

IN THE SUPREME COURT OF OHIO

Disciplinary Counsel	:	
	:	Case No.: 2014-1390
Relator,	:	
	:	
	:	RELATOR'S ANSWER TO
	:	RESPONDENT'S OBJECTIONS
	:	TO THE BOARD'S REPORT
Anthony O. Calabrese III (0068535)	:	AND RECOMMENDATIONS
	:	
Respondent.	:	

**RELATOR'S ANSWER TO RESPONDENT'S OBJECTIONS
TO THE BOARD'S REPORT AND RECOMMENDATIONS**

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INTRODUCTION AND PROCEDURAL HISTORY

On December 13, 2013, relator, Disciplinary Counsel, filed a one count disciplinary complaint against respondent, Anthony Orlando Calabrese III. This complaint was predicated on respondent's 18-count federal conviction for bribery, conspiracy, mail fraud, and RICO violations, which ultimately resulted in respondent being ordered to serve a nine-year prison sentence, pay \$132,041.93 in restitution, and forfeit \$74,450.

On March 14, 2014, relator filed an amended complaint against respondent, which contained two additional counts of misconduct. The second count was based on respondent's state conviction for substantially the same conduct that he had pled guilty to in the federal system, and the third count was based on respondent's state conviction for his involvement in bribing two victims of sexual battery.

In April 2014, the parties entered into full factual stipulations, as well as stipulations to 11 different ethical violations.¹ The matter proceeded to a hearing before the Board of Commissioners on Grievances and Discipline (board) on April 16, 2014. Respondent participated in the hearing by phone from Elkton Federal Correctional Facility in Lisbon, Ohio.

On August 12, 2014, the board issued its findings of fact and conclusions of law (board report), which are attached hereto as Appendix A, and recommended that respondent be permanently disbarred. On or about October 6, 2014, respondent filed objections to the board report. Now comes relator and hereby submits this answer to respondent's objections.

STATEMENT OF FACTS

Count One – Federal Conviction

In January 2013, respondent pled guilty to 18 counts of bribery, conspiracy, mail fraud, and RICO violations in the United States District Court for the Northern District of Ohio. (Stipulated Ex. 1.) In exchange for his guilty plea, the United States dismissed two counts of Tampering with a Witness, Victim, or Informant that had also been charged against respondent

¹ In Count One, respondent stipulated to violating DR 1-102(A)(3) and Prof. Cond. R. 8.4(b) (prohibiting an attorney from engaging in illegal conduct involving moral turpitude or conduct that adversely reflects on the lawyer's honesty and trustworthiness); DR 1-102(A)(4) and Prof. Cond. R. 8.4(c) (both prohibiting an attorney from engaging in conduct involving fraud, dishonesty, deceit, or misrepresentation); DR 5-101(A)(1) and Prof. Cond. R. 1.7(a)(1) (both prohibiting a lawyer from accepting employment if there is a substantial risk that the lawyer's ability to consider, recommend, or carry out an appropriate course of action for a client will be materially limited by the lawyer's responsibilities to another client or by the lawyer's own personal interests); DR 1-102(A)(5) and Prof. Cond. R. 8.4(d) (both prohibiting a lawyer from engaging in conduct that is prejudicial to the administration of justice); and DR 1-102(A)(6) and Prof. Cond. R. 8.4(h) (both prohibiting a lawyer from engaging in conduct that adversely reflects on the lawyer's fitness to practice law). In Count Two, respondent stipulated to violating DR 1-102(A)(3), DR 1-102(A)(5), and DR 1-102(A)(6). In Count Three, respondent stipulated to violating Prof. Cond. R. 8.4(b), Prof. Cond. R. 8.4(d), and Prof. Cond. R. 8.4(h).

in a 20-Count Indictment filed on June 7, 2012.² Respondent was sentenced to 108 months in prison (nine years), ordered to pay \$132,041.93 in restitution, and forfeit \$74,450. *Id.*

Respondent's conviction arose from his role as a primary participant in a criminal enterprise that conducted its affairs by bribing public officials and their designees in exchange for actions that were favorable to respondent, his law firm, and his designees. Moreover, respondent knowingly and willingly engaged in his conduct as made clear by his attempts to avoid detection by using conduits and intermediaries, speaking in code, making bribe payments in cash, and establishing shell companies.

