

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

In re:	:	14 - 1390
Complaint against	:	Case No. 2013-070
Anthony Orlando Calabrese III Attorney Reg. No. 0068535	:	Findings of Fact, Conclusions of Law, and Recommendation of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio
Respondent	:	
Disciplinary Counsel	:	
Relator	:	

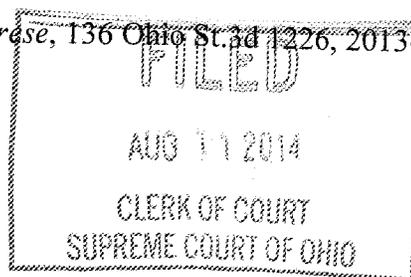
OVERVIEW

{¶1} This matter was heard on April 16, 2014, in Columbus before a panel consisting of Judge John Wise, Keith A. Sommer, and Robert B. Fitzgerald, 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 not physically present at the hearing, but participated via telephone, pro se. Joseph Caligiuri appeared on behalf of Relator.

{¶3} The complaint was filed on December 20, 2013. On March 14, 2014, an amended complaint that contained two more counts was filed with the Board.

{¶4} On July 23, 2013, the Supreme Court of Ohio suspended Respondent for an interim period based upon the felony convictions. *In re Calabrese*, 136 Ohio St.3d 1226, 2013-Ohio-3210.



{¶5} Respondent's misconduct can be summarized briefly as follows: he pled guilty to over 18 felony counts that involved conspiracy, mail fraud, fraud, and bribery. This resulted in a nine-year prison term, a \$132,041.93 restitution order, and the forfeiture of \$74,450.

{¶6} Respondent's criminal conduct arose from his involvement in a criminal enterprise whose purpose was to conduct the affairs of the enterprise through a pattern of racketeering activity that involved multiple acts under 18 U.S.C. § 1341 and 1346 (mail fraud and honest services mail fraud), 18 U.S.C. § 1951 (Hobbs Act Extortion), and multiple acts involving bribery, chargeable under R.C. § 2921.02.

{¶7} Relator and Respondent submitted stipulated facts, exhibits, mitigating and aggravating factors.

{¶8} Relator and Respondent agreed and stipulated that Respondent's conduct violated the following:

- **Count One:** DR 1-102(A)(3) [a lawyer shall not engage in illegal conduct involving moral turpitude] and Prof. Cond. R. 8.4(b) [a lawyer shall not commit an illegal act that reflects adversely on the lawyer's honesty and trustworthiness]; DR 1-102(A)(4) and Prof. Cond. R. 8.4(c) [conduct that involves fraud, dishonesty, deceit, or misrepresentation]; DR 5-101(A)(1) [a lawyer shall not accept employment if the exercise of professional judgment on behalf of the client will be or reasonably may be affected by the lawyer's financial, business, property, or personal interests] and Prof. Cond. R. 1.7(a)(1) [a lawyer shall not accept employment if there is a substantial risk that the lawyer's ability to consider, recommend, or carry out an appropriate course of action for that client will be materially limited by the lawyer's responsibilities to another client, or the lawyer's own personal interest]; DR 1-102(A)(5) and Prof. Cond. R. 8.4(d) [conduct prejudicial to the administration of justice]; and DR 1-102(A)(6) and Prof. Cond. R. 8.4(h) [conduct that adversely reflects on the lawyer's fitness the practice law].
- **Count Two:** DR 1-102(A)(3), DR 1-102(A)(5), and DR 1-102(A)(6).
- **Count Three:** Prof. Cond. R. 8.4(b), Prof. Cond. R. 8.4(d), and Prof. Cond. R. 8.4(h).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶9} Respondent was admitted to the practice of law in the state of Ohio on November 10, 1997 and is subject to the Code of Professional Responsibility, Rules of Professional Conduct, and the Rules for the Government of the Bar of Ohio.

Count One – United States District Court Indictment, Case No. 1:11 CR-00437-SL-1

{¶10} On June 7, 2012, a federal grand jury handed down a 20-count Superseding Indictment against Respondent alleging various acts of fraud, bribery, and conspiracy. *United States v. Anthony O. Calabrese*, Case No. 1:11CR-00437-SL-1.

