Supreme Court of Ohio Clerk of Court - Filed August 10, 2015 - Case No. 2014-1905

IN THE SUPREME COURT OF OHIO

Disciplinary Counsel,	:	**Case No. 14-1905**
Relator,	:	**MATTER RELATED TO THE PRACTICE OF LAW AUTHORIZED BY S.CT. PRAC.R. SECTION 13**
v.	:	
Angela Rochelle Stokes,	:	
Respondent.	:	

RESPONDENT'S MOTION TO DISSOLVE THE INTERIM REMEDIAL SUSPENSION ORDER OF DECEMBER 18, 2014

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Respondent, Angela Rochelle Stokes, hereby moves this Honorable Court to dissolve the Interim Remedial Suspension Order of December 18, 2014, pursuant to Gov. Bar R. V(19)(C)(2). (App. 2)

Because Relator has failed to file with the Board of Professional Conduct an Amended Complaint predicated on the conduct that was the basis of the December 18, 2014 Order, 180 days having elapsed since the entry of such Order, this Honorable Court should dissolve it.

Accordingly, for the foregoing reasons and those more fully set forth in the Memorandum attached hereto and incorporated herein by reference, Respondent respectfully requests that this Honorable Court grant her Motion to Dissolve the December 18, 2014 Order (App. 1) which issued an interim remedial suspension from her position as an elected Municipal Court Judge of the Cleveland Municipal Court.

* * *

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Respectfully submitted,

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MEMORANDUM IN SUPPORT OF MOTION TO DISSOLVE THE INTERIM REMEDIAL SUSPENSION ORDER OF DECEMBER 18, 2014

I. INTRODUCTION

On November 4, 2014, Relator Disciplinary Counsel filed Relator's Motion for an Immediate Interim Remedial Suspension Under Gov. Bar R. V(5A).[1] (Hereinafter "Relator's Motion") At that point in time, a disciplinary Complaint had been filed by Relator Disciplinary Counsel on October 14, 2013 and the First Amended Complaint had been filed on April 24, 2014, in Case No. 2013-057 pending before the Board of Professional Conduct. (Hereinafter "The Board")

Also, on March 26, 2014 Judge Stokes filed an original action in this Court against Judge Ronald B. Adrine, Administrative and Presiding Judge of the Cleveland Municipal Court in Case No. 14-0567 arising from his issuance of Administrative Orders on March 14, 2014 which essentially removed her from her duties as a Judge of the Cleveland Municipal Court in connection with her criminal docket.[2]

While the original action seeking the extraordinary remedies of *Quo Warranto*, Mandamus and Prohibition were pending before this Honorable Court, motion practice and discovery ensued in connection with the disciplinary matter pending before The Board.

It was not until November 4, 2014 that Relator chose to file its Motion for an Immediate Interim Remedial Suspension (over one year after he filed the disciplinary Complaint) supported largely by the affidavit of Judge Adrine. Prior to this affidavit,

[1] As of November 4, 2014 the amendment of Rule V had not yet gone into effect. On January 1, 2015 this rule became Gov. Bar R. (19).

[2] Certain of these Orders were amended on March 21, 2014 by *Nunc Pro Tunc* entries simply changing the citation to allegedly pertinent rules.

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Judge Adrine had supplied an affidavit in support of Relator's Motion for Psychiatric Examination of Respondent Pursuant to Gov. Bar R. V(7)(C),[3] filed on January 7, 2014, a remedy also sought in Relator's previously filed Complaint. Attached to this motion was also an affidavit of Judge Adrine. This motion was denied on February 28, 2014.

