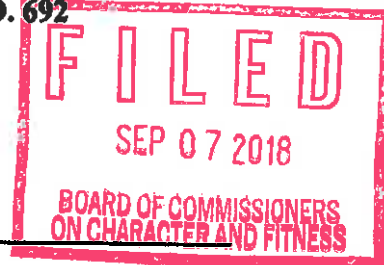


**THE SUPREME COURT OF OHIO
BOARD OF COMMISSIONERS ON CHARACTER AND FITNESS
OF THE SUPREME COURT OF OHIO**

IN RE:)
)
APPLICATION OF)
)
GILLIAN HOLZHAUSER-GRABER)
)
)

CASE NO. 692



**FINDINGS OF FACT AND RECOMMENDATIONS OF THE BOARD
OF COMMISSIONERS ON CHARACTER AND FITNESS
OF THE SUPREME COURT OF OHIO**

This matter is before the Board of Commissioners on Character & Fitness pursuant to Rule I, Section 12, Div.(C)(1) of the Supreme Court Rules for the Governance of the Bar of Ohio, the Findlay/Hancock County Bar Association Admissions Committee having recommended that Ms. Holzhauser-Graber be disapproved for admission to the practice of law in Ohio. The Applicant's appeal is from the recommendation of disapproval on her 2016 application. A Panel including Darrell A. Clay, Todd C. Hicks, and Mary Asbury, Chairperson, was appointed to hear the appeal and conducted a hearing on April 13, 2018. The Applicant was present for the hearing and she was represented by Bruce Comly French. Christian H. Pedersen represented the Findlay/Hancock County Bar Association.

BACKGROUND

Ms. Holzhauser-Graber has a long history with the Board of Commissioners on Character and Fitness. She graduated from Ohio Northern University School of Law in 1988.

She was disapproved by the Board of Commissioners on Character and Fitness as a result of false testimony during the Panel Hearing. Notwithstanding the disapproval, the Supreme Court permitted the Applicant, who has severe sight impairment, to take the February 1989 Bar Exam provided the results remained sealed. The Court further ordered that those results would remain sealed until the February 1991 results were released and provided that the Applicant had demonstrated the requisite character, fitness, and moral qualifications.

In January 1991, the Findlay/Hancock County Bar Committee approved the Applicant as to character and fitness, and the Board of Commissioners on Character and Fitness adopted those findings. Accordingly, the 1989 Bar Exam results were released. Unfortunately for this Applicant, she did not pass that Bar Exam.

Ms. Holzhauser-Graber, having been approved as to character and fitness in 1991, sat for the July 1991 Exam. Before the results of that exam were released, Michael Malone, then president of the Findlay/Hancock County Bar Association, wrote a letter to the Board of Commissioners on Character and Fitness, expressing concerns over Ms. Holzhauser-Graber's testimony in a lawsuit that she had filed against the Blanchard Valley Hospital. A Panel was appointed to investigate these allegations, and Ms. Holzhauser-Graber admitted to the Panel that she had lied under oath both during the Panel Hearing in 1988 and again in the Blanchard Valley Hospital case.

In 1992, the Board of Commissioners recommended that Ms. Holzhauser-Graber not be approved and that she not be permitted to re-apply for admission. The Supreme Court reviewed the case and concurred that the Applicant should not be approved. The Court further determined that she not be permitted to re-apply for admission to the practice of law for two years, that she undergo counseling and consult with an independent psychologist approved by

the Board, with the Board to conduct further review of the Applicant after a two-year period. The Court further ordered that the July 1991 Bar Exam results remain sealed, and they have remained sealed to this day.

In 1995, the Board reviewed Ms. Holzhauser-Graber and recommended that she be approved for admission to the practice of law. (*In Re: Application of Gillian R. Holzhauser* Case No. 75.) However, the Supreme Court entered an order in February 1996 that the Applicant not be approved for admission and that she be prohibited from re-applying for two years. (Case No. 92-1917; The Court did not provide an explanation for its rejection of the Board of Commissioners on Character and Fitness recommendation that Ms. Holzhauser-Graber be approved.)

