

ORIGINAL

THE SUPREME COURT OF OHIO

LORAIN COUNTY BAR ASSOC.	)	CASE NO. 2014-1516
)	
Relator,	)	<u>RELATOR'S BRIEF IN</u>
	)	<u>OPPOSITION TO RESPONDENT'S</u>
v.	)	<u>REQUEST TO TERMINATE INTERIM</u>
	)	<u>DEFAULT SUSPENSION: MOTION TO</u>
	)	<u>CONVERT INTERIM DEFAULT</u>
RAMI MAJED AWADALLAH	)	<u>SUSPENSION TO INTERIM</u>
	)	<u>REMEDIAL SUSPENSION</u>
Respondent.)	

.....

Now comes Relator, Lorain County Bar Association, by and through the undersigned Bar Counsel, and respectfully submits its Brief in Opposition to Respondent's Request to Terminate Interim Suspension: Motion to Convert Interim Default Suspension to Interim Remedial Suspension.

On October 9, 2014 this Court imposed an Interim Default Suspension upon Respondent, Rami Majed Awadallah, for his failure to answer at the Board level Relator's Certified Complaint.

Respondent has recently retained counsel and sought leave to answer the Complaint. In addition, Respondent requests that this Court terminate the Interim Default Suspension imposed against him.

FILED
OCT 24 2014
CLERK OF COURT
SUPREME COURT OF OHIO

Relator has stipulated its consent for Respondent to answer the Certified Complaint and thereby participate in the underlying disciplinary matter so that the multiple allegations leveled against Respondent can be adjudicated on the merits. (See Exhibit "A," Stipulated Consent For Respondent to File Answer, filed concurrently herewith, attached and incorporated herein).

Relator cannot acquiesce, however, to the termination of Respondent's suspension to practice law.

As fully acknowledged in his request, Respondent failed completely to cooperate in Relator's, the Board's, and until very recently, the Court's prosecution of this matter. While Respondent made no attempt to justify or excuse his inaction, he submits that the interim default suspension should be lifted anyway so that he may continue to represent his clients throughout the disciplinary proceedings.

Pursuant to Gov. Bar R. V(6a)(C), an interim default suspension may be terminated upon "good cause" shown. Respondent argues that he should once again be afforded the opportunity and privilege to practice law because his current clients depend greatly upon his services and will suffer a hardship in the wake of his recently imposed suspension.

Relator respectfully submits that this type of evidence does not amount to "good cause" to terminate the default suspension and that Respondent's request should be denied.

In the alternative, Relator requests that the Court impose an Interim Remedial Suspension upon Respondent during the pendency of the proceedings based upon the

clear and convincing evidence set forth by Relator in its Certified Complaint and Investigative Summary With Exhibits in Support that Respondent has committed multiple violations of the Ohio Rules of Professional Conduct and Rules for the Government of the Bar and poses a substantial threat of serious harm to the public should he be permitted to continue practicing. Gov. Bar R. V § 5a(A)(1).

Respondent has argued that his clients value and rely upon him.

Relator, however, has submitted, by way of its Eight-Count - 159 Paragraph Certified Complaint and Investigative Summary With 27 Exhibits in Support, competent, credible evidence that Respondent harmed multiple governmental agencies and individuals by processing *hundreds* of tax complaints and/or appeals that were never prosecuted; by scheduling untold hearings that did not go forward; by filing and managing cases that were frivolous and/or often filed without the informed consent of his "clients;" and, by associating himself with a questionable shell company that arguably engaged, with Respondent's knowledge and consent, in the unauthorized practice of law.

In fact, Respondent's conduct was so egregious that he was ordered to make restitution to the Lorain County Auditor's Office in the sum of \$8,529.76 as a sanction handed down by the Ohio Board of Tax Appeals. (See Exhibit "B," Certified copy of Decision, attached and incorporated herein.)

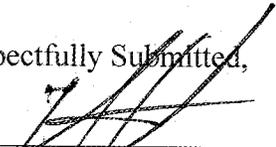
Respondent not only harmed numerous clients (both those he was authorized to represent and those that he was not) as dozens of people lost their tax appeals due to abject neglect, he harmed numerous governmental entities by scheduling, then failing to appear, at hundreds of hearings.