Despite Judge Stokes having been removed from her criminal docket at all times after the filing of the First Amended Complaint in the disciplinary action until the filing of the Motion for Immediate Interim Remedial Suspension, such motion was filed to allegedly address Judge Stokes' misconduct which "has caused serious public harm and poses a substantial additional and continuing threat of serious harm to the public in the administration of justice."[4] This assertion was made by Relator even though Judge Adrine in his affidavit attached to Relator's Motion indicated at para. 32 that no further complaints "had been levied against Judge Stokes' [sic] arising from the disposition of her civil case load except one incident in which it was reported that she sought to have a civil litigant evaluated by the Court's Psychiatric Clinic." Along these same lines, para. 33 of Judge Adrine's affidavit indicated that "managers of all Court departments have reported to me that morale and productivity have increased since the removal of Judge Stokes from criminal case responsibilities." Thus, Judge Adrine's affidavit did not support Relator's claim of a "continuing threat of serious harm to the public..." at all.

II. STATEMENT OF PERTINENT FACTS

A comparison between the First Amended Complaint (the most recent disciplinary Complaint) pending in the disciplinary matter (Ex. 5 to Relator's Motion) and the assertions made in Relator's Motion demonstrate unequivocally that Relator has

[3] This rule is now Gov. Bar R. V(15). (App. 3)
[4] See, Relator's Motion for Immediate Interim Remedial Suspension Under Gov. Bar R. V(5A), p. 1.

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failed to file a Complaint "predicated on the conduct that was the basis of the Order."[5] It must be presumed from the language of the December 18, 2014 Order (App. 1) imposing the interim suspension that it was based upon not only the matters asserted in the First Amended Complaint but also the additional matters raised by Judge Adrine in his affidavit attached to Relator's Motion.

Relator's Motion presented this Honorable Court, as a basis to suspend Judge Stokes, "Specific examples of Misconduct" mostly based upon the affidavit of Judge Adrine and references to certain allegations made in the First Amended Complaint. (Relator's Motion at 4-8) A review of the bases asserted demonstrates that of the 19 specific examples of misconduct cited on pp. 4-8 of Relator's Brief, only 12 were referenced in the First Amended Complaint. After this Motion was filed, the record demonstrates that no Second Amended Complaint has been filed. Thus, 7 of the 19 specific examples of misconduct brought to the attention of this Court, presumably forming the basis for this Court's Order, have not become the subject of a formal complaint before the Board of Commissioners predicated on such conduct.

Indeed, with reference to the first 5 bullet points on p. 5 of Relator's Motion, Judge Adrine in both deposition testimony and trial testimony in connection with the pending disciplinary matter has agreed that they do not constitute misconduct. Notwithstanding this testimony, the predicate to the bullet points raised by Relator in his Section "2, Specific Example of Misconduct," indicates that "the following are just some examples of Respondent's misconduct." Although characterized by Judge Adrine as the "impact her action had on those who were required to participate in her irregular

[5] Language from Gov. Bar. R. V(19)(C)(2). (App. 2)

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processes," Disciplinary Counsel chose to characterize the same examples as misconduct.

Thereafter, bullet point 1 addresses a series of hearings involving Mr. Philhower. When questioned about the 19 separate occasions Mr. Philhower was allegedly "required" to appear in Court, Judge Adrine had to acknowledge that on a number of those occasions it was Mr. Philhower's counsel who requested new court dates. (Hearing Tr., pp. 534-535)[6] Indeed, Judge Adrine was forced to acknowledge that Judge Stokes appeared to be within her discretion in connection with the 19 appearances. (Hearing Tr., p. 363) Having gone through the detail with Respondent's counsel at the formal hearing, Judge Adrine admitted that he probably shouldn't have included the Philhower case in his affidavit. (Hearing Tr., pp. 567-68)

Bullet point 2 on p. 5 of Relator's brief referenced para. 30(d) of Judge Adrine's affidavit involving Michelle Nestor. Judge Adrine suggested that Ms. Nestor was almost terminated from her nursing program because of multiple 8-hour courtroom appearances she was required to attend. Yet, Judge Adrine was forced to admit at the formal hearing that her lawyer did not assert such fact at all. (Hearing Tr., p. 385) Instead, Judge Adrine was required to admit that Ms. Nestor's lawyer, although seeking driving privileges, did not have proper documentation. (Hearing Tr., pp. 597-98, 610-12) Finally, when pressed, Judge Adrine was not aware of any time that Ms. Nestor spent 8 hours in Judge Stokes' courtroom. (Hearing Tr., p. 614)

[6] Hereinafter, references to pages in the Hearing Transcript of the formal hearing before the Board of Professional Conduct in Case No. 2013-057 shall be cited as "Hearing Tr. p. _____" Copies of the pages cited are reproduced in Respondent's Supplement to Respondent's Motion to Dissolve the Interim Remedial Suspension Order of December 18, 2014.

