IN THE SUPREME COURT OF OHIO

JOHN HAROLD LARGE

Respondent **CASE NO. 2018-0250**

-vs-

TRUMBULL COUNTY BAR ASSOCIATION

Relator

RELATOR'S ANSWER TO RESPONDENT'S OBJECTIONS TO THE REPORT AND RECOMMENDATION OF THE BOARD OF PROFESSIONAL CONDUCT AND BRIEF IN SUPPORT OF PERMANENT DISBARMENT

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PROCEDURAL POSTURE AND STATEMENT OF THE CASE

On February 12, 2018 the Board of Professional Conduct filed its Findings of Fact, Conclusions of Law, and Recommendation with the Clerk of this Court recommending Respondent's Permanent Disbarment. On February 15, 2018, this Court entered an Order to Show Cause directing Respondent to show cause, within twenty days from the date of the Order, as to why this court should not confirm the Board of Professional Conduct's recommendation that Respondent be permanently disbarred from the practice of Law in the State of Ohio.

On March 26, 2018, after timely securing an extension, Respondent filed his Objections to the Report and Recommendation of the Board of Professional Conduct and his Brief in Support of the Objections. Respondent does not challenge the findings that he committed violations of the Rules of Professional Conduct, but does challenge the recommended discipline of Permanent Disbarment from the practice of law in the State of Ohio. Originally Respondent argued to the Board Hearing Panel that at most his conduct warranted a public reprimand in the Susan Seargeant matter (hereafter Susan) and that the John Baryak matter (hereafter John) should be dismissed as premature.

For the reasons hereafter set forth, Relator believes that permanent disbarment is the appropriate sanction and that the Board's recommendation to this Court should be adopted.

RESPONDENT'S BACKGROUND

Respondent, John Harold Large, Attorney Registration No. 0068732, was admitted to the practice of law in the state of Ohio on November 10, 1997, and is subject to the Rules of Professional Conduct and the Rules for the Government of the Bar of Ohio.

Respondent has twice previously been the subject of a disciplinary action before this court. Respondent's first disciplinary action arose in ***Disciplinary Counsel v. John Harold Large, 122 Ohio St.3d 35, 2009-Ohio- 2022***, in which this Court suspended Respondent from the practice of law for a period of one year based upon Respondent's conviction in U.S. District Court for failure to file personal income tax returns and failure to timely report to the IRS his employees' wages (Tr. 20). This Court ordered Respondent, within 30 days from May 6, 2009, to timely notify clients of his suspension and his disqualification as a lawyer, return unearned fees and client property, file notices of disqualification in all pending matters, etc., all of which is more specifically described in this court's order.

Based upon Respondent's subsequent Application for Reinstatement filed December 9, 2010, with attached sworn affidavit dated November 5, 2010, and also a second sworn affidavit dated November 9, 2010, Respondent was reinstated to the practice of law by this Court on February 10, 2011. In both of Respondent's affidavits, he stated under oath that he had complied with the Ohio Supreme Court's Order of Suspension dated May 6, 2009, and the Rules for the Government of the Bar of Ohio.

Respondent's second disciplinary action arose in ***Trumbull County Bar Association v Large, (2012) 134 Ohio St. 3d 172***, in which this Court suspended Respondent from the practice of law for a term of two years with the final six months stayed with certain conditions, based upon three counts of Respondent's neglect of client legal matters (Rule 1.3), failing to communicate (Rule 1.4 (A)), mishandling of client funds (Rule 1.15 (C)), failure to give notice of his prior suspension (Rule 3.3 (A)), and misrepresentation of fact in connection with Respondent seeking reinstatement from his first suspension (Rule 3.3 (A)) because Respondent's Application for Reinstatement filed with this Court and his sworn affidavits contained knowingly

false statements and/or misrepresentations of facts as to Respondent's compliance with this Court's May 6, 2009 Order of Suspension, and the Rules for the Government of the Bar of Ohio (Tr. 21).

