

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

In re:

Case No. 2015-075

Complaint against

**Steven Powell Schnittke
Attorney Reg. No. 0025537**

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 William H. Douglass, Lawrence A. Sutter III, and Judge Pamela A. Barker, 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 represented by Christopher Weber and Jason Beehler. Audrey Varwig appeared on behalf of Relator.

{¶3} On April 1, 2016, the parties filed agreed stipulations that included stipulated facts and violations, stipulated mitigation, stipulated aggravating factors, and a recommended sanction, and a joint motion to waive evidentiary hearing.

{¶4} The panel reviewed the agreed stipulations and required certain revisions, which were incorporated into agreed stipulations filed on May 13, 2016. The panel granted the joint motion to waive evidentiary hearing.

{¶5} Based upon the parties' stipulations the panel finds, by clear and convincing evidence, that Respondent engaged in professional misconduct, as described below. Upon

consideration of the applicable aggravating and mitigating factors and case law, the panel recommends that Respondent be publicly reprimanded.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶6} Respondent was admitted to the practice of law in the state of Ohio on November 7, 1975 and is subject to the Rules of Professional Conduct and the Rules for the Government of the Bar of Ohio.

{¶7} The parties agreed stipulations are incorporated herein. The stipulations of fact relate to Respondent's representation of three clients who were appealing their criminal convictions. In each instance, Respondent was serving as court-appointed counsel.

{¶8} The panel finds, by clear and convincing evidence, that as to the *Barnett* matter [Count One], Respondent violated 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. 1.4(a)(4) [a lawyer shall comply as soon as practicable with requests for information from the client]; and Prof. Cond. R. 8.4(d) [conduct that is prejudicial to the administration of justice]. The panel finds, by clear and convincing evidence, that as to the *Scott* matter [Count Two], Respondent violated Prof. Cond. R. 1.3; and Prof. Cond. R. 1.4(a)(3). The panel finds, by clear and convincing evidence, that as to the *Blagg* matter [Count Three], Respondent violated DR 6-101(A)(3) [neglecting a legal matter entrusted to him].

MITIGATION, AGGRAVATION, AND SANCTION

{¶9} The parties stipulated to the following mitigating factors: (1) no prior discipline; (2) absence of a dishonest or selfish motive; (3) full and free disclosure and a cooperative attitude toward the proceedings; (4) no monetary benefit to Respondent as a result of his misconduct; (5) good character and reputation; and (6) acknowledgment of the wrongfulness of his misconduct.

{¶10} The parties stipulated to the following aggravating factors: (1) a pattern of misconduct; (2) multiple offenses; and (3) vulnerability and resulting harm to the victims of misconduct.

{¶11} The panel considered the rule violations, the stipulated mitigation, and stipulated aggravating factors. Although the parties agreed and stipulated to a recommended sanction of a fully stayed six-month suspension, the panel finds that a public reprimand is the more appropriate sanction. This finding is based on the case law cited and discussed below, as applied to the facts of this case, specifically that Respondent practiced for almost 45 years without a disciplinary record, he had no dishonest or selfish motive, he acknowledged his misconduct, he obtained no monetary benefit from his misconduct, he provided full and free disclosure of his actions, he displayed a cooperative attitude in the proceedings, and he has a good character and reputation.

{¶12} In *Cleveland Metro. Bar Assn. v. Sweeney*, 2016-Ohio-469, the Court found that a public reprimand, rather than a stayed six-month suspension, was warranted for lawyer who neglected client matter, failed to communicate with client, failed to effectuate his withdrawal from representation with minimal adverse effects on clients, and failed to take reasonable steps to protect his clients' interests when terminating attorney-client relationship. Mitigating factors included no prior disciplinary record, cooperative attitude, and good character and reputation. Aggravating factors included multiple offenses that caused harm to multiple, vulnerable victims. Prof. Cond. R. 1.3, Prof. Cond. R. 1.4(a), Prof. Cond. R. 1.16(b)(1), (d); Gov. Bar R. V, Section 13(C)(1, 4, 5).

{¶13} In *Akron Bar Assn. v. Freedman*, 128 Ohio St.3d 497, 2011-Ohio-1959, the Court found that a public reprimand was appropriate for an attorney who failed to timely communicate with a couple who retained him, failed to reasonably inform them of the status of their case, failed

to advise them whether to file for bankruptcy personally or for their businesses, failed to inform them that he did not maintain professional liability insurance, and failed to advise them in writing that they could be entitled to a refund of all or part of the flat fee they paid him. The mitigating factors included that the lawyer practiced for nearly 30 years without a disciplinary record, no dishonest or selfish motive, acknowledgement of misconduct, full and free disclosure to the disciplinary board, and good character and reputation. No aggravating factors were present. The respondent violated Prof. Cond. R. 1.4, Prof. Cond. R. 1.4(c), and Prof. Cond. R. 1.5(d)(3).

{¶14} In *Columbus Bar Assn. v. Smith*, 143 Ohio St.3d 436, 2015-Ohio-2000, the Court found that public reprimand was appropriate for a lawyer who filed a responsive pleading late, failed to present all of a client's claims, failed to take steps to protect a client's interests after moving to withdraw as counsel, and failed to timely communicate with a client about or provide copies of a federal magistrate judge's recommendation. The mitigating factors included no prior discipline, no dishonest or selfish motive, full and free disclosure to the board, cooperative attitude, good character and reputation, and acknowledgement of the wrongfulness of the misconduct. No aggravating factors were found. The respondent violated Prof. Cond. R. 1.3, Prof. Cond. R. 1.4(a)(2) through (4), and Prof. Cond. R. 1.16(d).