Respondent's conduct is explained in detail in the 73-page document attached to respondent's plea agreement (Stipulated Ex. 3), as well as in relator's hearing brief; however, some of respondent's most egregious conduct in Count One is summarized below.

Respondent represented Alternative Agencies (AA) – a “halfway house” that operated under the auspices of the Cuyahoga County Common Pleas Court. In or about 2004, AA asked respondent to help it obtain tax exempt status for the property that it leased. (Stipulated Ex. 3, Pg. 9 of Attachment.) Respondent approached J. Kevin Kelley, a public official, for assistance with this task. *Id.* Kelley and/or his associates were able to obtain a \$144,216.26 tax benefit for AA, which was then deposited into AA's accounts. *Id.* at 10. Shortly after the \$144,216.26 was deposited, respondent instructed Business Executive 39 (BE39) to issue a \$72,000 check to Business 45. *Id.* Respondent told BE39 to classify the expense as a “consulting fee” even though respondent knew that Business 45 had performed no services for AA that would justify the expense. *Id.* Upon receipt of the \$72,000, Business 45 issued a check to respondent for

² An unsealed indictment was originally filed against respondent on September 22, 2011. (Stipulated Ex. 1.)

\$31,500 and a check to Kelley for \$35,500. *Id.* Business 45 kept the remaining \$5,000 for his role in moving AA's money. *Id.* at 12.

Along similar lines, in 2007, respondent participated in activities in which AA increased its "consulting fee" to Kelley in order to prevent the loss of county funding. Specifically, in November 2007, county officials informed AA that the county intended to cut AA from its budget. *Id.* at 13. Brian Schuman, an employee of AA, approached respondent and Kelley for assistance in this matter. *Id.* Ultimately, AA increased its "consulting" fee to Kelley so that Kelley could provide things of value to public officials, who were in the position of restoring AA's funding. *Id.* at 14. Respondent was part and parcel to the activities that were occurring, including the purchase of three first class tickets to Las Vegas for two county officials and one of their domestic partners. *Id.*

Respondent also exploited his position of trust as an attorney for his own personal gain. *Id.* at 8. Oftentimes, he encouraged AA to hire and retain consultants at high fees even though he knew that the consultants provided little or no work for AA. *Id.* at 32. He made material misrepresentations to AA about the number of consultants retained, the work performed by the consultants, and the fact that he and his designees were receiving "kickbacks" from the consultants. *Id.* For instance,

- AA was making monthly payments to Sanford Prudoff. When BE39 informed respondent that AA had received no work product from Prudoff, respondent stated that Prudoff was working on an expansion project in Lorain, Ohio and that BE39 should continue to cause AA to pay Prudoff. Respondent knew that AA had not approved payments to any such consultants. In July 2005, respondent instructed BE39 to issue Prudoff's payments to Relative 2. Respondent and Prudoff then assisted Relative 2 with forming Business 46. Between July 2005 and March 2006, AA made monthly payments in the amount of \$4,000 to Business 46 even though Prudoff and Relative 2 performed little to no work for AA. *Id.* at 33-34.
- In or around January 2002, respondent influenced AA to retain A.C. Sinagra & Associates as a consultant. In March 2006, respondent and Sinagra agreed that

respondent would cause AA to increase its payments to A.C. Sinagra & Associates and that the additional funds would be used to pay persons or entities identified by respondent. In May 2006, AA increased its monthly payment to A.C. Sinagra & Associates from \$1,500 to \$6,000. Over the next several months, the additional funds were disbursed to Relative 2 and Burlwood Holdings, a company over which respondent exercised at least some control, even though neither Relative 2 nor Burlwood Holdings performed any work for A.C. Sinagra & Associates. *Id.* at 35-38.

- In October 2004, respondent influenced AA to retain J. Kevin Kelley Consulting for approximately \$900 per month plus expenses. In August 2005, respondent told Kelley to increase his consulting fee to \$4,900. To justify the increase, Kelley sent invoices to AA alleging that he was performing work for AA in Lorain, Ohio. Respondent knew that Kelley was not performing any work for AA in Lorain, Ohio. Nevertheless, respondent caused AA to increase its payments to Kelley. In turn, Kelley provided favorable consideration to respondent and his designees in matters unrelated to AA. *Id.* at 38-39.