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In bullet point 3, involving Ariel Reidenbach, although Judge Adrine had asserted in para. 30(b) of his affidavit that alcohol was not implicated in the offense, he admitted at the formal hearing that Judge Stokes had reason to require her to undergo urinalysis since her drug dependence was involved in the petty theft charge Judge Stokes was hearing. As with the Philhower matter, ultimately Judge Adrine agreed had he known all the details he would not have included that case in his affidavit. (Hearing Tr., pp. 582-84)

Bullet point 4 corresponds with para. 30(c), the Isabel Bucsanyi matter. In para. 30(c), Judge Adrine criticized Judge Stokes for ordering that Isabel Bucsanyi undergo grief counseling. Yet, at the formal hearing of this matter he agreed that no one objected to Judge Stokes' suggestion that she undergo grief counseling (Hearing Tr., pp. 588-91) and he was aware of no law that supported any argument that such sentence was inappropriate. (Hearing Tr., pp. 591-92)

In bullet point 5, corresponding to Adrine Affidavit para. 30(e), Relator criticizes Judge Stokes for requiring a defendant, Matthew Lewandowski, to undergo a psychiatric evaluation, serve 44 days in jail and undergo intensive outpatient treatment after being convicted on charges for not having a drivers' license and failing to stop after an accident. Yet, when details of what occurred in open Court were made known to Judge Adrine, including defendant's own lawyer acknowledging a mental health history and that he could understand why the Court would order an evaluation at that time, even Judge Adrine ultimately admitted that Judge Stokes was justified in ordering the psychiatric evaluation. (Hearing Tr., pp. 631-34)

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Though not mentioned by Relator in this section of his brief, listed in para. 30(f) by Judge Adrine in his affidavit, criticism is leveled at Judge Stokes because she referred a defendant in a civil matter to the Psychiatric Clinic for evaluation in the Donells Davis matter. When presented the details, Judge Adrine had to acknowledge that the Court Psychiatric Clinic employee, Rita Haynes reported that Mr. Davis had indicated that he was schizophrenic. No formal evaluation ever occurred. Agreeing this was a difficult situation, Judge Adrine conceded it was not inappropriate for Judge Stokes to have Ms. Haynes preliminarily interview Mr. Davis. (Hearing Tr., p. 408) Indeed, Mr. Davis was never held, committed or transported.

As is evident from the preceding specific references, and as Judge Adrine candidly admitted during the formal hearing in reference to the Affidavit attached to Relator's Motion, it contained inaccuracies. (Hearing Tr., pp. 780-81) Perhaps this affidavit is so inaccurate in respect to specific instances, because Judge Adrine attempted to accommodate Relator's request that he provide 6 new instances of alleged misconduct. (Hearing Tr., pp. 811-12)

Further, the June 25, 2013 incident referenced on page 6 of Relator's Brief and the Tabitha Toon matter also referenced on page 6 of Relator's Brief are not the subject of the formal complaint pending in the discipline matter.

III. LAW AND ARGUMENT

A. Because a formal complaint predicated on the conduct which formed the basis for the Interim Remedial Suspension Order of December 18, 2014 has not been filed, such Order should be dissolved forthwith.