{¶11} On or about January 14, 2013, Respondent pled guilty to the following counts as alleged in the Superseding Indictment:

Count	Violation
1	RICO: 18 U.S.C. §1962(d)
2	Conspiracy to Commit Bribery Concerning Programs Receiving Federal Funds, 18 U.S.C. §371
3	Bribery Concerning Programs Receiving Federal Funds, 18 U.S.C. §666(a)(2)
4	Hobbs Act Conspiracy, 18 U.S.C. §1951
5	Conspiracy to Commit Mail Fraud and Honest Services Mail Fraud, 18 U.S.C. §1349
6	Conspiracy to Commit Mail Fraud and Honest Services Mail Fraud, 18 U.S.C. §1349
7-9	Mail Fraud, 18 U.S.C. §1341
11	Conspiracy to Commit Bribery Concerning Programs Receiving Federal Funds, 18 U.S.C. §371
12	Bribery Concerning Programs Receiving Federal Funds, 18 U.S.C. §666(a)(2)
13	Bribery Concerning Programs Receiving Federal Funds, 18 U.S.C. §666(a)(2)

14	Hobbs Act Conspiracy, 18 U.S.C. §1951
15	Mail Fraud, 18 U.S.C. §1341
16	Conspiracy to Commit Bribery Concerning Programs Receiving Federal Funds, 18 U.S.C. §371
17	Hobbs Act Conspiracy, 18 U.S.C. §1951
18	Conspiracy to Commit Mail Fraud and Honest Services Mail Fraud, 18 U.S.C. §1349
19	Conspiracy to Commit Mail Fraud and Honest Services Mail Fraud, 18 U.S.C. §1349

{¶12} In return for Respondent's guilty plea, the United States Attorney's Office dismissed counts 10 and 20 (Tampering with a Witness, Victim, or Informant: 18 U.S.C. §1512) of the Superseding Indictment.

{¶13} Pertaining to the charges for which he pled guilty, Respondent admits to the facts as contained in the Superseding Indictment, Plea Agreement, and Attachment A to the Plea Agreement.

{¶14} On June 20, 2013, Judge Sara Lioi of the United States District Court, Northern District of Ohio, sentenced Respondent to 108 months in prison and three years supervised release. Judge Lioi also ordered Respondent to pay \$132,041.93 in restitution. Respondent has agreed to a quarterly payment plan and has made nominal payments to date. *United States v. Anthony O. Calabrese*, Case No. 1:11CR-00437-SL-1.

{¶15} As part of the plea and before sentencing, Respondent forfeited \$74,450 as a result of his racketeering activities described in Count 1 of the Superseding Indictment and Attachment A to Respondent's plea agreement.

{¶16} The panel unanimously concludes that Relator has proven by clear and

convincing evidence that Respondent violated the following: DR 1-102(A)(3) and Prof. Cond. R. 8.4(b); DR 1-102(A)(4) and Prof. Cond. R. 8.4(c); DR 5-101(A)(1) and Prof. Cond. R. 1.7(a)(1); DR 1-102(A)(5) and Prof. Cond. R. 8.4(d); and DR 1-102(A)(6) and Prof. Cond. R. 8.4(h). The panel specifically finds that Respondent's misconduct in this count and Counts Two and Three addressed below satisfies the standard of egregiousness required to support the finding of a violation of Prof. Cond. R. 8.4(h) and the corresponding Disciplinary Rule in effect prior to February 2007. See *Disciplinary Counsel v. Bricker*, 137 Ohio St.3d 35, 2013-Ohio-3998, ¶21.

Count Two – Cuyahoga County Indictment, Case No. CR-13-576241-A

{¶17} On or about June 16, 2013, a Cuyahoga County Grand Jury handed down a six-count indictment against Respondent containing the following charges:

- Count One: Engaging in a Pattern of Corrupt Activity, F1, R.C.2923.32(A)(1)
- Count Two: Conspiracy, F2, R.C. 2923-01(A)(1)
- Count Three: Conspiracy, F2, R.C. 2923-01(A)(2)
- Count Four: Theft, F4, R.C. 2913.02(A)(3)
- Count Five: Bribery, F3, R.C. 2921.02(C)
- Count Six: Bribery, F3, RC. 2921.02(A)

{¶18} The Cuyahoga County indictment involved state charges for substantially the same conduct as alleged in the federal indictment (see Count One).

{¶19} On or about November 1, 2013, Respondent pled guilty to Counts One, Four, Five, and Six of the Indictment. The prosecutor dismissed Counts Two and Three.

{¶20} Respondent admits to the facts as alleged in Counts One, Four, Five, and Six of the Cuyahoga County indictment, Case No. CR-13-576241-A. Stipulated Ex. 8.