In 2005, respondent also engaged in a conspiracy with Kelley and Kevin Payne related to a Geographic Information System (GIS) project in Cuyahoga County. Kelley and Payne used their official positions to influence the award of a large GIS contract to Business 7. *Id.* at 48. Kelley then facilitated the hiring of Law Firm 1, the firm that employed respondent, by Business 7. *Id.* at 47. Kelley also asked respondent to facilitate the hiring of The Eagle Group by Law Firm 1. *Id.* Each month, Business 7 would pay Law Firm 1 approximately \$3,000; Law Firm 1 would pay The Eagle Group approximately \$1,500; and The Eagle Group would pay Payne approximately \$500 (1/3 of what it received from Law Firm 1). *Id.* The payments from Law Firm 1 to The Eagle Group were pursuant to invoices created by Payne. The delivery of these invoices were oftentimes discussed in code. *Id.* At no time did The Eagle Group perform any work for Law Firm 1 on the GIS project. *Id.* Respondent, Payne, and Kelly also engaged in a similar conspiracy involving Business 8 and the GIS project. *Id.* at 49-50.

Count Two – State Conviction (Case No. CR-13-576241-A) and the Ameritrust Complex

In Count Two of the formal complaint, respondent was prosecuted on the state level for essentially the same conduct that he had pled guilty to in the federal system. (Stipulated Ex. 8.) The state indictment, however, expanded on an issue involving the Ameritrust Complex, a building that the Cuyahoga County Government intended to purchase as their new headquarters. (Stipulated Ex. 8, Pg. 9.) Specifically, respondent directed Kelley to provide him with non-public information about the purchase of the Ameritrust Complex. *Id.* Respondent assured Kelley that he would be “taken care of” in exchange for this information. *Id.* After receiving the non-public information from Kelley, respondent facilitated the payment of \$70,000 to Kelley through two unidentified individuals, one of whom later received \$2,000 for his role in the conspiracy. *Id.* (Hrg. Transcript, Pg. 18.)

Count Three – State Conviction (Case No. CR-13-571014-B) and Thomas Castro

In Count Three of the formal complaint, respondent engaged in a pattern of corrupt activity aimed at keeping his business client, Thomas Castro, out of jail. On October 17, 2012, Castro pled guilty to two counts of sexual battery relating to victims MT and LA.³ He had initially been charged with multiple counts of rape and sexual battery. (Stipulated Ex. 12.) In October 2012, approximately four months *after* being indicted on multiple federal counts, respondent, who was fearful of federal surveillance and wiretapping, met with LA’s attorney, Hector Martinez, in a car. While in the car, respondent advised Martinez that Castro would be willing to pay LA \$10,000 if LA wrote a letter to the court on Castro’s behalf. (Stipulated Ex. 12; Hrg. Transcript, Pgs. 22-27.) Respondent then wrote the words “no jail” on a Post-It note.

³ Castro was represented by Attorney Marc Doumbas in the criminal case. Respondent represented Mr. Castro’s company in business matters. (Hrg. Transcript, Pg. 20.)

Id. After LA rejected the first offer, respondent increased the offer to \$50,000, which LA also rejected. *Id.* Respondent then increased the offer to \$60,000 with \$25,000 payable immediately and \$35,000 payable by December 31, 2012. *Id.* LA did not respond to this offer. Respondent then increased the offer to \$90,000 with \$25,000 payable immediately and \$65,000 payable by December 31, 2012. *Id.* At this point, LA inquired whether these offers were illegal, and Martinez notified respondent of LA's concerns. *Id.*

On January 25, 2013, the Cuyahoga County grand jury returned a nine-count indictment against respondent and others including Doumbas and Castro; however, only seven of the nine counts pertained to respondent. (Stipulated Ex. 12.) Respondent later pled guilty to one count of engaging in a pattern of corrupt activity and four counts of bribery. (Stipulated Ex. 13.) In exchange for respondent's guilty plea, the prosecutor dismissed the remaining two counts against respondent. *Id.*

RELATOR'S RESPONSE TO RESPONDENT'S OBJECTIONS

As noted above, on October 6, 2014, respondent filed objections to the board's report and a three-page memorandum in support. Although not clearly delineated, it appears respondent's primary objection is to the weight the panel and board applied to certain documents in the record, as well as to the arguments that respondent made in his defense.