In this regard, Gov. Bar R. V(19) provides in pertinent part:

> (C)(2) in addition to the motion allowed by division(C)(1) of this section [a motion to modify with or without leave], the respondent may file a motion

> requesting dissolution of the interim remedial suspension order, alleging that one hundred eighty days have elapsed since the entry of the order and the relator has failed to file with the Board a formal complaint predicated on the conduct that was the basis of the order. (App. 2)

Since 180 days have elapsed since the issuance of the December 18, 2014 Interim Remedial Suspension Order, such Order should be dissolved if Relator has failed to amend the then existing First Amended Complaint to include the matters asserted as specific incidents and which are not alleged in the First Amended Complaint.

As is demonstrated above in Section II, Statement of Pertinent Facts, 7 of the 19 specific incidents set forth in Relator's Motion, 5 of which having been addressed by Judge Adrine in his affidavit attached to Relator's Motion, have not become the subject of a complaint before the Board of Professional Conduct. As such, and pursuant to Gov. Bar R. V(5A), the December 18, 2014 Interim Remedial Suspension Order should be dissolved.

Indeed, Relator's counsel, Mr. Caligiuri admitted in the discipline proceeding that "[t]he Philhower allegation [Para. 30(a), Adrine affidavit] is not part of the Complaint, neither are any of the other cases in the affidavit." (Hearing Tr. p. 549)

So, as of April 13, 2015, the day Mr. Caligiuri made that assertion on the record, it is beyond cavil that Relator has failed to amend the Complaint to assert cases cited by Judge Adrine in his affidavit and on which this Court relied in issuing the Interim Remedial Suspension Order.

IV. CONCLUSION

Accordingly, for the foregoing reasons, because 180 days have elapsed since the December 18, 2014 imposition of the interim remedial suspension and because Relator has failed to amend the then pending First Amended Complaint to include the

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grounds asserted in connection with his Motion for Interim Remedial Suspension, Respondent's instant motion should be granted.

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APPENDIX 1

The Supreme Court of Ohio

FILED
DEC 18 2014
CLERK OF COURT
SUPREME COURT OF OHIO

Disciplinary Counsel,
Relator,
v.
Angela Rochelle Stokes,
Respondent.

Case No. 2014-1905

ORDER

DEC 22 RECD
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On November 4, 2014, and pursuant to Gov.Bar R. V(5a)(A)(1)(b), relator, disciplinary counsel, filed with this court a motion for immediate interim remedial suspension pursuant to Gov.Bar R. V(5a), alleging that respondent, Angela Rochelle Stokes, has engaged in conduct that violates the Ohio Rules of Professional Conduct, the Ohio Code of Professional Responsibility, and the Ohio Code of Judicial Conduct and poses a substantial threat of serious harm to the public and the administration of justice. Respondent filed a response, and this matter was considered by the court.

Upon consideration thereof and pursuant to Gov.Bar R. V(5a)(B), it is ordered and decreed that an interim remedial suspension is immediately entered against Angela Rochelle Stokes, Attorney Registration No. 00025650, last known business address in Cleveland, Ohio, and that the suspension be effective as of the date of this entry, pending final disposition of disciplinary proceedings predicated on the conduct threatening the serious harm. It is further ordered that the underlying disciplinary case in this matter is to proceed expeditiously.

It is further ordered that respondent immediately cease and desist from the practice of law in any form and that respondent is hereby forbidden to appear on behalf of another before any court, judge, commission, board, administrative agency, or other public authority.

It is further ordered that effective immediately, respondent is forbidden to counsel, advise, or prepare legal instruments for others or in any manner perform legal services for others.

It is further ordered that respondent is hereby divested of each, any, and all of the rights, privileges, and prerogatives customarily accorded to a member in good standing of the legal profession of Ohio.

It is further ordered that pursuant to Gov.Jud.R. III(7)(A), respondent is immediately suspended from judicial office without pay for the term of the suspension, pending further proceedings pursuant to law.

It is further ordered that before entering into an employment, contractual, or consulting relationship with any attorney or law firm, respondent shall verify that the attorney or law firm has complied with the registration requirements of Gov.Bar R. V(8)(G)(3). If employed pursuant to Gov.Bar R. V(8)(G), respondent shall refrain from direct client contact except as provided in Gov.Bar R. V(8)(G)(1) and from receiving, disbursing, or otherwise handling any client trust funds or property.