Respondent is now before this Court for the third time for disciplinary offenses, most of which are nearly identical to the violations found in his second case several years earlier. In Susan's matter Respondent asserts that Susan was left in no worse position than if Respondent had not been retained by her, thereby attempting to justify/mitigate his ethical violations and minimize the harm sustained by Susan (Respondent's Objections at Pg. 1). In John's matter, Respondent says that because John's lawsuit was "destined to fail", Respondent's misconduct is of no consequence, in effect minimizing his repeated failures to perform his professional duties/responsibilities to John, but offering no explanation as to why he would advise John to file, and why Respondent would file a lawsuit that was "destined to fail" (Respondent's Objections at Pg.1).

Particularly troubling about the present case is Respondent's position that without the two prior disciplinary actions Relator would not have filed a complaint as to the current ethical violations (Tr. 17), and Respondent implies that the present case is just the Relator "piling on". Respondent's position demonstrates that Respondent accepts no responsibility, nor remorse, for his misconduct, and suggests that Respondent sees nothing wrong/improper as to his misconduct in the representations of Susan and John.

FACTS AND ARGUMENT

COUNT ONE
THE SUSAN SEARGEANT MATTER

A. The Board of Professional Conduct's Findings of Fact regarding the Susan Seargeant Matter, Count 1, are supported by clear and convincing evidence.

Respondent was retained by telephone on or about December 11, 2015 by Susan Seargeant of Morgantown, W.V. (hereafter Susan) to represent her to collect a judgment against Sharon Cook in the Warren Municipal Court, and to also pursue a second pending claim against Cook in that same court, both matters being done on a contingency basis (Tr. 22). There was conflicting testimony as to whether Respondent sent Susan a fee contract and disclosure that Respondent did not carry professional liability insurance. Respondent testified that he did and Susan testified that he did not (Tr. 211-213). In fact, and contrary to Respondent's assertion in his brief, there was testimony from Susan that she never received nor signed a fee agreement or acknowledgement that Respondent did not carry professional liability insurance as required by Rule 1.4 (c) (Tr. 26). The evidence demonstrated that Respondent did not have a signed written fee contract with Susan, nor a written acknowledgement from Susan that Respondent did not carry professional liability insurance (Tr. 25).

Respondent entered an appearance as Susan's Attorney on December 14, 2015 and obtained a continuance of the trial which was set for December 16, 2015 (Tr. 26). The trial was reset for March 2, 2016 (Tr. 106). Respondent notified Susan of the new date, and Susan sent Respondent all of her evidence and "paperwork" supporting her claims against Cook. Respondent, however, never looked at any of the materials Susan sent to Respondent to support her case (Tr. 26-27). On March 1, 2016 Respondent filed a motion to continue the March 2, 2016 trial, but did not notify Susan and her husband, who traveled the 150 miles from Morgantown to Warren for the trial only to learn upon their arrival that the trial was not going forward because Respondent had continued the case (Tr. 28-29). In fact, Susan had called Respondent two times on March 1, 2016, but Respondent did not return those calls (Tr. 216, 218). On the morning of

the hearing, March 2, 2016, Susan attempted to call Respondent but Respondent did not answer his phone (Tr. 219).

The case was then reset for trial for March 23, 2016 (Tr.30). Respondent notified Susan of the new date and assured her that he would be present to represent her (Tr. 30). Susan testified that on March 3, 8, 10, 15 (four calls) and 21, 2016 she called Respondent to confirm the trial date was still on but Respondent did not return her calls (Tr. 221-223). Susan further called Respondent several times on March 23, 2016, the day of the trial, but Respondent did not call her back (Tr. 222). On March 23, 2016 Susan and her husband again traveled the 150 miles from Morgantown to Warren for the trial, but Respondent did not appear to represent Susan at the trial (Tr. 30, 223). The Court's magistrate would not continue the case and Susan was required to represent herself without benefit of her documents and tangible evidence which were in Respondent's possession (Tr. 30). On March 24, 2016, after realizing that he had missed the trial, and without speaking to Susan, Respondent withdrew from Susan's case and returned her paperwork via the mail (Tr. 31).