Response No. 1: The evidence supports that the panel received and thoroughly reviewed the record in this matter.

In his first objection, respondent states that he is concerned that the panel did not receive respondent's trial or sanction brief, both of which were filed on April 11, 2014, and respondent's closing argument brief, which was filed on May 5, 2014. In support of his argument, respondent

states that none of the cases cited in his closing argument brief were addressed in the board's report. *Id.*

With regard to respondent's trial brief and the sanctions brief, it is clear that the panel received and reviewed both documents. In fact, this issue was specifically discussed at the start of the disciplinary hearing on April 16, 2014. At the hearing, relator's counsel inquired into whether the panel had received respondent's sanctions brief and trial brief believing that they may not have been filed with the board. (Hrg. Transcript, Pg. 4.) In response to relator's counsel's inquiry, both Commissioner Robert Fitzgerald and Commissioner Keith Sommer confirmed that they had received respondent's sanctions brief and trial brief. *Id.*

With regard to respondent's closing brief, the filing of this document was also addressed at the hearing on April 16, 2014. (Hrg. Transcript, Pg. 61.) Specifically, the panel chair informed respondent that he was giving him an opportunity to submit a written closing brief because he wanted respondent "to be able to hear and respond to what [relator's counsel] is going to say." *Id.* Respondent filed his closing brief on May 5, 2014, as noted by the file stamp date on the document, and the board issued its final report over three months later on August 12, 2014. Although the board chose not to specifically address respondent's closing brief in its final report, there is no evidence to suggest that the board overlooked respondent's filing. The more plausible theory is that the board considered respondent's filing, but rejected the arguments contained therein.

Most importantly, it is clear that that panel thoroughly reviewed the record in this matter, including the above-mentioned documents, and that upon review of the record, it reached the only appropriate conclusion in this matter – disbarment.

Despite respondent's claims that his conduct does not define him, it is clear that he engaged in a "decade-long, deleterious, and corrupt pattern of misconduct." (Board report at 7.) In fact, he testified at his disciplinary hearing that the first time he engaged in conduct involving bribery and conspiracy, he "knew it was wrong." (Hrg. Transcript, Pg. 39.) Nevertheless, he continued in his conduct, despite having a successful and promising career at a young age, as it "made things easier" for him. *Id.* There is absolutely no indication that respondent ever attempted to disengage himself from his conduct – at least not until 2009 when federal authorities began a detailed investigation of Cuyahoga County politics and federal indictments began being handed down against respondent and his cohorts. Furthermore, he did not report his conduct to relator until after he was convicted. *Id.* at 50.

Despite being under a massive, high profile federal criminal indictment, respondent continued his nefarious activities by attempting to bribe two rape victims in 2012. For respondent to now say that he was merely trying to "settle a civil case" with respect to Count Three, and that he only pled to the charges against him because they carried no additional prison time, not only shows respondent's unwillingness and inability to appreciate the gravity of his misconduct, but also his unfitness to engage in the practice of law in the future. Respondent simply does not possess the honesty or integrity necessary to engage in a profession grounded on trust.

Response No. 2: The board's report is supported by evidence in the record and does not contradict any factual findings.

In his objections, respondent claims that Paragraph 36 of the board report contains "outrageous and inflammatory" findings that contain no support in the record. (Respondent's Objections at 1.) Specifically, he complains about the board's conclusion that LA was a "rape"

victim and the board's conclusion that he was under federal surveillance at the time he attempted to bribe LA. *Id.*

As noted above, Thomas Castro ultimately pled guilty to two charges of sexual battery; however, he was initially indicted on multiple counts of rape and sexual battery. Not only did respondent acknowledge that Castro had been charged with rape during the disciplinary hearing, he also stipulated to the facts of the indictment in case no. CR-13-571014-B, which refer to Castro's case as a "rape case" throughout. (Hrg. Transcript, Pg. 20; Stipulated Ex. 12.) In addition, respondent did not correct relator's counsel when he referred to LA and MT as "rape victims" during the disciplinary hearing. (Hrg. Transcript, Pg. 20, 57.) In light of the charges initially filed against Castro and respondent's acknowledgement of those charges, relator respectfully submits that it was neither "outrageous" nor "inflammatory" for the board to conclude that LA was a rape victim.