Finally, he wholly failed to cooperate into the investigation of his misconduct.

While Relator fully supports Respondent's rights and efforts to finally participate in the grievance process, Respondent respectfully submits that in the substantial interest of protecting the public, this Court maintain, in one iteration or another, Respondent's suspension – at least on an interim remedial basis - while this matter proceeds on its merits.

WHEREFORE, for the forgoing reasons, Relator respectfully requests this Honorable Court deny Respondent's request to terminate the interim default suspension and, in the alternative, convert the suspension to an interim remedial suspension pursuant to Gov. Bar R. V § 5a(A)(1) as soon as is appropriate in the premises.

Respectfully Submitted,



D. CHRIS COOK, #0061073

The Commons

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Bar Counsel - Attorney for Relator

PROOF OF SERVICE

This is to certify that a copy of the foregoing Brief/Motion was sent to the following by way of Regular U.S. mail this 23rd day of October, 2014:

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Richard Dove, Esq.
Secretary of the Board of Commissioners
On Grievance and Discipline
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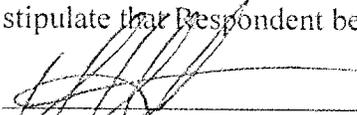
D. CHRIS COOK
Bar Counsel - Attorney for Relator

THE SUPREME COURT OF OHIO

LORAIN COUNTY BAR ASSOC.)	CASE NO. 2014-1516
)	
Relator,	)	<u>STIPULATED CONSENT FOR</u>
	)	<u>RESPONDENT TO FILE</u>
	)	<u>ANSWER</u>
v.)	
)	
RAMI MAJED AWADALLAH)	
)	
Respondent.)	

.....

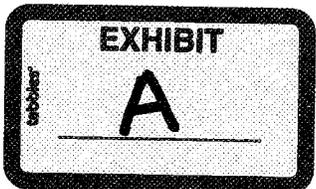
Now come the parties, by and through their respective undersigned counsel, and hereby stipulate that Respondent be granted leave to file his Answer to Relator's Certified Complaint.



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 Counsel for Respondent



OHIO BOARD OF TAX APPEALS

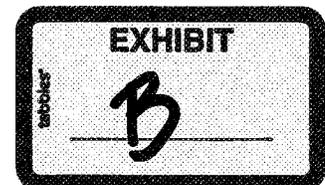
CERTIFICATION

I, A.J. Groeber, do hereby certify that I am the duly appointed Executive Director of the Ohio Board of Tax Appeals and as such have custody of all of the board's official records. I further certify that attached hereto is a true and accurate copy of the Board of Tax Appeals Order authorizing the imposition of sanctions in the matter of IPLAN GROUP LLC C/O LAWRENCE ADAMS, (ET. AL.) VS. LORAIN COUNTY BOARD OF REVISION AND THE LORAIN COUNTY AUDITOR.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Ohio Board of Tax Appeals this thirtieth (30th) day of April, 2014.



A.J. Groeber
Executive Director
Ohio Board of Tax Appeals



OHIO BOARD OF TAX APPEALS

Simonson Investments c/o Mary Beth, Victor) CASE NOS. 2013-1852, 2013-1860, 2013-1861
Sedivec Trustee, Iplan Group, LLC c/o Lawrence) 2013-1899, 2013-1906, 2013-1907, 2013-1908
Adams, Jose A. Santos, Nabil Shannawi,) 2013-1909, 2013-1912, 2013-1913, 2013-1914
Christopher Pullins, Rudy & Joyce Hueni, Home) 2013-1915, 2013-1916, 2013-1919, 2013-1920
Buyers Ohio c/o Lawrence Adams, and Leon W.) 2013-1921, 2013-1922, 2013-1929, 2013-1931
Hamrick,)

Appellants,)

(REAL PROPERTY TAX)

vs.)

ORDER

Lorain County Board of Revision and the)
Lorain County Auditor,)

(Granting Motion Requesting Enforcement
of Prior Order Imposing Sanctions)

Appellees.)