On April 5, 2016 the Court Magistrate entered a decision contrary to what Susan believed it should have been. Susan contacted Respondent concerning the decision and Respondent said that he would file objections to the Magistrate's Decision (Tr. 33). The objections Respondent filed acknowledged that Susan could not prove her case against Cook because Respondent, who did not appear for trial, had all of Susan's documents and records (Tr. 34) (an acknowledgement that Respondent's conduct prejudiced Susan) and further that Susan's dilemma was caused by the Court not calling Respondent as to why he was not present for the trial (Tr. 35) (a glaring example of Respondent refusing to accept responsibility for his conduct). The Court over ruled the objections as being "wholly without merit" (Tr. 35).

Respondent's position in Susan's case is that he did nothing wrong and that Susan's grievance should be dismissed (Tr. 14). Respondent has refused to accept responsibility for what happened in Susan's case and the harm Susan sustained (Tr. 36).

B. The Board of Professional Conduct's Conclusions of Law that Respondent's misconduct in the Susan Seargeant matter, Count 1, violated the Ohio Rules of Professional Conduct are supported by clear and convincing evidence.

(A) Rule 1.3 a lawyer shall act with reasonable diligence and promptness in representing a client.

(B) Rule 1.4 (a) (1)—(4) a lawyer shall do all of the following: (3) keep the client informed about the status of the matter.

» Respondent never reviewed Susan's evidentiary materials that served as the documentary basis for her lawsuit.

» Respondent filed a motion to continue the trial in Susan's case one day before the trial, but did not communicate same to Susan nor seek her consent.

» When the final trial date arrived, Susan appeared for trial, but Respondent did not.

» Respondent's failure to appear for Susan's hearing was due to Respondent's alleged miscalendaring of dates.

» Respondent unilaterally filed a notice to withdraw in Susan's case one day after Respondent missed the trial, and without notifying Susan or even speaking to her.

» Respondent admitted that his nonappearance at trial, and his having custody of the only copy of Susan's evidentiary material, resulted in Susan being unable to prove her claim.

» Respondent acknowledged facts supporting the conclusion that he did not act with reasonable diligence and promptness on behalf of Susan, that he did not keep Susan reasonably informed about the status of her case, and that he did not comply as soon as reasonably practical to reasonable requests for information in Susan's case.

» Respondent would not respond to Susan's many telephone calls seeking information about her case.

COUNT TWO
THE JOHN BARYAK MATTER

C. The Board of Professional Conduct's Findings of Fact regarding the John Baryak matter, Count 2, are supported by clear and convincing evidence.

John Baryak Jr. (hereafter John) retained Respondent in the fall of 2014 to represent John in proceedings before the Trumbull County Board of Elections in which Werner Lang and Bruce Moore challenged John's ability to object to an income tax issue being placed on the ballot and John's candidacy for a seat on the Newton Falls City Council. Baryak prevailed in the challenges and was elected to a seat on council (Tr. 35-36). Thereafter, Respondent advised John that John had grounds to sue Lang and Moore and should do so (Tr. 165) despite the fact that Respondent now says that John's case was "in all likelihood...destined to fail". Based upon Respondent's advice, John authorized Respondent to file suit and gave Respondent a $2,500.00 retainer (Tr. 37; 165). Respondent filed suit December 23, 2014 asserting claims for abuse of process, intentional infliction of emotion distress, tortious interference with business, and libel (Tr. 38-39).

Prior to filing the lawsuit Respondent did no investigation and gathered no evidence to determine if there were in fact valid grounds to file the lawsuit (Tr. 40). Further, Respondent did no legal research to familiarize himself with the legal elements he would have to prove to establish each of the legal theories he asserted (Tr. 41-43). During the pendency of the case Respondent did not propound written discovery or conduct depositions (Tr. 43-44). Respondent did not answer discovery propounded by the defendants, did not tell John that discovery had been propounded by the Defendants (Tr. 45; 169-170), did not tell John that the Defendants had filed motions for summary judgment (Tr. 171-172), and did not respond to the motions for summary judgment because he was too busy working on a friend's political campaign (Tr. 48). In fact, Respondent never provided John with any pleadings from the case, nor any status reports (Tr. 47-48; 50-51). Contrary to Respondent's testimony, Respondent dismissed John's lawsuit, without John's consent, or prior or subsequent knowledge (Tr. 172), before the summary judgment could be ruled upon (Tr.50),