Nevertheless, should this Court determine that "rape victim" was not the appropriate term for LA, this characterization had no bearing on the panel or board's decision in this matter. Clearly, the board was evaluating respondent's conduct, not Castro's, and even then, the board was evaluating whether respondent had committed any ethical violations, not criminal violations.

As to respondent's claim that there is no evidence in the record to support the board's finding that respondent was under federal surveillance, relator offers the following: Paragraph 18 of the agreed stipulations states that "[r]espondent admits to the facts as alleged in Counts One, Six, Seven, Eight and Nine of the Cuyahoga County indictment, case no. CR-13-571014-B, attached hereto and incorporated into these stipulations as Exhibit 12." Paragraph H of Exhibit 12 specifically states that respondent met with Martinez, identified as UA2 in the indictment, "in a car while [respondent] was fearful of federal surveillance and wiretapping." Paragraph H

further states that respondent wrote the words “no jail” on a Post-It Note “in order to circumvent federal surveillance and eavesdropping.” Although respondent testified to the contrary at the disciplinary hearing, he acknowledged that Martinez testified that respondent was fearful of federal surveillance and wiretapping. In light of the above, it was neither “outrageous” nor “inflammatory” for the board to conclude that respondent was under – or fearful of being under – federal surveillance at the time that he attempted to bribe LA.

Finally, it appears that respondent is claiming that the board’s report somehow implies that respondent “approved of” or “countenanced” Castro’s conduct. Relator is unsure of what, if any, section respondent is referring to in the board’s report as there is nothing in the report that supports respondent’s claims. The report merely recounts respondent’s conduct, which he stipulated to, and concludes that permanent disbarment is warranted.

Response No. 3: The board gave appropriate weight to the mitigating factors in this matter.

In his objections, respondent asks this Court to consider the fact that he is only 41 years old, that he fully cooperated in the disciplinary proceedings, that he has no prior disciplinary record, that he submitted evidence of good character and reputation,⁴ that he was not a public official at the time he committed his misconduct, that he has had other sanctions imposed on him, and that he has made a timely, good faith effort to rectify the consequences of his misconduct. While all of these factors should be considered in determining the appropriate sanction in this matter, none of them are sufficient enough to warrant a sanction other than permanent disbarment.

⁴ All but one of the character letters that were stipulated to in this matter were submitted to the Hon. Sara Lioi in response to respondent’s federal conviction/sentencing.

As noted by the panel in its report, “the damage respondent caused to the public’s trust and confidence in the legal system and its public officials is immeasurable.” (Board report at 10.) The mere idea that a public official or victim of a crime can be bought is an affront to the honor and dignity of the legal system. In fact, in *Disciplinary Counsel v. Phillips*, 108 Ohio St.3d 331, 2006-Ohio-1064, 843 N.E.2d 775, a case very similar to respondent’s, an assistant county prosecutor was disbarred for accepting a bribe from a criminal defendant and promising another defendant that he would fix his case in exchange for cash. Like respondent, Phillips had a number of mitigating factors including the lack of prior discipline, cooperative attitude, evidence of good character, and imposition of other criminal penalties. *Id.* In addition – and unlike respondent – Phillips had a diagnosed chemical dependency. *Id.* In determining the appropriate sanction for Phillips, this Court stated that “any mitigating factor in a disciplinary case like this must be weighed against the seriousness of the rule violations that the lawyer has committed.” *Id.* Having found that Phillips’ conduct “lessened confidence in the legal profession and compromised its integrity by conveying the impression that favorable outcomes could be purchased in Cuyahoga County,” this Court concluded that Phillips 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.*

The *Phillips* case is identical to respondent’s in all but two respects. First, Phillips was employed as an Assistant County Prosecutor when he engaged in his misconduct. The fact that Phillips was a public official when he committed his misconduct appeared to weigh heavily on this Court in that Phillips had not only “violated the law and flouted the rules that regulate the legal profession,” but did so while serving in a position charged with seeing justice done in each case. Although respondent was not a public official at the time he committed his misconduct, he

was engaged in the practice of bribing public officials, which leaves the public with the same overall impression – that favorable outcomes can be purchased with the right connections and the right amount of money. The mere fact that respondent was not a public official at the time of his misconduct should not deter this court from disbaring respondent.