Ms. Holzhauser-Graber renewed her quest for admission to the practice of law in 2000. This time the Findlay/Hancock County Bar Association disapproved her application as a result of concerns that the Applicant had played a role in concealing her father's assets to make him eligible for financial assistance from the Board of Pensions of the Presbyterian Church. Ms. Holzhauser-Graber did not appeal that decision.

In 2014¹, Ms. Holzhauser-Graber again initiated the process to be admitted to the practice of law. She filed a new registration application and was interviewed again by the Findlay/Hancock County Bar Association. The Bar Association recommended disapproval. Its primary reasons were her failure to disclose the Blanchard Valley Hospital case on her application, and when questioned about it by the Admissions Committee, her mischaracterization of the litigation as a dispute about insurance benefits. It was in fact a personal injury, slip-and-fall case in which she was the plaintiff. Ms. Holzhauser-Graber filed

¹ Ms. Holzhauser-Graber testified that for a period of years, she abandoned the pursuit of Bar Admission due to changes in her personal priorities.

a timely appeal of this decision and again the Board of Commissioners on Character and Fitness appointed a Panel to hear her appeal. In December 2014, Ms. Holzhauser-Graber filed a Notice of Withdrawal of her appeal and subsequently the Board entered an order accepting the withdrawal of her 2014 application.

In 2016, Ms. Holzhauser-Graber again initiated the process to be considered for admission. She again completed a registration application and appeared before the Findlay/Hancock County Bar Association Admissions Committee. She was again recommended for disapproval. As summarized by Mr. Pedersen, counsel for the Bar Association, at the April 2018 hearing, the Bar Association's position is that this Applicant has shown a repeated propensity to evade the truth and to be less-than-candid on her registration applications and her character and fitness interviews. Specifically, in the 2016 application, Ms. Holzhauser-Graber omitted mention of two probate cases in Hancock County. These cases date to 1984 and were not disclosed on any Bar application. It was the Bar Association's position that her 2013-2014 application and Admission Committee interviews are also relevant to Applicant's current character and fitness. They argue that in the 2013-2014 application she did not disclose the Blanchard Valley Hospital case. She was the plaintiff and her deposition was taken. When asked about it, she did not accurately describe what the case was about, but instead minimized her role in the case.

DISCUSSION

Ms. Holzhauser-Graber provided testimony and answered questions about the preparation of her 2014 and 2016 applications. She stated that she had used prior applications as models, making changes and updates as necessary. When asked about the help that she had

received, her answers were somewhat confusing, but essentially she testified that she was responsible for completing the applications but she had the help of a reader.

When asked about her 2014 application, Ms. Holzhauser-Graber had difficulty recalling what had occurred. She was not able to answer a question about what action was taken by the Findlay/Hancock County Bar Admissions Committee, or whether or not she had appealed.

Q. (By Mr. Pedersen) Ms. Holzhauser, we've I believe covered this, your testimony in response to your 2013 registration application you went, you underwent character and fitness evaluation by the Findlay/Hancock Bar Association, correct?

A. That is correct.

Q. Once again, that was held at the University of Findlay? If you can recall.

A. I don't recall but it is possible that that's where it was.

Q. And what was the outcome of that character and fitness evaluation?

A. I would need to see a copy of it to make sure that my statements are accurate.

Q. Would it be fair to say that they decided adversely against your character and fitness as a result of that interview?

THE WITNESS: Madam Chairman, I would like to see a copy of the document that counsel is referring to.

CHAIR ASBURY: With respect, I don't think he's asking you about a document, I think he's asking you if you know what the recommendation was of the Bar committee.

A. Given that there have been multiple recommendations as to 2013, I'm not a hundred percent certain, but I believe that it was at that time an adverse recommendation.

Q. Do you recall whether you appealed that adverse finding? To the Board.

A. I don't recall.

Ms. Holzhauser-Graber also answered questions posed by members of the Panel concerning her interview in connection with her 2014 application.

EXAMINATION BY MR. HICKS

Q. Ms. Holzhauser, I want to take you back first to the 2014 interview you had with the Findlay/Hancock County Bar Association. Do you recall that interview?

A. In general I recall the interviews. I'm not sure that I recall specifically then 2014.

Q. I want to specifically focus on what today's been called the Blanchard Valley case. Do you know what I mean when I refer to the Blanchard Valley case?

A. The Blanchard Valley.

Q. And in your testimony earlier you said that that case was openly discussed during the 2014 interview. Do you recall that?