Sometime later John learned of the dismissal through the Newton Falls City Clerk (Tr. 173-174). After numerous calls to Respondent, none of which Respondent returned, John was able to contact Respondent through a third party (Tr. 52; 174). Respondent knew that Defendant Moore was being defended by his homeowner's insurance company, but lied to John, telling him that the case was dismissed in order to give the insurance company time to come up with some "going away money", that John still had a good case, and that Respondent would continue to pursue the action (Tr. 175).

Respondent did not tell John of the previously unanswered discovery or the motions for summary judgment (Tr. 176). Respondent was fully aware that John had no legally cognizable claims but never told John (Tr. 54, 177). Respondent knew that he had no new or additional evidence, or new legal theories which could be used to support John's claims or to oppose future summary judgment motions (Tr. 54). Despite these facts, and without telling John, Respondent refiled exactly the same lawsuit in the Trumbull County Common Pleas Court (Tr. 52, 55).

Again, Defendant Moore propounded substantially the same interrogatories, requests for production and requests for admissions as in the first case, all of which which Respondent ignored and never notified John about (Tr. 35; 179-180). Once the discovery response date expired, Moore's attorney filed a motion to deem the admissions made (Tr. 57). Respondent then attempted to obtain more time to respond to the requests for admissions, but the court denied the request and deemed the admissions made. Moore's lawyer then filed the identical motion for Summary Judgment as in the first case, based in large part on the admissions deemed made (Tr. 58; 63). Respondent never told John of these occurrences and the impact the admissions would have on John's case (Tr. 180). Respondent did not reply to or oppose the motion for summary judgment, nor did Respondent tell John the motion had been filed (Tr. 181). Realizing that the court would grant the motion for summary judgment, Respondent convinced John to permit Respondent to dismiss the case, telling John that he had no case and could not win in court (Tr. 180).

Subsequently, Moore's lawyer filed a motion for sanctions and attorney fees against John and served Respondent with the motion. Respondent did not reply to or oppose the motion for sanctions (Tr.

70), nor did he inform John that the motion had been filed (Tr.66-67; 182). On December 6, 2016 the court sent notice for a hearing on the motion for sanctions to be held on December 20, 2016. Respondent did not inform John of the hearing and neither John nor Respondent appeared for the hearing. The court granted the motion for sanctions via a judgment entered January 4, 2017 (Tr.69) and set a hearing on the amount of sanctions for February 14, 2017. On January 23, 2017 Respondent filed a "motion to vacate", which the court treated as a motion for relief from judgment. The court denied the motion as Respondent did not allege, nor could Respondent articulate at the hearing, the existence of a meritorious defense. Respondent did not inform John of any of these events, nor of the damages hearing set for February 14, 2017 (Tr. 182-183). Respondent attended the damages hearing but John did not as he was unaware of it (Tr. 182-183). As a result of the damages hearing, the court entered monetary sanctions against John in the sum of $10,306.00 for filing the first case and against John and Respondent jointly and severally in the sum of $15,153.92 (Tr. 94) for refiling the case a second time. The trial court found that Respondent knew or should have known that the claims he was asserting were frivolous. Further, the trial court noted that when given the opportunity to explain the merits of the claims Respondent was unable to do so.

Respondent appealed the sanctions decision and the Court of Appeals, Eleventh District Appellate District, affirmed the decision in ***Baryak v Lange, 2017-Ohio-9348.***

Respondent's position in John's case is that he did nothing wrong and that the case should be dismissed on that basis, as well as an argument that the Relator's complaint in this case was premature (Tr. 17).