{¶21} Judge Patricia Cosgrove sentenced Respondent to four years and six months in prison, a \$25,000 fine, and five years post release control. The sentence was broken down as follows: four years on Count One; 36 months on Counts Five and Six, concurrent to Count One;

and six months on Count Four consecutive to Count One and concurrent to CR 57101B. The sentence to run concurrent with Respondent's federal sentence as alleged.

{¶22} The panel unanimously concludes that Relator has proven by clear and convincing evidence that Respondent violated the following: DR 1-102(A)(3), DR 1-102(A)(5), and DR 1-102(A)(6).

Count Three – Cuyahoga County Indictment, Case No. CR-13-571014-B

{¶23} On or about January 25, 2013, a Cuyahoga County Grand Jury handed down a nine-count indictment against Respondent and several co-defendants including Attorney Marc. G. Doumbas, Thomas Castro, and Attorney G. Timothy Marshall, Case No. 13 CR 571014B. The nine-count indictment contained the following charges:

- Count One: Engaging in a Pattern of Corrupt Activity, F1, R.C.2923.32 (A)(1)
- Count Two: Conspiracy, F2, R.C. 2923.01(A)(1)
- Count Three: Conspiracy, F2, R.C. 2923.01(A)(2)
- Count Four: Bribery, F3, R.C. 2921.02(C) [Castro, Doumbas, & Marshall]
- Count Five: Bribery, F3, R.C. 2921.02(C) [Marshall & Doumbas]
- Count Six: Bribery, F3, R.C. 2921.02(C) [Castro & Calabrese]
- Count Seven: Bribery, F3, R.C. 2921.02(C) [Castro & Calabrese]
- Count Eight: Bribery, F3, R.C. 2921.02(C) [Castro, Calabrese, and Doumbas]
- Count Nine: Bribery, F3, R.C. 2921.02(C) [Castro & Calabrese]

{¶24} Respondent represented Castro in business matters, while Doumbas represented Castro in the criminal matters.

{¶25} On November 1, 2013, Respondent pled guilty to Counts One, Six, Seven, Eight, and Nine of the state's indictment. As part of the plea agreement, the prosecutor dismissed Counts Two and Three.¹

{¶26} Respondent admits to the facts as alleged in Counts One, Six, Seven, Eight, and

¹ Counts Four and Five did not pertain to Respondent.

Nine of the Cuyahoga County indictment, Case No. CR-13-571014-B. Stipulated Ex. 12.

{¶27} Judge Patricia Cosgrove sentenced Respondent to four years imprisonment on Count One and 36 months on each of Counts Six, Seven, Eight, and Nine, to run concurrent to Respondent's federal sentence, and concurrent to Respondent's sentence in Case No. 576241 (see Count Two).

{¶28} The panel unanimously concludes that Relator has proven by clear and convincing evidence that Respondent violated the following: Prof. Cond. R. 8.4(b), Prof. Cond. R. 8.4(d), and Prof. Cond. R. 8.4(h).

AGGRAVATION, MITIGATION, AND SANCTION

{¶29} Respondent hereby agrees and stipulates to the presence of the following aggravating factors as listed under BCGD Proc. Reg. 10(B)(1):

- Respondent acted with a dishonest or selfish motive;
- Respondent engaged in a pattern of misconduct;
- Respondent committed multiple offenses; and
- Respondent's conduct resulted in harm to the public at large.

{¶30} Respondent hereby agrees and stipulates to the presence of the following mitigating factors as listed under BCGD Proc. Reg. 10(B)(2):

- Absence of a prior disciplinary record;
- Full and free disclosure to disciplinary board and cooperative attitude toward proceedings;
- Timely good faith effort to make restitution;
- Positive character evidence; and
- Imposition of criminal sanctions.

{¶31} It is difficult to imagine a case more disappointing and damaging to the public and to our profession. Respondent, just 41 years old, has engaged in a decade-long, deleterious, and corrupt pattern of misconduct involving the serious crimes of moral turpitude, culminating in his conviction in three separate criminal cases of 27 felony counts, the imposition of a nine-year

prison term, and hundreds of thousands of dollars in restitution, fines, and forfeitures.

{¶32} While the purpose of discipline is to protect the public, and not to punish the offender, there are times when maintenance of public confidence in the legal profession and preservation of the integrity of the profession requires the imposition of the ultimate disciplinary sanction, *i.e.*, permanent disbarment.