It is further ordered that pursuant to Gov.Bar R. X(13), respondent shall complete one credit hour of continuing legal education for each month, or portion of a month, of the suspension. As part of the total credit hours of continuing legal education required by Gov.Bar R. X(13), respondent shall complete one credit hour of instruction related to professional conduct required by Gov.Bar R. X(3)(B) for each six months, or portion of six months, of the suspension.

It is further ordered that respondent shall not be reinstated to the practice of law in Ohio until (1) respondent complies with the requirements for reinstatement set forth in the Supreme Court Rules for the Government of the Bar of Ohio, (2) respondent complies with this and all other orders issued by this court, (3) respondent complies with the Supreme Court Rules for the Government of the Bar of Ohio, and (4) this court orders respondent reinstated.

It is further ordered by the court that within 90 days of the date of this order, respondent shall reimburse any amounts that have been awarded by the Clients' Security Fund pursuant to Gov.Bar R. VIII(7)(F). It is further ordered by the court that if after the date of this order the Clients' Security Fund awards any amount against respondent pursuant to Gov.Bar R. VIII(7)(F), respondent shall reimburse that amount to the Clients' Security Fund within 90 days of the notice of that award.

It is further ordered that on or before 30 days from the date of this order, respondent shall do the following:

1. Notify all clients being represented in pending matters and any co-counsel of respondent's suspension and consequent disqualification to act as an attorney after the effective date of this order and, in the absence of co-counsel, also notify the clients to seek legal service elsewhere, calling attention to any urgency in seeking the substitution of another attorney in respondent's place;

2. Regardless of any fees or expenses due, deliver to all clients being represented in pending matters any papers or other property pertaining to the client or notify the clients or co-counsel, if any, of a suitable time and place where the papers or other property may be obtained, calling attention to any urgency for obtaining such papers or other property;

3. Refund any part of any fees or expenses paid in advance that are unearned or not paid and account for any trust money or property in his possession or control;

4. Notify opposing counsel or, in the absence of counsel, the adverse parties in pending litigation of his disqualification to act as an attorney after the effective date of this order and file a notice of disqualification of respondent with the court or agency before which the litigation is pending for inclusion in the respective file or files;

5. Send all notices required by this order by certified mail with a return address where communications may thereafter be directed to respondent;

6. File with the clerk of this court and disciplinary counsel of the Supreme Court an affidavit showing compliance with this order, showing proof of service of the notices required herein, and setting forth the address where respondent may receive communications; and

7. Retain and maintain a record of the various steps taken by respondent pursuant to this order.

It is further ordered that respondent shall keep the clerk and disciplinary counsel advised of any change of address where respondent may receive communications.

It is further ordered that all documents filed with this court in this case shall meet the filing requirements set forth in the Rules of Practice of the Supreme Court of Ohio, including requirements as to form, number, and timeliness of filings. All case documents are subject to Sup.R. 44 through 47, which govern access to court records.

It is further ordered that service shall be deemed made on respondent by sending this order, and all other orders in this case, by certified mail to the most recent address respondent has given to the Office of Attorney Services.

It is further ordered that the clerk of this court issue certified copies of this order as provided for in Gov.Bar R. V(8)(D)(1), that publication be made as provided for in Gov.Bar R. V(8)(D)(2), and that respondent bear the costs of publication.

I HEREBY CERTIFY that this document is a true and accurate copy of the entry of the Supreme Court of Ohio filed December 18, 2014 in Supreme Court case number 2014-1905

In witness whereof I have hereunto subscribed my name and affixed the seal of the Supreme Court of Ohio on this 18th day of December 2014

CLERK OF COURT

by Doris L. Rake, Deputy

Maureen O'Connor
Chief Justice

The Official Case Announcement can be found at http://www/supremecourt.ohio/gov/ROD/docs/

APPENDIX 2

Section 19. Interim Remedial Suspension.