D. The Board of Professional Conduct's Conclusions of Law that Respondent's misconduct in the John Baryak matter, Count 2, violated the Ohio Rules of Professional Conduct are supported by clear and convincing evidence.

(a) Rule 1.3 a lawyer shall act with reasonable diligence and promptness in representing a client

(b) Rule 1.4 (a) (1)-(4) A lawyer shall do all of the following: (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent is required by these rules; (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished; (3) keep the client informed about the status of the

matter; and (4) comply as soon as reasonably practicable with reasonable requests for information.

(c) Rule 3.1 A lawyer shall not bring or defend a proceeding, or assist or controvert as issue in a proceeding, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of existing law.

» Respondent failed to appear on John's behalf for the initial sanctions hearing.

» Respondent did not undertake any investigation or gather any evidence regarding factual support for or legal basis for the claims he was asserting for John before filing the initial lawsuit, nor did he do so before refiling the lawsuit.

» Respondent included in both the initial and refiled cases claims which he knew could not be supported in fact or law.

» Respondent conducted no discovery for John in the original or the re-filed lawsuits.

» Respondent did not respond to any discovery propounded to John during the pendency of the initial case.

» Respondent did not timely respond to any discovery propounded to John in the refiled case.

» Respondent did not send pleadings, discovery, motions or court orders to John during the pendency of the initial or refiled cases, nor did Respondent keep John informed of significant developments in either the initial or refiled cases.

» Respondent did not respond to the motions for summary judgment filed by the defendants in either the initial or refiled cases.

» Respondent claimed that he had information to support some of the allegations in John's initial complaint but never provided same to defense counsel despite reasonable discovery requests made to him for same.

» In the refiled case Respondent did not supply responses to reasonable discovery requests before a discovery sanctions motion was filed

» Respondent had no explanation for not timely responding to the discovery requests propounded in John's refiled case.

» Respondent did not inform John that the Defendants in the refiled case sought monetary sanctions from him for frivolous conduct.

» Respondent did not respond to a Motion for Sanctions filed against John by the defendants in the refiled case.

» In advance of the sanctions motion hearing to determine damages, Respondent did not prepare or submit any written response to the trial court.

» Respondent did not return multiple telephone calls from John for extended periods of time, particularly at or around the time of important hearings for John, who wanted information on the status of his case.

» Respondent acknowledged that he provided untimely, incomplete discovery responses to defense counsel in the re-filed case alternatively because: (a) he may not have received a complete set of discovery requests from the defendant; (b) he may have made an oversight; or (c) the pages were stuck together.

» Despite filing a misnamed motion which the trial court construed as a motion for relief from judgment, Respondent did not present a meritorious defense as required by Ohio Civ. R. 60 (b) in John's case in response to the trial court granting Defendant's motion for sanctions.

SANCTION
AGGRAVATING AND MITIGATING FACTORS

Discipline is not to punish the offender, but to protect the public.

> The privilege to practice law is not a vested property right; it is a conditional privilege, a license. The acquiring of that license in the first instance is dependent not alone upon the completion of a course of study and the passing of a bar examination, but equally upon the applicant's being a person of good moral character. Although there is no provision for periodic inquiry into an attorney's intellectual fitness to continue to practice, a disbarment proceeding provides the means for ascertaining his continued moral fitness to practice. The purpose of disbarment is not to punish the individual. It is intended to protect the public, the courts and the legal profession. Thus the moral character of an attorney is at all times to be scrutinized for the purpose of insuring that protection. And such moral character is necessarily at issue in a disbarment proceeding. If a prior attempt at discipline has been ineffective to provide the protection intended for the public, then such further safeguards should be imposed as will either tend to effect the reformation of the offender or remove him entirely from the practice. The discipline for a repeat offender may be much greater than would have been imposed were it a first offense, yet such greater discipline is not a meting out of further punishment for prior acts but is a determination of the attorney's fitness to practice. ***In re Disbarment of Lieberman, 163 Ohio St. 35, 1955.***

By definition, discipline is punishment for misconduct, training to ensure proper behavior, and to protection of the public. At bar, all of these purposes should be considered,

Medina Cty. Bar Assn. v Malynn, 142 Ohio St. 3d 435, along with all other relevant factors including prior discipline ***Disciplinary Counsel v Dann, 134 Ohio St. 3d 68.***

In determining the appropriate discipline to protect the public, *sub judice*, the court should consider Respondent's conduct in Susan's and John's matters collectively, as well as Respondent's past disciplinary history.

