (a) Respondent committed multiple offenses (single conviction, but with multiple predicates); and (b) failure to make restitution, although Respondent is working to pay restitution and has made payments as his income permits.

{¶20} The panel finds the following mitigating factors: (a) Respondent has no prior disciplinary record; (b) Respondent did not have a selfish motive (he received no compensation beyond his regular fees as a title agent); (c) Respondent is making a good faith effort to pay the court ordered restitution; (d) Respondent has made full and free disclosure to the disciplinary authorities and has displayed a cooperative attitude toward the proceedings; (e) Respondent submitted 16 character references from judges and attorneys all attesting to good reputation for truthfulness, competence, professionalism, and community involvement; and (f) imposition of other penalties on Respondent include the interim suspension by the Supreme Court of Ohio and the criminal sentence.

{¶21} The facts in this case are nearly identical to those in *Mahoning Cty. Bar Assn. v. Wagner*, Slip Opinion No. 2013-Ohio-5087. Wagner was an attorney and a licensed title agent. Through his title agency, Wagner participated in a fraudulent mortgage scheme conducted by Romero Minor. Wagner prepared settlement statements to induce various lenders to approve the purchase of properties at inflated prices. In fact, Respondent and Wagner were participating in the same scheme at the same time. On July 6, 2011, judgment was entered against Wagner in the United States District Court, Northern District. Wagner pled guilty to one count of Conspiracy to Commit Wire Fraud and received the same sentence as Respondent except for the amount of restitution ordered.

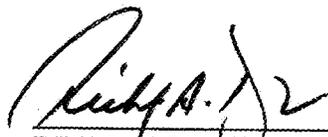
{¶22} Respondent was convicted of the same offense as Wagner and had virtually the same aggravating and mitigating factors. Wagner was found to have violated Prof. Cond. R. 8.4(b) and Prof. Cond. R. 8.4(c), the same rules the panel finds Respondent violated.

{¶23} Wagner was indefinitely suspended from the practice of law and granted credit for the time he served under his January 24, 2012, interim suspension. Based on *Wagner*, the panel recommends Respondent be indefinitely suspended from the practice of law in Ohio and granted credit for the time served under the February 14, 2012, interim suspension.

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 January 31, 2014. The Board adopted the findings of fact, conclusions of law, and recommendation of the panel and recommends that Respondent, William Charles Helbley, Jr., be suspended from the practice of law in Ohio indefinitely with credit for time served under the February 14, 2012, interim felony suspension. 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