APPEARANCES:

For the Appellants - Simonson Investments c/o Mary Beth
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Bernlohr, Niekamp & Weisensell, LLP
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For the County
Appellees

- Dennis Will
Lorain County Prosecuting Attorney
John P. Kilroy
Assistant Prosecuting Attorney
225 Court Street, 3rd Floor
Elyria, Ohio 44035

Entered **OCT 31 2013**

Mr. Williamson, Mr. Johrendt, and Mr. Harbarger concur.

On October 9, 2013, this board issued an order imposing monetary sanctions against attorney Rami M. Awadallah, affiliated with the law firm Bernlohr, Niekamp & Weisensell, LLP. Specifically, attorney Awadallah was ordered to remit to the county appellees \$8,529.76, said amount consisting not only of costs sought, i.e., \$3,529.76, but an additional \$5,000 associated with two sanctions hearings convened by this board and a punitive award. Attorney Awadallah was expressly cautioned that should he ignore this board's order and fail to remit said amount within the time required, i.e., fourteen days, this board would seek enforcement of its order. The county appellees have now filed a motion advising that attorney Awadallah has failed to comply with this board's order and requested that its counsel be directed to seek its enforcement.

R.C. 5703.031 provides as follows:

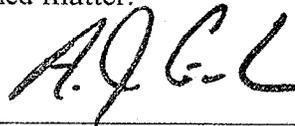
"In addition to the other remedies provided by law for effectuating compliance with or for the prevention and punishment of any violation of the laws which the board of tax appeals is required to administer or of the orders of the board, the laws and orders, upon application made by or on behalf of the board, may be enforced by quo warranto, mandamus,

prohibition, procedendo, injunction, contempt, or other appropriate proceeding.

“Upon order of the board to either the attorney general or prosecuting attorney of any county, that official shall forthwith take action on behalf of the board for the enforcement of those laws and orders or for the imposition of sanctions for violation of those laws and orders, or both.”

Acting without further delay, the Lorain County Prosecuting Attorney is hereby ordered to take such action as is appropriate and necessary to enforce this board’s October 9, 2013 order requiring attorney Rami M. Awadallah to remit to Lorain County the monetary award of \$8,529.76.

I hereby certify the foregoing to be a true and complete copy of the action taken by the Board of Tax Appeals of the State of Ohio and entered upon its journal this day, with respect to the captioned matter.



A.J. Groeber, Board Secretary



1 of 100 DOCUMENTS

Simonson Investments c/o Mary Beth, Victor Sedivec Trustee, Iplan Group, LLC c/o Lawrence Adams, Jose A. Santos, Nabil Shannawi, Christopher Pullins, Rudy & Joyce Hueni, Home Buyers Ohio c/o Lawrence Adams, and Leon W. Hamrick, Appellants, vs. Lorain County Board of Revision and the Lorain County Auditor, Appellees.

CASE NOS. 2013-1852, 2013-1860, 2013-1861, 2013-1899, 2013-1906, 2013-1907, 2013-1908, 2013-1909, 2013-1912, 2013-1913, 2013-1914, 2013-1915, 2013-1916, 2013-1919, 2013-1920, 2013-1922, 2013-1929, 2013-1931 (REAL PROPERTY TAX)

STATE OF OHIO -- BOARD OF TAX APPEALS

2013 Ohio Tax LEXIS 5215

October 9, 2013, Entered

SUBSEQUENT HISTORY:

Enforcement granted by *Simonson Invs. v. Lorain County Bd. of Revision*, 2013 Ohio Tax LEXIS 5992 (Ohio B.T.A., Oct. 31, 2013)

PRIOR HISTORY:

Pullins v. Lorain County Bd. of Revision, 2013 Ohio Tax LEXIS 4425 (Ohio B.T.A., Sept. 5, 2013)

COUNSEL:

[*1] APPEARANCES:

For the Appellants - Simonson Investments c/o Mary Beth, Victor Sedivec Trustee, Iplan Group, LLC c/o Lawrence Adams, Jose A. Santos, Nabil Shannawi, Christopher Pullins, Rudy & Joyce Hueni, Home Buyers Ohio c/o Lawrence Adams, Lawrence and Shelley Adams, Vorys, Sater, Seymour and Pease LLP, Nicholas M. J. Ray, Leon W. Hamrick

For the County Appellees - Dennis Will, Lorain County Prosecuting Attorney, John P. Kilroy, Assistant Prosecuting Attorney

Copy to - Rami M. Awadallah, Bemlohr, Niekamp & Weisensell, LLP, Rami M. Awadallah

OPINION:

ORDER (Granting Motion For Sanctions)

Mr. Williamson, Mr. Johrendt, and Mr. Harbarger concur.