A. There was a discussion of it to the best of my recollection, yes.

Q. And what I want to get at, it may have been openly discussed but I want to determine was there an honest discussion of it? Did you tell the representative of the Bar Association that that case involved an insurance dispute between the hospital and its insurance company concerning who was going to pay for your injuries?

A. That that was an element of that case, yes, I did.

Q. So at the 2014 interview did you tell them that that was an element of the case or did you tell them that that's what the case was about?

A. I may have said that that's what the case was about, that it dealt with insurance responsibility for the medical bills incurred.

Q. Well, wasn't the case really about whether the hospital had breached a duty to you and was therefore negligent?

A. That was an element of it because of the fact that if in fact they were found to be negligent, then they would have liability in terms of harm caused.

Q. So where did it play in about some dispute between the insurance company and the hospital? Was that actually part of the litigation?

A. The initial problem was that my insurance structure was Medicare as primary insurer and a supplement with AARP. However, if Medicare denies coverage, AARP will not cover it. They only cover supplemental.

Medicare inquired as to whether the medical costs were in any way connected with an accident or a fall and I let them know that it was. And therefore action was taken with Blanchard Valley with regard to the liability for the medical expenses incurred there and at Ohio State.

Q. When you were interviewed in 2014 by the Findlay/Hancock County Bar Association Admissions Committee, did you give them a complete and full account of what the Blanchard Valley litigation was about?

A. I'm not sure when you say a "complete and full account." They were aware of it. How complete and full it was I'm not 100 percent certain.

During the past ten years, Ms. Holzhauser-Graber held a number of responsible, mostly volunteer, positions with her church, the Presbyterian Synod, and the American Association of University Women. Several witnesses attended the hearing and testified that she worked well with them in settings involving the Presbyterian Church hierarchy in her area of the state. They characterized her as reliable and truthful. Ms. Holzhauser-Graber also provided testimony from Thomas L. Hustak, a clinical psychologist with whom she has been in treatment since 2015. Dr. Hustak testified that he administered two psychological tests, the Minnesota Multiphasic Personality Inventory-2 Edition (MMPI-

2) and the Psych Eval Personality Questionnaire (PEPQ). He characterized these tests as providing objective data points regarding Ms. Holzhauser-Graber's mental health. As a result of his clinical interaction and testing, he has concluded that Ms. Holzhauser-Graber does not have any significant mental health disorder. He testified that she suffers from high anxiety, but not to the extent that he felt it appropriate to refer her to a psychiatrist for medication. He testified that he observed a clinical symptom called "splitting." Splitting means that a person has a difficult time integrating good and bad aspects of their personality with good and bad aspects of other people. While his testimony was not exactly clear about the impact of this on Ms. Holzhauser-Graber's current functioning, he testified that "we spent a lot of time talking about being open, being honest, don't make excuses." When asked about the Applicant's apparent memory problems, Dr. Hustak opined that her hydrocephalus and shunts could affect her memory.

Ms. Holzhauser-Graber submitted a written report from Bob Stinson, Psy.D., J.D., LICDC-CS, ABPP, dated May 30, 2016. Dr. Stinson conducted a non-confidential evaluation at the request of Ms. Holzhauser-Graber's attorney. He stated that his understanding based on prior testimony of a Dr. Tallman who previously treated the Applicant, was that her previous lies were "under emotional stress." He concluded that Ms. Holzhauser-Graber had changed for the better since that time as a result of therapy with Dr. Tallman and Dr. Hustak. In his opinion, she demonstrated the requisite fitness and character to sit for the Bar exam. He did not discuss any neurological or memory issues.