(A)(1) Motion; Response. Upon receipt of substantial, credible evidence demonstrating that a judicial officer or attorney has committed a violation of the Code of Judicial Conduct or Ohio Rules of Professional Conduct and poses a substantial threat of serious harm to the public, the Office of Disciplinary Counsel or appropriate certified grievance committee shall do both of the following:

(a) Prior to filing a motion for an interim remedial suspension, make a reasonable attempt to provide the judicial officer or attorney with notice, which may include notice by telephone, that a motion requesting an order for an interim remedial suspension will be filed with the Supreme Court.

(b) File a motion with the Supreme Court requesting that the Court order an interim remedial suspension. The Office of Disciplinary Counsel or appropriate certified grievance committee shall include, in its motion, proposed findings of fact, proposed conclusions of law, and other information in support of the requested order. Evidence relevant to the requested order shall be attached to or filed with the motion. The motion may include a request for an immediate, interim remedial suspension pursuant to the Rules of Practice of the Supreme Court of Ohio. The motion shall include a certificate detailing the attempts made by the relator to provide advance notice to the respondent of the relator's intent to file the motion. The motion also shall include a certificate of service on the respondent at the most recent address provided by the respondent to the Office of Attorney Services and at the last address of the respondent known to the relator, if different.

(2) After the filing of a motion for an interim remedial suspension, the respondent may file a memorandum opposing the motion in accordance with the Rules of Practice of the Supreme Court of Ohio. The respondent shall attach to or file with the memorandum any rebuttal evidence.

(B) Order. Upon consideration of the motion and any memorandum opposing the motion, the Supreme Court may enter an interim remedial order immediately suspending the respondent, pending final disposition of disciplinary proceedings predicated on the conduct threatening the serious harm or may order other action as the Court considers appropriate. If requested by the relator, the Supreme Court may order an immediate interim remedial suspension, prior to receipt of a memorandum opposing the relator's motion, pursuant to the Rules of Practice of the Supreme Court of Ohio. If an order is entered pursuant to this division, an attorney may be appointed pursuant to Section 26 of this rule to protect the interest of the suspended attorney's clients.

(C)(1) Motion for Dissolution or Modification of the Suspension. The respondent may request dissolution or modification of the order of suspension by filing a motion with the Supreme Court. The motion shall be filed within thirty days of entry of the order imposing the suspension, unless the respondent first obtains leave of the Supreme Court to file a motion beyond that time. The motion shall include a statement and all available evidence as to why the

respondent no longer poses a substantial threat of serious harm to the public. A copy of the motion shall be served by the respondent on the relator. The relator shall have ten days from the date the motion is filed to file a response to the motion. The Supreme Court promptly shall review the motion after a response has been filed or after the time for filing a response has passed.

(2) In addition to the motion allowed by division (C)(1) of this section, the respondent may file a motion requesting dissolution of the interim remedial suspension order, alleging that one hundred eighty days have elapsed since the entry of the order and the relator has failed to file with the Board a formal complaint predicated on the conduct that was the basis of the order. A copy of the motion shall be served by the respondent on the relator. The relator shall have ten days from the date the motion is filed to file a response to the motion. The Supreme Court promptly shall review the motion after a response has been filed or after the time for filing a response has passed.

(D) Procedure. The Rules of Practice of the Supreme Court of Ohio shall apply to interim remedial suspension proceedings filed pursuant to this section.

(E) Duty of Clerk on Entering Order. Upon the entry of an order suspending or reinstating the respondent pursuant to this section, the clerk of the Supreme Court shall mail certified copies of the order as provided in Section 17 of this rule.

Section 20. Reciprocal Discipline.

(A) Notification of Disciplinary Action. Within thirty days of the issuance of a disciplinary order in another jurisdiction, an attorney admitted to the practice of law in Ohio shall provide written notification to the Office of Disciplinary Counsel and the clerk of the Supreme Court of the action. Upon receiving notice from the attorney or another party that an attorney admitted to the practice of law in Ohio has been subjected to discipline in another jurisdiction, the Office of Disciplinary Counsel shall obtain a certified copy of the disciplinary order and file the copy with the clerk of the Supreme Court.