Relator suggests that the experience of a prior disciplinary proceeding and sanctions, let alone it occurring twice before, would cause any reasonable lawyer, given a second chance, to be hyper attentive to his/her responsibilities to clients, to fully comply with the Code of Professional Conduct, and to avoid at all costs re-occurrence of the events that led to the prior discipline. But what is this Court to do, what is the legal profession to do, when a previously disciplined lawyer, given a second chance for redemption, falls back to the same pattern of conduct? How many times does this Court risk harm to the public before removing the root of the harm all together?

In considering the appropriate penalty for attorney misconduct, this Court has stated: *"We consider the duties violated, the actual or potential injury caused, the attorney's mental state, the existence of aggravating or mitigating circumstances, and the sanctions imposed in similar cases."* ***Disc. Counsel v. Roberts, 117 Ohio St.3d 99, 2008-Ohio-505*** quoting ***Stark Cty. Bar Assn. v. Ake, 111 Ohio St.3d 266, 2006-Ohio-5704,*** at Paragraph 44. Further, in ***Disc. Counsel v King, 103 Ohio St.3d 438*** this Court held that in instances of multiple disciplinary cases involving similar misconduct a more severe sanction is warranted.

Respondent's obvious objection to the recommendation of the Board of Professional Conduct is the recommended sanction of permanent disbarment. Respondent does not ask the court to overturn findings of fact or conclusions of law made by the Board of Professional

Conduct in Susan's or John's matters. Indeed, the conclusion of his submission is simply that the court reject the recommendation of disbarment and impose some lesser sanction.

The Board of Professional Conduct properly found, in examining the admitted and uncontroverted facts, and the evidence, that Respondent committed numerous violations of the Code of Professional conduct, that Susan and John sustained financial harm, that virtually all of the aggravating factors were present, and that none of the mitigating factors were present.

Like the lawyer in ***Medina Cty. Bar Assn, v Malynn, supra***, who received an indefinite suspension, Respondent is before the Court for the third time in a few short years for conduct similar, if not identical, to that in his second disciplinary case, but without the mitigating factors found in ***Malynn, supra***, to wit: no dishonest or selfish motive and a good faith effort to to rectify the consequences of his misconduct.

Similarly to the lawyer in ***Cincinnati Bar Assoc. v Grote, 127 Ohio St. 3d 1***, who received an indefinite suspension, Respondent undertook representation, received a retainer, and then stopped working on the client's matter for reasons he could not articulate. However, unlike Respondent's situation, in ***Grote, supra***, there were mitigating factors, to wit: no dishonest or selfish motive, admission of misconduct and acceptance of responsibility.

The Board of Professional Conduct's reliance upon ***Toledo Bar Assn. v Harvey, 150 Ohio St.3d 74,*** to increase the Hearing Panel's recommended sanction from indefinite suspension to permanent disbarment is in fact supported by the facts of this case. In ***Harvey, supra,*** the lawyer had a history of misconduct, including: a pattern of not simply neglecting clients but abandoning them; not complying with orders of the Ohio Supreme Court; engaging in repeated acts of similar, if not identical misconduct; and demonstrated no mitigating factors. Here, Respondent likewise had a pattern of neglecting/abandoning clients, not complying with orders

of this Court, engaging in similar if not identical misconduct as in his second disciplinary case, and produced no mitigating factors. In Respondent's second disciplinary case, ***Trumbull Cty. Bar Assn. v Large, supra.***, this Court noted that Respondent engaged in at least seven separate disciplinary violations, and demonstrated no mitigating factors—no acknowledgement of misconduct, no remorse, no acceptance of responsibility,