{¶33} In determining whether or not a sanction is appropriate for Respondent's misconduct, all relevant factors must be considered, including the duties of Respondent, the violations incurred, and the sanctions imposed in similar cases. *Stark Cty. Bar Assn. v. Buttacavoli*, 96 Ohio St.3d 424, 2002-Ohio-4743.

{¶34} We therefore direct our attention to the cases that Relator and Respondent cited in their briefs and other relevant cases. These cases include: *Disciplinary Counsel v. Phillips*, 108 Ohio St.3d 331, 2006-Ohio-1064; *Disciplinary Counsel v. Stern*, 106 Ohio St.3d 266, 2005-Ohio-4804; *Disciplinary Counsel v. Ulinski*, 106 Ohio St.3d 53, 2005-Ohio-3673; *Office of Disciplinary Counsel v. Gallagher*, 82 Ohio St.3d 51, 1998-Ohio-592; *Disciplinary Counsel v. Blaszak*, 104 Ohio St.3d 330, 2004-Ohio-6593; *Office of Disciplinary Counsel v. Derryberry*, 54 Ohio St.3d 107 (1990); *Disciplinary Counsel v. Gittinger*, 125 Ohio St.3d 467, 2010-Ohio-1830; and *Disciplinary Counsel v. Allen*, 94 Ohio St.3d 129, 2002-Ohio-4212.

{¶35} In *Phillips*, a former assistant county prosecutor, accepted a \$2,000 bribe from a criminal defendant and promised another defendant that he would fix his case in return for cash. *Id.* at ¶4. Phillips was convicted of several felony charges including bribery, theft in office, obstruction of justice, attempted tampering with evidence, along with other offenses, for which he received a 30-month prison sentence. *Id.* at ¶5. After serving six months in prison, Phillips was granted early release and successfully completed an in-patient drug rehab

program. *Id.* Despite the strong mitigation evidence, which included a diagnosed drug addiction, the Court disbarred Phillips, noting, * * * [A]ny mitigating factor in a disciplinary case like this must be weighed against the seriousness of the rule violations that the lawyer has committed. The Court continued, “This abuse of public office is not diminished by Respondent’s drug addiction or by any other mitigating factor. His misconduct has been too harmful to the public and to the administration of justice for him to remain a member of the legal profession in Ohio.” *Id.* at ¶15. Phillips’ misconduct, while serious and harmful to our system of justice, pales in comparison to Respondent’s misconduct.

{¶36} Unlike Phillips, who engaged in two isolated acts of misconduct to support a raging drug addiction, Respondent methodically and meticulously built politically and morally corrupt enterprises using bribes, kickbacks, shell companies, and cryptic code, all in an effort to line his own pockets and those of his cronies. While most of his misconduct involved cheating the unsuspecting taxpayers in Cuyahoga County, often at the expense of his own clients, Respondent also attempted to bribe a rape victim, LA, by offering her, through her lawyer, \$90,000 to provide a favorable statement on behalf of her assailant, Thomas Castro, who was also Respondent’s client. But when one considers that Respondent’s despicable conduct in the LA matter occurred after the federal government had indicted Respondent and while he was under federal surveillance, there can be no doubt that Respondent is unfit to practice in a profession grounded upon integrity.

{¶37} In 2005, Stern was convicted of several crimes including possession of heroin with intent to distribute, fraudulently setting fire to his rental property to collect the insurance proceeds, forging the co-payee’s signature on the insurance check, and retaining the proceeds. In disbaring Stern, the Court stated:

A lawyer who engages in the kind of criminal conduct committed by respondent violates the duty to maintain personal honesty and integrity, which is one of the most basic professional obligations owed by lawyers to the public. respondent's misconduct was harmful to the legal profession, which is and ought to be a high calling dedicated to the service of clients and the public good. "[P]ermanent disbarment is an appropriate sanction for conduct that violates DR 1-102 and results in a felony conviction."

Disciplinary Counsel v. Stern, supra, at ¶8,
citing *Disciplinary Counsel v. Gallagher*, 82 Ohio St.3d 51, 52, 1998-Ohio-4804.

{¶38} The damage Respondent caused to the public's trust and confidence in the legal system and its public officials is immeasurable.

{¶39} The panel concludes that Respondent should be permanently disbarred from the practice of law in Ohio. Furthermore, the costs of the proceedings should be taxed to Respondent.

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 August 8, 2014. The Board adopted the findings of fact, conclusions of law, and recommendation of the panel and recommends that Respondent, Anthony Orlando Calabrese III, be permanently disbarred from the practice of law in Ohio. 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