The county appellees have filed motions in each of the above-referenced appeals requesting that they be dismissed and that attorney Rami M. Awadallah, affiliated with the law firm Bernlohr, Niekamp & Weisensell, LLP, be suspended from appearing or practicing before the Board of Tax Appeals on the basis of his involvement in the preparation and filing of the initial complaints with the Lorain County Board of Revision ("BOR") and his apparent involvement in subsequent filing of appeals with this board, both of which are claimed to be [*2] frivolous. No written response has been submitted on behalf of the appellants or by attorney Awadallah in any of these appeals.

Following the filing of the county appellees' motions, on September 4, 2013, this board, sitting en banc, convened a hearing at which counsel for the county appellees appeared and reasserted the arguments advanced through his written motions. Specifically, that attorney Awadallah identified himself as the agent for each of the above-named appellants on real property valuation decrease complaints which he signed and filed with the BOR. On these complaints, attorney Awadallah disclosed as his address PO Box 361771, Cleveland, Ohio 44136. After scheduling and convening hearings with respect to each of the complaints, the BOR issued decisions stating in pertinent part:

"The board of Revision found that the owner was notified of the hearing date but did not appear. The Board of Revision found that the complainant did not prosecute the appeal. The complaint was dismissed."

From these dismissals, appeals were filed with this board, identifying the individual taxpayer as the "Appellant or Representative," but using the same business address disclosed by attorney [*3] Awadallah on the underlying complaints, i.e., PO Box 361771, Cleveland, Ohio 44136. Counsel asserted that attorney Awadallah has frequently been involved in the filing of complaints with the BOR and appeals with the BTA and routinely fails to appear at or waive hearings scheduled by both tribunals.

The county appellees presented the testimony of Craig Snodgrass, Lorain County Auditor, who addressed the backlog, costs, and governmental wastes caused by the filings initiated by attorney Awadallah:

"We have approximately 1,800 cases in Lorain County, residential. And, you know, there is a backlog, and this is creating an undue burden to the rest of the staff there. They have to clock in the filings, normally a courier brings them in. Then they have to prepare the files, send them to our internal staff to review to see if there's sufficient evidence. We have to also look to possibly notify the school boards. So there is a -- definitely a process here that is time consuming and not being at least acted upon by Mr. Awadallah.

"I think Mr. Kilroy had asked me the question about our Board of Commission clerks and additional time that is needed that's required of them putting these [*4] files together. We're also getting to this point with the tax appeals and now that's additional time, effort on their part to compile these files, to put them on the discs, to actually make it valid for this hearing. So, again, this is a -- it's a very long process, and it's just adding this undue burden to the rest of the staff there. And there is a cost to that. You

know, my clerks are making maybe 16, 17 dollars an hour, they also have the appraisers that are also in there looking at things. The costs are adding up, you know. It could be 3-, 4-, 5,000 dollars when you're starting to look at 85 cases. And so this went on last year, now it's continued on this year." H.R. at 13-14, 20.

In addition, this board received testimony from Lawrence Adams, associated with two of the appellants, i.e., Iplan Group, LLC c/o Lawrence Adams, BTA No. 2013-1861 and Home Buyers Ohio c/o Lawrence Adams BTA Nos. 2013-1922, who indicated he engaged "Tax Compliance" to assist in the tax valuation challenge process. Adams testified that several packages were available, depending upon the level of service desired, with varying fees, and that due to his unfamiliarity with the tax matters, he selected the [*5] more expensive option package which would ensure the presence of an attorney at future valuation proceedings. He testified, however, that he understood that Rami M. Awadallah would be representing him although he never spoke directly with him and instead his interactions were with administrative personnel of Tax Compliance.