AGGRAVATING FACTORS

Relator believes that the following aggravating factors exist in this case:

1. Respondent has twice previously been the subject of disciplinary proceedings and has twice previously been suspended from the practice of law in Ohio (Gov. Bar R. V § 13 (B) (1). In the second suspension case Respondent was found to have violated Rules 1.3 as to three different client, and Rule 1.4 (A) as to one client, identical violations to those presently before this Court;

2. A dishonest or selfish motive, to the extent clients were not informed of matters relevant to their cases which negatively impacted the cases and the clients financially, and where Respondent expressed selfish motives including fear of being discharged, and protecting his own interests

3. Respondent has engaged in a pattern of misconduct in this case as well as in the prior disciplinary cases filed against him (Gov. Bar R. V § 13 (B) (3);

4. Respondent has committed multiple offenses. (Gov. Bar R. V § 13 (B) (4)

5. Respondent's refusal to acknowledge wrongful nature of conduct (Gov. Bar R. V § 13 (B) (7);

6. Respondent's refusal to accept responsibility

7. Respondent has expressed no remorse for his conduct or the harm he has caused to his clients and the legal profession.

8. Vulnerability of and resulting harm to victims of Respondent's misconduct.

MITIGATING FACTORS

As in Respondent's second disciplinary case, Relator is not aware of any mitigating factors, Respondent did not offer mitigating factors in relation to his conduct, and the Board of Professional Conduct found no mitigating factors.

CONCLUSION

In its Trial Memorandum Relator recommended a two year suspension from the practice of law with no time stayed. This recommendation was based in substantial part upon Relator believing that Respondent was finally going to acknowledge his misconduct, accept responsibility for his misconduct, and express remorse for his misconduct and the harm caused to Susan and John. To Relator's dismay, exactly the opposite occurred at the hearing. Respondent refused to accept responsibility for his actions, refused to acknowledge that his actions harmed Susan and John, refused to acknowledge that he did anything improper, and refused to express remorse. Respondent's position has even carried forth into his objections filed with this Court. Respondent's attitude at the hearing has convinced Relator that the only way to protect the public from Respondent is to remove his privilege to practice law in the State of Ohio.

Respondent's misconduct equals, if it does not exceed, that described in prior disciplinary matters, including ***Harvey, Supra,*** in which this Court has permanently disbarred lawyers. Respondent argued to the hearing panel that the appropriate sanction for his disciplinary violations should be a public reprimand in Susan's case and a dismissal of John's case. Now Respondent argues for something less than disbarment. Apparently, now recognizing the serious

consequences he has caused for himself, Respondent says that a sanction less than disbarment is appropriate. In effect a third chance to keep his license.

Respondent attempts to distinguish ***Harvey, supra***, from his own situation, but is unable to provide any mitigating factors to neutralize the many aggravating factors in his own case. Further, in the other cases cited by Respondent, mitigation factors outweighed aggravation factors, in imposing an indefinite suspension versus disbarment. Apparently, it is Respondent's position that a lawyer who has multiple prior disciplinary suspensions, including numerous identical violations, dishonest or selfish motives, engages in a pattern of misconduct, commits multiple offenses, refuses to accept the wrongful nature of his conduct, expresses no remorse and harms vulnerable victims, should not be disbarred. This court has imposed disbarment for aggravating conduct similar to Respondent's *sub juice*:

Respondent learned nothing from his two prior disciplinary experiences as is evident by the fact that he is now before this court again, for even more serious disciplinary violations. Respondent's history demonstrates that compliance with court orders and professional standards are not priorities in his practice of law.

Considering the facts of the Seargeant and Baryak cases, as well as the aggravating and mitigating factors above, Relator requests that the court find that Respondent has violated the Ohio Rules of Professional Conduct as charged, permanently disbar Respondent...

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By_____

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CERTIFICATE OF SERVICE

A copy of Relator's Answer to Respondent's Objections was served by ordinary U.S. Mail the 9th day of April, 2018 upon the following:

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Attorney for Respondent

And

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Randil J. Rudloff
Trumbull County Bar Counsel