

**BEFORE THE BOARD OF PROFESSIONAL CONDUCT
OF THE SUPREME COURT OF OHIO**

In re:

Case No. 2015-071

Complaint against

**Timothy Harman Champion
Attorney Reg. No. 0040254**

Respondent

Disciplinary Counsel

Relator

**Findings of Fact,
Conclusions of Law, and
Recommendation of the
Board of Professional Conduct
of the Supreme Court of Ohio**

OVERVIEW

{¶1} This matter came before a panel consisting of Charles J. Faruki, Roger S. Gates, and Judge Karen Lawson, chair. None of the panel members resides in the district from which the complaint arose.

{¶2} Donald Malarcik, Jr. appeared on behalf of Respondent. Scott Drexel appeared on behalf of Relator.

{¶3} On April 29, 2016, the parties submitted stipulations and a joint motion to waive the hearing in this matter. An amended joint motion to waive the hearing was granted on May 2, 2016. The panel accepts the agreed stipulations and recommends imposition of the proposed sanction of a one-year suspension from the practice of law, stayed in its entirety on the condition that Respondent commit no further misconduct.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶4} Respondent was admitted to the practice of law in state of Ohio on November 7, 1988 and is subject to the Rules for the Government of the Bar of Ohio and the Rules of Professional Conduct.

{¶5} The parties' stipulated facts are incorporated by reference in this report. The stipulations demonstrate that the city of Akron filed a civil action against Respondent for the collection of delinquent municipal income taxes in the amount of \$544.36, plus interests and costs. In response, Respondent repeatedly made false statements claiming that he had paid the taxes and fraudulently submitted a copy of a cancelled check to counsel for the city of Akron purporting to show payment of some of the taxes owed.

{¶6} Following an extensive investigation, Akron's tax department concluded the check submitted by Respondent had been altered. After being confronted with the city's proof of its conclusion, Respondent ultimately acknowledged that he had altered the check he provided to Akron as evidence of his payment of taxes owed. Respondent subsequently provided the city of Akron with a certified check in the full amount of the taxes owed and costs incurred by the city. Although he had agreed to Akron's demand that he self-report his conduct to Relator, Respondent failed to do so, and the city's counsel filed a grievance against Respondent.

{¶7} Having considered the stipulations, the panel finds that Respondent's conduct—submitting to counsel for the city of Akron an altered version of a check that purportedly reflected Respondent's prior payment of income taxes owed to the city—violates Prof. Cond. R. 8.4(c) [conduct involving dishonesty, fraud, deceit, or misrepresentation].

{¶8} The panel further accepts the stipulated dismissal of the alleged violations of Prof. Cond. R. 3.3(a)(1), Prof. Cond. R. 4.1(a), and Prof. Cond. R. 5.3(c). Those alleged violations are dismissed.

AGGRAVATION, MITIGATION, AND SANCTION

{¶9} The panel accepts and finds the stipulated aggravating factor of a dishonest and selfish motive and the stipulated mitigating factors of no prior discipline, full and free disclosure

to the Board, and evidence of good character and reputation.

{¶10} The Supreme Court has observed that “[i]llegal and dishonest conduct on the part of an attorney is always troubling and usually warrants an actual suspension from the practice of law.” *Columbus Bar Assn. v. Stubbs*, 109 Ohio St.3d 446, 2006-Ohio-2818, at ¶11, citing *Disciplinary Counsel v. Fowerbaugh*, 74 Ohio St.3d 187, 191, 1995-Ohio-261. However, the Court has imposed a fully stayed suspension in several cases, including *Stubbs*, due to the presence of mitigating factors.

{¶11} Of the seven cases cited by the parties, only *Medina Cty. Bar Assn. v. Cameron*, 130 Ohio St.3d 299, 2011-Ohio-5200, involves imposition of a sanction identical to that agreed to by the parties in this case. In *Cameron*, the respondent’s dishonest conduct involved misrepresentations to a tribunal [Prof. Cond. R. 3.3(a)(1)] and contact with a person known to be represented by counsel [Prof. Cond. R. 4.2]. The Supreme Court again noted that dishonesty by a lawyer normally merits an actual period of suspension, but referenced the absence of prior discipline in an 18-year career and the limited harm caused by Cameron’s misconduct as a basis for imposing a fully stayed, one-year suspension.

{¶12} The panel finds *Stubbs, supra*, and the case of *Disciplinary Counsel v. Niermeyer*, 119 Ohio St.3d 99, 2008-Ohio-3824 to be instructive. In *Stubbs*, the respondent falsified a document in an attempt to convince the Ohio Bureau of Motor Vehicles that she possessed automobile insurance at the time she was cited for a minor traffic offense. She plead guilty to a misdemeanor falsification charge and was found to have violated the former disciplinary rules comparable to existing Prof. Cond. R. 8.4(b), (c), (d), and (h). In view of mitigating factors, including a mental disability, the Supreme Court imposed a six-month, fully stayed suspension and placed the respondent on probation for a period of one year.

{¶13} In *Niermeyer*, the respondent neglected a legal matter and missed a deadline to refile a worker's compensation claim on behalf of a client. In an effort to rectify his error, Niermeyer used a date stamp that appeared on a document filed in an unrelated matter to fabricate a new, purportedly timely filed document and submitted that document to the Bureau of Workers' Compensation. Niermeyer was found to have violated disciplinary rules comparable to existing Prof. Cond. R. 3.3(a)(3) and 8.4(c). Again citing the presence of mitigating factors, many of which are present in this case, the Court imposed a one-year stayed suspension.

{¶14} The panel finds the jointly recommended sanction is appropriate based on existing case law and the facts of this case. The panel recommends that Respondent receive a one-year suspension from the practice of law, fully stayed on the condition that Respondent commit no further misconduct.

BOARD RECOMMENDATION

Pursuant to Gov. Bar R. V, Section 12, the Board of Professional Conduct of the Supreme Court of Ohio considered this matter on June 3, 2016. The Board adopted the findings of fact, conclusions of law, and recommendation of the panel and recommends that Respondent, Timothy Harman Champion, be suspended from the practice of law in Ohio for one year, with the suspension stayed in its entirety on the condition that he commit no further misconduct and ordered to pay the costs of these proceedings.

Pursuant to the order of the Board of Professional Conduct 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, Director