{¶15} In *Butler Cty. Bar Assn. v. McGee*, 142 Ohio St.3d 111, 2015-Ohio-973, the Court found that a public reprimand was appropriate for a lawyer who neglected a client's case, failed to reasonably communicate with the client, and voluntarily dismissed the case without the client's knowledge. Mitigation included no prior discipline, no dishonest or selfish motive, cooperative attitude, and good character and reputation. There were no aggravating factors present. The respondent violated Prof. Cond. R. 1.2, Prof. Cond. R. 1.4, Prof. Cond. R. 1.4(a)(2), Prof. Cond. R. 1.4(a)(3), and Prof. Cond. R. 1.4(b).

{¶16} In *Lorain Cty. Bar Assn. v. Godles*, 128 Ohio St.3d 279, 2010-Ohio-6274, the Court found that a public reprimand was appropriate for a lawyer who performed very little work on a client's personal-injury case and failed to reasonably communicate with the client regarding the management and status of his case. Mitigating factors included no prior discipline and no selfish or dishonest motive. Aggravation included harm to a vulnerable victim. The respondent violated Prof. Cond. R. 1.4(a)(1) through (5), Prof. Cond. R. 1.4(b), and Prof. Cond. R. 1.4(c) and DR 1-104(A) [comparable to Prof. Cond. R. 1.4(c)].

{¶17} In *Disciplinary Counsel v. Dundon*, 129 Ohio St.3d 571, 2011-Ohio-4199, the Court found that a public reprimand was appropriate for a lawyer who failed to regularly communicate with a client, failed to follow up on the status of documents related to the representation, and failed to timely respond to successor attorney's request for a refund of the client's fees. Mitigating factors included no prior discipline, no dishonest or selfish motive, acknowledgement of wrongfulness of misconduct, cooperative attitude, and full restitution to client. No aggravating factors were present. The respondent violated DR 6-101(A)(3) [neglect], DR 9-102(B)(4) [pay/promptly deliver funds to which client is entitled], Prof. Cond. R. 1.3, Prof. Cond. R. 1.4(a)(2), Prof. Cond. R. 1.4(a)(3), and Prof. Cond. R. 1.4(a)(4).

{¶18} In *Columbus Bar Assn. v. Ryan*, 143 Ohio St.3d 73, 75, 2015-Ohio-2069, the Court found that a public reprimand was appropriate for a lawyer because she was difficult to contact, failed to timely file court papers although she represented to the client that they had been filed, failed to timely file qualified domestic relations order in divorce proceeding, and failed to communicate with the client in a domestic relations matter. Mitigating factors included no prior discipline, no dishonest or selfish motive, cooperative attitude, and good character and reputation.

Aggravating factors were a pattern of misconduct and multiple offenses. The respondent violated Prof. Cond. R. 1.3, and Prof. Cond. R. 1.4.

{¶19} In *Columbus Bar Assn. v. Bhatt*, 133 Ohio St.3d 131, 2012-Ohio-4230, the Court found that a public reprimand was appropriate for a lawyer who neglected two client matters, failed to keep clients reasonably informed about their matters, and failed to notify clients that his professional liability insurance had lapsed. Mitigating factors included no prior discipline, cooperative attitude, acknowledgment of wrongfulness of misconduct, no selfish or dishonest motive, and good character and reputation. No aggravating factors were found. The respondent violated Prof. Cond. R. 1.3, Prof. Cond. R. 1.4(a)(3), Prof. Cond. R. 1.4(c), Prof. Cond. R. 1.15(a), Prof. Cond. R. 1.15(d), and Prof. Cond. R. 8.4(h).

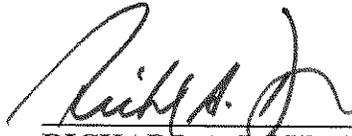
{¶20} In *Akron Bar Assn. v. Holda*, 111 Ohio St.3d 418, 2006-Ohio-5860, the Court found that a public reprimand was appropriate for an attorney who neglected a client's legal matter, failed to hold a client's funds separate from her own, and failed to take reasonable steps to prevent damage or prejudice to a client before withdrawing from representation. Mitigating factors included no prior discipline, no dishonest or selfish motive, full restitution, full and free disclosure, cooperative attitude, and good character. No aggravating factors were present. The respondent violated DR 2-110(A)(2) [correlates with Prof. Cond. R. 1.16], DR 6-101(A)(3) [correlates with Prof. Cond. R. 1.1 and Prof. Cond. R. 1.3 competence and diligence], and DR 9-102(A) [correlates with Prof. Cond. R. 1.15 a lawyer must keep client funds in separate, identifiable bank account].

{¶21} Accordingly, the panel recommends that Respondent be publicly reprimanded for his conduct.

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, Steven Powell Schnittke, be publicly reprimanded 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.

A handwritten signature in cursive script, appearing to read "Richard A. Dove", written in black ink.

RICHARD A. DOVE, Director