It was apparent to the Panel that Ms. Holzhauser-Graber demonstrated good character and fitness and the ability to conduct herself appropriately in many realms of

her life. However, she still seems to have great difficulty with providing complete and truthful answers and, in her psychologist's words, "being open, honest, and without excuses" in discussing legal matters that she has been involved in. It is also true that in both her 2014 and 2016 applications she omitted mention of lawsuits, and in the 2014 interview with the Findlay/Hancock County Bar Admissions Committee, she clearly mischaracterized what the Blanchard Valley Hospital case was about. It might be argued that these omissions and fuzzy descriptions were not attempts to cover up negative information, and that applicants who omit matters on their registration applications are routinely permitted to supplement those applications. That being said, the Panel was very troubled that given the history of disapprovals by the Findlay/Hancock County Bar Association, the mixed results from the Board of Commissioners on Character and Fitness, and the lengthy period imposed by the Supreme Court disqualifying this Applicant from seeking admission, that she would nevertheless submit these more recent applications with missing information. The Panel was concerned that in addition to failing to make proper disclosures on the written applications, she did not candidly and accurately describe the Blanchard Valley Hospital litigation to the Findlay/Hancock County Bar Admissions Committee, and was either confused or evasive in her answers to Mr. Hicks at the Panel Hearing. It was also of concern that she did not demonstrate an ability to accurately describe the procedural history of her 2014 application in which she was recommended for disapproval, filed an appeal, and then withdrew her appeal. (The Panel did not ask her to testify about the complicated chronology from 1988 to 1996, and would have certainly given her leeway if she was not able to recall those details.)

RECOMMENDATIONS

In his closing remarks, Mr. Pedersen stated, "It is with no joy that I recommend to the Panel that we now bring this process to an end." While it was not within the Panel's power to "bring this process to an end," the Panel nevertheless could not recommend that Ms. Holzhauser-Graber be approved as to her present character and fitness. The Panel further explained that while it did not completely understand the reasons that Ms. Holzhauser-Graber is unable to complete an accurate Bar application or testify accurately about legal proceedings, the Panel members observed that to be the case. Therefore, the Panel recommended, and the Board unanimously concurred, that Ms. Holzhauser-Graber had not carried the burden to demonstrate by clear and convincing evidence her present character and fitness for the practice of law.

The Board noted that Ms. Holzhauser-Graber's 1991 Bar Examination results remain sealed. Ms. Holzhauser-Graber has expressed that she would like to know whether or not she passed that examination. The Board also believes that it would be beneficial for the results to be released. Accordingly, and upon further motion, the Board unanimously recommends and requests that the Court unseal the results of Ms. Holzhauser-Graber's 1991 Bar Examination.



Todd C. Hicks, Chair
Board of Commissioners on Character and
Fitness of the Supreme Court of Ohio

BEFORE THE BOARD OF COMMISSIONERS
ON CHARACTER AND FITNESS OF
THE SUPREME COURT OF OHIO



IN RE:)
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APPLICATION OF)
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CASE NO. 692

REPORT AND RECOMMENDATION
OF THE PANEL

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BACKGROUND

Ms. Holzhauser-Graber has a long history with the Board of Commissioners on Character and Fitness. She graduated from Ohio Northern University School of Law in 1988.

She was disapproved by the Board of Commissioners on Character and Fitness as a result of false testimony during the Panel Hearing. Notwithstanding the disapproval, the Supreme Court permitted the Applicant, who has severe sight impairment, to take the February 1989 Bar Exam provided the results remained sealed. The Court further ordered that those results would remain sealed until the February 1991 results were released and provided that the Applicant had demonstrated character, fitness, and moral qualifications.

In January 1991, the Findlay/Hancock County Bar approved the Applicant as to character and fitness, and the Board of Commissioners on Character and Fitness adopted those findings. Accordingly, the 1989 Bar Exam results were released. Unfortunately for this Applicant, she did not pass that Bar Exam.

Ms. Holzhauser-Graber, having been approved as to character and fitness in 1991, sat for the July 1991 Exam. Before the results of that exam were released, Michael Malone, then president of the Findlay/Hancock County Bar Association, wrote a letter to the Board of Commissioners on Character and Fitness, expressing concerns over Ms. Holzhauser-Graber's testimony in a lawsuit that she had filed against the Blanchard Valley Hospital. A Panel was appointed to investigate these allegations, and Ms. Holzhauser-Graber admitted to the Panel that she had lied under oath both during the Panel Hearing in 1988 and again in the Blanchard Valley Hospital case.

In 1992, the Board of Commissioners recommended that Ms. Holzhauser-Graber not be approved and that she not be permitted to re-apply for admission. The Supreme Court reviewed the case and concurred that the Applicant should not be approved. The Court further determined that she not be permitted to re-apply for admission to the practice of law for two years, that she undergo counseling and consult with an independent psychologist approved by

the Board, with the Board to conduct further review of the Applicant after a two-year period. The Court further ordered that the July 1991 Bar Exam results remain sealed, and they have remained sealed to this day.