(B)(1) Show Cause Order. Upon receipt of a certified copy of an order demonstrating that an attorney admitted to the practice of law in Ohio has been subjected to discipline in another jurisdiction, the Supreme Court shall issue a notice directed to the attorney containing both of the following:

(a) A copy of the order from the other jurisdiction;

(b) An order directing that the attorney notify the Supreme Court, within twenty days from the service of notice, of any claim by the attorney predicated upon the grounds set forth in division (C)(1) of this section that the imposition of the identical or comparable discipline in Ohio would be unwarranted and the reasons for that claim.

APPENDIX 3

the Board shall file a final certified report in accordance with Section 12(K) of this rule finding one of the following:

(i) That the relator has failed to establish the allegations of the complaint by clear and convincing evidence and recommending that the complaint be dismissed and that the Court enter an order terminating the interim default judgment suspension;

(ii) That there is clear and convincing evidence to establish that respondent is guilty of misconduct and recommending the respondent be indefinitely suspended from the practice of law, subject to reinstatement as provided in Section 25 of this rule;

(iii) That there is clear and convincing evidence to establish that respondent is guilty of misconduct and recommending the respondent be disbarred.

(b) If the Supreme Court grants a motion for leave to answer and remands the matter to the Board pursuant to division (C) of this section, the chair of the Board shall set aside a default entry and order a panel hearing at any time before the report and recommendation of the Board are certified to the Supreme Court.

(G) Duty of Relator. The relator shall have a continuing duty to preserve evidence necessary to establish the misconduct alleged in the complaint filed with the Board.

Section 15. Impairment Suspension; Termination of Suspension.

(A) Suspension Based on Adjudication of Mental Illness.

(1) After an answer has been filed or the time for filing an answer has elapsed, the Board forthwith shall certify a complaint to the Supreme Court if the complaint, answer, or other subsequent pleading alleges mental illness that substantially impairs the ability of the respondent to practice law and is supported by a certified copy of a journal entry of a court of competent jurisdiction adjudicating mental illness.

(2) Upon receipt of a certified complaint pursuant to division (A)(1) of this section, the Supreme Court may suspend the respondent from the practice of law.

(B) Suspension Based on Order of Treatment for Alcohol and Other Drug Abuse.

(1) After an answer has been filed or the time for filing an answer has elapsed, the Board forthwith shall certify a complaint to the Supreme Court if the complaint, answer, or subsequent pleading alleges the existence of alcohol or other drug abuse that substantially impairs the ability of the respondent to practice law and is supported by a certified copy of a journal entry of a court of competent jurisdiction issued pursuant to R.C. 5119.93.

(2) Upon receipt of a certified complaint pursuant to division (B)(1) of this section, the Supreme Court may suspend the respondent from the practice of law.

(C) Impairment Suspension Based on Examination and Finding.

(1) The Board or hearing panel, on its own motion or motion of either party, may order a medical, psychological, or psychiatric examination of the respondent if any of the following applies:

(a) The complaint, answer, or any subsequent pleading alleges an existing mental illness, alcohol and other drug abuse, or disorder that substantially impairs the ability of the respondent to practice law but is unsupported by a journal entry of a court of competent jurisdiction;

(b) Mental illness, alcohol and other drug abuse, or disorder that substantially impairs the ability of the respondent to practice law otherwise is placed in issue.

(2) The medical, psychological, or psychiatric examination of respondent shall be conducted by one or more physicians or psychologists designated by the Board or hearing panel. The findings of the physician or psychologist shall be presented to the Board or hearing panel as evidence and made available to both parties. The parties shall have an opportunity to file objections to the findings, and the hearing panel may conduct a hearing on the objections. After a hearing or if no objections are filed, the hearing panel shall prepare and submit a report and recommendation with the Board. The report may include a recommendation that the respondent be placed on an impairment suspension.