The second, and exponentially more important, difference is the fact that Phillips engaged in two instances of impropriety while suffering from a raging cocaine addiction. Respondent, on the other hand, engaged in multiple instances of impropriety over a nearly ten-year period with nothing to cloud his thought processes. This difference alone supports disbarment.

Response No. 4: The cases cited by respondent in his sanctions brief and closing argument brief are not instructive in this matter.

Between his sanctions brief and closing argument brief, respondent cites over 35 cases in support of his request for an indefinite suspension. Most of these cases are not instructive in this matter because they contain different facts and circumstances. For instance, one of the cases that respondent cited in his closing argument brief was *Columbus Bar Assn. v. Linnen*, 111 Ohio St.3d 507, 2006-Ohio-5480, 857 N.E.2d 539, a case involving an attorney who had indecently exposed himself to at least 30 women.

Even the four cases (*Mahoning Cty. Bar Assn. v. Sinclair*, 105 Ohio St.3d 65, 2004-Ohio-7014, 822 N.E.2d 360; *Disciplinary Counsel v. Smith*, 128 Ohio St.3d 390, 2011-Ohio-957, 944 N.E.2d 1166; *Akron Bar Assn. v. Peters*, 94 Ohio St.3d 215, 2002-Ohio-639, 761 N.E.2d 1038; and *Ohio St. Bar Assn. v. Johnson*, 96 Ohio St.3d 192, 2002-Ohio-3998, 772 N.E.2d 1184) that respondent cited at the disciplinary hearing and in his closing brief as being most analogous to his conduct can be distinguished.

In the *Sinclair* case, R. Allen Sinclair was indefinitely suspended for providing “kickbacks” to former U.S. Congressman, James Traficant, Jr. Specifically, Traficant had hired Sinclair as an administrative assistant and legal counsel; however, as a condition of his employment, Sinclair was to give Traficant \$2,500 each month. *Sinclair*, 105 Ohio St.3d at 68. In total, Sinclair made 12 or 13 payments of \$2,500 each to Traficant. *Id.* Sinclair also rented office space to Traficant at a greatly reduced price, and he prepared a quitclaim deed for Traficant that may have resulted in a fraudulent conveyance due to tax judgments against Traficant. *Id.* at 68-69.

Sinclair’s conduct pales in comparison to respondent’s. Whereas Sinclair only engaged in his conduct for slightly over a year, respondent’s conduct lasted for nearly a decade. Moreover, Sinclair was not criminally prosecuted for his conduct, nor is there is any indication that Sinclair’s conduct involved any of his clients. Clearly, respondent’s conduct warrants a more severe sanction.

In the *Smith* case, Joseph Harold Smith was indefinitely suspended for attempting to conceal his income from the IRS. *Smith*, 128 Ohio St.3d at 391. Although Smith was convicted on one count of conspiracy to defraud the IRS, four counts of making false tax returns, and one count of impeding an IRS investigation, there was no evidence that Smith attempted to bribe public officials in exchange for favorable actions or information, nor was there any evidence that Smith involved any of his clients in his conduct. *Id.* Again, respondent’s conduct warrants a more severe sanction.

In the *Peters* case, Cindy V. Peters was suspended for two years for sharing fees and other items of value with the Summit County Executive Director over a four-year period. *Peters*, 94 Ohio St.3d at 215. In exchange for the fees and other items of value, the director

recommended that law firms retained by Summit County pay the consultant who employed Peters. Peters ultimately pled guilty to two state felony charges (unlawful interest in a state contract and conflict of interest) and one federal charge (conspiracy to commit mail fraud). *Id.* She was sentenced to four months in prison, followed by home confinement and electronic monitoring for six months, and ordered to pay \$70,000 in restitution. *Id.* In determining the appropriate sanction, the panel noted that Peters only had a “minor role” in the conspiracy and that she was the sole provider for her family – both factors which are not present in the instant case. *Id.*

Finally, in the *Johnson* case, Jeffery Johnson was indefinitely suspended for inducing various grocers and others into giving money to his campaign for state senator as a quid pro quo for his efforts on their behalf, such as obtaining lottery licenses or liquor permits. *Johnson*, 96 Ohio St.3d at 193. Johnson was ultimately sentenced to 15 months in prison, one year of supervised release, and 250 community service hours. *Id.* Although the panel and board recommended that Johnson be disbarred, this Court decided to indefinitely suspend Johnson having found that he may be able to be rehabilitated. *Id.* at 194. In particular, the Court noted that Johnson’s sentencing judge found that he had a “relatively low degree of culpability,” which in turn caused her to depart drastically from sentencing guidelines.

