

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

In re:

Case No. 2015-029

Complaint against

**Joan M. Crosser
Attorney Reg. No. 0061345**

Respondent

Toledo Bar Association

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 was heard on April 12, 2016 in Columbus before a panel consisting of Jeff M. Davis, Sanford E. Watson, and William J. Novak, chair. None of the panel members resides in the district from which the complaint arose or served as a member of the probable cause panel that reviewed the complaint pursuant to Gov. Bar R. V, Section 11.

{¶2} Respondent was present at the hearing and was represented by Daniel H. Grna. Michael Bonfiglio, Laurie Avery, and J. Randall Engwert appeared on behalf of Relator.

{¶3} Respondent's misconduct can be summarized as accepting a \$1,500 retainer to file a post-divorce custody motion. Respondent failed to file the motion and on numerous occasions misrepresented to the client that she did. Based on the parties' stipulations and evidence presented at the hearing, the panel recommends imposition of a one-year suspension, stayed on the condition of no further misconduct.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶4} Respondent was admitted to the practice of law in the state of Ohio on May 17, 1993 and is subject to the Rules of Professional Conduct and the Rules for the Government of the Bar of Ohio.

{¶5} Evidence was presented by way of stipulations, exhibits, reference letters, and testimony of Respondent. The panel unanimously accepts the stipulations and reference letters. All exhibits were admitted into evidence, except the deposition of Respondent and the transcript of the show cause hearing.

{¶6} Respondent stipulated to the following rule violations as charged in the complaint:

- Prof. Cond. R. 1.3[diligence];
- Prof. Cond. R. 1.4(a)(3) [a lawyer shall keep the client reasonably informed about the status of the matter];
- Prof. Cond. R. 1.16(d) [a lawyer shall promptly deliver clients papers and property to a client after termination of the attorney – client relationship]; and
- Prof. Cond. R. 8.4(c) [conduct involving dishonesty, fraud, deceit, or misrepresentation].

{¶7} The panel adopts in its entirety the agreed stipulations of fact and finds that the violations meet the standards of clear and convincing evidence.

{¶8} Relator's motion to dismiss Counts Three, Four, and Five of the complaint was granted. By separate entry dated April 12, 2016, the hearing panel unanimously dismissed the alleged violations of Prof. Cond. R. 1.16(e), Prof. Cond. R. 1.15(c), and Prof. Cond. R. 1.5(a).

MITIGATION, AGGRAVATION, AND SANCTION

{¶9} The panel finds that there are no aggravating factors as specified in Gov. Bar R. V, Section 13(B), and there was no evidence that the client was harmed.

{¶10} The parties stipulated to and the panel finds the following mitigating factors: no previous discipline and a full refund of the retainer. Respondent's testimony also established an absence of a dishonest or selfish motive; full and free disclosure and cooperative attitude during the investigation; otherwise good character and reputation within the legal community; and acknowledgment and acceptance of responsibility for her actions.

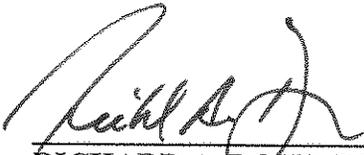
{¶11} While Respondent has had an otherwise unblemished record as an attorney and may have been functioning under duress, her conduct in making multiple misrepresentations to her client must result in the imposition of a sanction. Attention is directed to the matter of *Disciplinary Counsel v. Fumich*, 116 Ohio St.3d 257, 2007-Ohio-6040, where Fumich made misrepresentations to his clients regarding the status of their case. The case was dismissed yet Fumich told the clients that the matter was settled. Fumich paid the so-called settlement out of his own funds. In addition, Fumich did not deliver the clients' documents upon request. He received a sanction of one-year suspension, all stayed on violations of DR 1-102(A)(6) [now Prof. Cond. R. 8.4(c)], DR 6-101(A)(3) [now Prof. Cond. R. 8.4(h)], DR 9-102(A) [now Prof. Cond. R. 1.15(c)], and DR 9-102(B)(4) [now Prof. Cond. R. 1.15(d)].

{¶12} Respondent, like Fumich made misrepresentations to the client. Respondent testified that she was embarrassed over her failure to file her client's motion. Respondent stated that this embarrassment caused her to make the false representations to the client. Hearing Tr. 46, 66-67. Respondent is an otherwise very competent lawyer. Notwithstanding, her multiple misrepresentations must result in a one-year suspension, all stayed, with no further violations and to which she agreed at the hearing.

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, Joan M. Crosser, be suspended from the practice of law in Ohio for one year, with the suspension stayed in its entirety on the condition that she 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