(3) If, after reviewing the report of the hearing panel, the Board concludes the record establishes that the respondent suffers from mental illness, alcohol and other drug abuse, or a disorder that substantially impairs the ability of the respondent to practice law, the Board shall prepare and certify a report and the record of the proceedings to the Supreme Court. The Board report shall be a matter of public record and shall be docketed by the clerk, but the report shall not be published or posted on the Supreme Court's web site. The Supreme Court may suspend the respondent from the practice of law and order the respondent's registration status changed to inactive. If the Court orders a impairment suspension under this section, further proceedings before the Board on any misconduct alleged in the formal complaint shall be stayed until such time as the respondent applies to the Board to have the impairment suspension terminated and a hearing panel determines that the application should be granted.

(D) Duty of Clerk on Entering Order. Upon the entry of a suspension order under this section, the clerk of the Supreme Court shall mail certified copies of the order as provided in Section 17 of this rule. A copy of the order shall be provided to the Office of Attorney Services, and that office shall change the registration of respondent to inactive status. The order shall be a matter of public record and shall be docketed by the clerk, but the order shall not be published or posted on the Supreme Court's web site.

(E) Termination. A suspension under this section may be terminated on application of the respondent to the Board and a showing of removal of the cause for the suspension. The director of the Board shall assign the application to a hearing panel. If the hearing panel finds by clear and convincing evidence that the suspension should be terminated and if the adjudication of a complaint alleging misconduct has been stayed as a result of the imposition of the suspension, the hearing panel shall conduct proceedings on the complaint in accordance with in Section 12 of this rule. The hearing panel shall prepare a written report of its findings and a recommendation with regard to the termination of the suspension and the disposition of any misconduct alleged in the formal complaint, including a recommended sanction for the misconduct that is found. The report of the hearing panel shall be submitted to the Board, and the report of the Board and the record of the proceedings shall be certified to the Supreme Court.

Section 16. Consent to Discipline.

(A) Content of Agreement. The relator and respondent may enter into a written agreement wherein the respondent admits to alleged misconduct and the relator and respondent agree upon a sanction, other than an indefinite suspension or disbarment, to be imposed for that misconduct. The written agreement may be entered into after a complaint is certified by the Board, but no later than sixty days after appointment of a hearing panel. For good cause shown, the chair of the hearing panel or the Board chair may extend the time for the parties to file a written agreement by an additional thirty days. The written agreement shall be signed by the respondent, respondent's counsel, if the respondent is represented by counsel, and relator, and shall include all of the following:

(1) An admission by the respondent, conditioned upon acceptance of the agreement by the Board, that the respondent committed the misconduct listed in the agreement;

(2) The sanction agreed upon by the relator and respondent for the misconduct admitted by the respondent and any case law that supports the agreed sanction;

(3) Any aggravating and mitigating factors, including but not limited to those listed in Section 13, that are applicable to the misconduct and agreed sanction;

(4) An affidavit of the respondent that includes all of the following statements:

(a) That the respondent admits to having committed the misconduct listed in the agreement, that grounds exist for imposition of a sanction against the respondent for the misconduct, and that the agreement sets forth all grounds for discipline currently pending before the Board;

(b) That the respondent admits to the truth of the material facts relevant to the misconduct listed in the agreement;

(c) That the respondent agrees to the sanction to be recommended to the Board;

CERTIFICATE OF SERVICE

A copy of **RESPONDENT'S MOTION TO DISSOLVE THE INTERIM REMEDIAL SUSPENSION ORDER OF DECEMBER 18, 2014** has been filed via e-filing with the Supreme Court of Ohio and a service copy e-mailed this 10th day of August, 2015 to:

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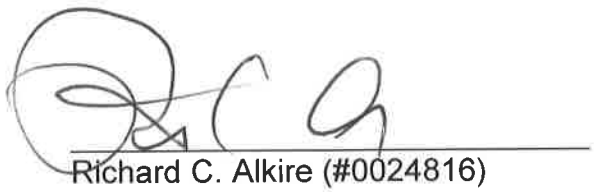

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