In contrast, Judge Patricia J. Cosgrove, the judge who sentenced respondent with respect to the charges that form the basis of Count Two, stated that she was only willing to accept the recommendation of a concurrent sentence because respondent was already serving a nine-year federal sentence. (Stipulated Ex. 9, Pg. 20.) She further stated that respondent had not only impacted victims’ lives and caused them public embarrassment and stress, he also “affected the public’s image of attorneys, which isn’t great to begin with, unfortunately.” *Id.* at 20-21. She

continued to say that “99 percent of the attorneys, as you know, are good people, they try to help their clients, and they instill confidence in the legal system. But things like this, cases like this, conduct like this, demeans all of us who are attorneys and work so hard to establish a good relationship with clients, to instill confidence in the public, in the legal profession, which is an honorable, honorable profession.” *Id.* at 21.

There are also two very important differences between Johnson’s conduct and respondent’s. First, respondent continued in his pattern of misconduct even after being notified of the federal indictment. This alone shows that respondent has no respect for the legal system or the values that it holds. Second, and while making no excuses for Johnson’s conduct, Johnson’s conduct only reflected negatively on the state government. Respondent’s conduct reflected negatively on the legal profession, an criminal justice system, and the local system of government.

CONCLUSION

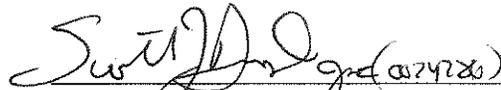
Respondent engaged in an extensive pattern of misconduct involving bribery, conspiracy, theft, and RICO violations for nearly a decade. His conduct resulted in multiple federal and state convictions, a nine-year prison sentence, restitution and forfeiture orders, and fines.

While relator understands respondent’s desire to return to the practice of law, respondent has shown time and time again that he does not possess the necessary character and fitness to do so. Not only did he engage in gross misconduct knowing that it was “wrong,” he continued his misconduct even after being indicted on federal charges.

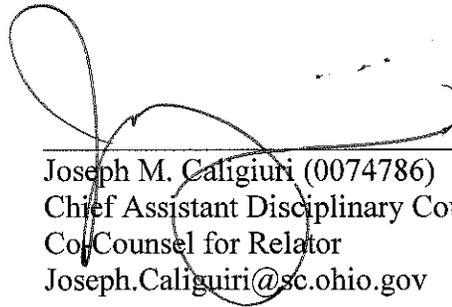
Moreover, respondent’s objections to the board report, in particular his claim that he was merely attempting to settle a civil suit in Count Three, show his failure to appreciate the gravity of his misconduct and the immeasurable harm that he has caused to the public’s confidence in

the legal system. The only way to begin to repair the damage caused by respondent is to send a strong message that conduct like respondent's is not and will not be tolerated. Accordingly, respondent must be disbarred.

Respectfully submitted,



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Relator
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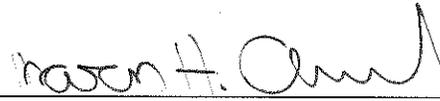
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing "Relator's Answer to Respondent's Objections" was served via U.S. mail, postage prepaid, on this 10th day of November 2014, upon Richard A. Dove, Esq., Secretary of the Board of Commissioners on Grievances and Discipline, 65 South Front Street, 5th Floor, Columbus, Ohio 43215, and upon respondent at Elkton Federal Correctional Institution, Registration No. 57414-060, P.O. Box 10, 8730 Scroggs Rd., Lisbon, Ohio 44432.



Karen H. Osmond (0082202)
Co-Counsel for Relator

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

RECEIVED
13-070
AUG 13 2014
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Disciplinary Counsel
Supreme Court of Ohio

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

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.

APPENDIX
A

{¶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