Thereafter, this board issued an order requiring attorney Awadallah to appear for hearing on September 30, 2013 to show cause why sanctions should not be imposed. *Simonson Investments, et al. v. Lorain Cty. Bd. of Revision (Interim Order, Sept. 5, 2013), BTA Nos. 2013-1852, et al., 2013 Ohio Tax LEXIS 4425, unreported*. Despite this board's order, attorney Awadallah did not appear as ordered, nor did he appear at other appeals scheduled to proceed to merit hearing on the same morning which he is presumably affiliated. At the hearing, where this board again sat en banc, counsel for the county appellees appeared and reiterated his prior arguments, citing to the ongoing conduct by attorney Awadallah and again requesting that this board restrict him from appearing before this board in future proceedings. Upon request by this board, counsel for the county appellees submitted information reflecting [*6] time and expenses incurred in prosecuting the sanctions sought, such fee request totaling \$ 3,529.76.

Parties are frequently represented by counsel during real property valuation proceedings conducted before county boards of revision, this board, and Ohio courts. Like the courts, when appearing before this board or any other administrative tribunal, an attorney assumes certain responsibilities. At the outset, it is generally expected that an attorney counsels his client with regard to the initiation of litigation, providing an informed understanding of the attendant rights and responsibilities, explaining the associated risks, and maintaining communication throughout the legal process. It is also expected by tribunals that an attorney, serving as an officer of the court, will review all documents filed, confirming to the best of his knowledge, information, and belief that there exists good grounds to support such filings, that he will act competently, professionally, promptly, and in compliance with the applicable rules of practice and procedure, and that he will demonstrate respect for the legal system and for those who serve persons who serve it.

Regrettably, we consider these [*7] appeals and the sanctions requested by the county appellees in the absence of any response by attorney Awadallah who was ordered to appear before this board and did not do so. Through *Ohio Adm. Code 5717-1-14*, a variety of sanctions may be imposed, the severity of which are dependent upon the behavior encountered. This board has consistently evidenced its intent to impose the minimal sanction necessary to achieve the appropriate conduct, avoiding the harshest of sanctions against a party, i.e., the dismissal of an appeal. We exercise such restraint herein again, overruling the county appellees' request to dismiss these appeals as the appellants have done nothing wrong. Instead, these appeals will be decided on the record unless a hearing before this board is requested. Although the county appellees have submitted a request for a

lesser amount, given the contemptuous nature of his conduct, this board hereby orders attorney Awadallah to remit to the county appellees \$ 8,529.76, said amount consisting not only of the costs sought, but also the costs of the two sanctions hearings convened herein and a punitive award, said amount to be paid within fourteen days of the issuance of this order. [*8] See, generally, *MC-NC, LLC v. Franklin Cty. Bd. of Revision (Interim Order, July 26, 2013)*, BTA Nos. 2012-2834, et seq., 2013 Ohio Tax LEXIS 3598, unreported.

Attorney Awadallah is cautioned that should he ignore this order, this board will seek its enforcement as authorized by *R.C. 5703.031*.

Legal Topics:

For related research and practice materials, see the following legal topics:
Tax Law State & Local Taxes Administration & Proceedings Judicial Review



Ohio Board of Tax Appeals

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The Ohio Board of Tax Appeals adjudicates all of the 62 taxes of the state of Ohio except estate taxes. The most common appeals filed with the board are from decisions issued by county boards of revision, the Tax Commissioner, municipal boards of appeal, and county budget commissions.

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Announcements

[BOARD OF TAX APPEALS CASE DOCUMENT FILING NOTIFICATION: GUIDANCE ON INCLEMENT WEATHER \(4/25/2014\)](#)

Mission Statement

The mission of the Ohio Board of Tax Appeals, as Ohio's administrative tax court, is to provide taxpayers and taxing authorities with an accessible, fair and efficient appeals process and to resolve appeals in a timely and judicious manner by facilitating settlement or by issuing comprehensive written decisions, which are based upon Ohio statutes, case law, and board precedent.

Ohio Board of Tax Appeals

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