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Ms. Holzhauser-Graber renewed her quest for admission to the practice of law in 2000. This time the Findlay/Hancock County Bar Association disapproved her application as a result of concerns that the Applicant had played a role in concealing her father's assets to make him eligible for financial assistance from the Board of Pensions of the Presbyterian Church. Ms. Holzhauser-Graber did not appeal that decision.

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¹ Ms. Holzhauser-Graber testified that for a period of years, she abandoned the pursuit of Bar Admission due to changes in her personal priorities.

Fitness appointed a Panel to hear her appeal. In December 2014, Ms. Holzhauser-Graber filed a Notice of Withdrawal of her appeal and subsequently the Board entered an order accepting the withdrawal of her 2014 application.

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DISCUSSION

Ms. Holzhauser-Graber provided testimony and answered questions about the preparation of her 2014 and 2016 applications. She stated that she had used prior applications as models, making changes and updates as necessary. When asked about the help that she had received, her answers were somewhat confusing, but essentially she testified that she was responsible for completing the applications but she had the help of a reader.

When asked about her 2014 application, Ms. Holzhauser-Graber had difficulty recalling what had occurred. She was not able to answer a question about what action was taken by the Findlay/Hancock County Bar Admissions Committee, or whether or not she had appealed.

Q. (By Mr. Pedersen) Ms. Holzhauser, we've I believe covered this, your testimony in response to your 2013 registration application you went, you underwent character and fitness evaluation by the Findlay/Hancock Bar Association, correct?

A. That is correct.

Q. Once again, that was held at the University of Findlay? If you can recall.

A. I don't recall but it is possible that that's where it was.

Q. And what was the outcome of that character and fitness evaluation?

A. I would need to see a copy of it to make sure that my statements are accurate.

Q. Would it be fair to say that they decided adversely against your character and fitness as a result of that interview?

THE WITNESS: Madam Chairman, I would like to see a copy of the document that counsel is referring to.

CHAIR ASBURY: With respect, I don't think he's asking you about a document, I think he's asking you if you know what the recommendation was of the Bar committee.

A. Given that there have been multiple recommendations as to 2013, I'm not a hundred percent certain, but I believe that it was at that time an adverse recommendation.

Q. Do you recall whether you appealed that adverse finding? To the Board.

A. I don't recall.

Ms. Holzhauser-Graber also answered questions posed by members of the Panel concerning her interview in connection with the 2014 application.

EXAMINATION BY MR. HICKS

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does not have any significant mental health disorder. He testified that she suffers from high anxiety, but not to the extent that he felt it appropriate to refer her to a psychiatrist for medication. He testified that he observed a clinical symptom called “splitting.” Splitting means that a person has a difficult time integrating good and bad aspects of their personality with good and bad aspects of other people. While his testimony was not exactly clear about the impact of this on Ms. Holzhauser-Graber’s current functioning, he testified that “we spent a lot of time talking about being open, being honest, don’t make excuses.” When asked about the Applicant’s apparent memory problems, Dr. Hustak opined that her hydrocephalus and shunts could affect her memory.

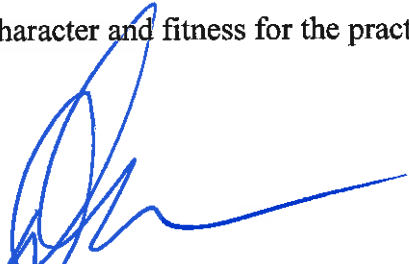
Ms. Holzhauser-Graber submitted a written report from Bob Stinson, Psy. D., LICDC-CS, ABPP, dated May 30, 2016. Dr. Stinson conducted a non-confidential evaluation at the request of Ms. Holzhauser-Graber’s attorney. He stated that his understanding based on prior testimony of a Dr. Tallman who previously treated the Applicant, was that her previous lies were “under emotional stress.” He concluded that Ms. Holzhauser-Graber had changed for the better since that time as a result of therapy with Dr. Tallman and Dr. Hustak. In his opinion, she demonstrated the requisite fitness and character to sit for the Bar exam. He did not discuss any neurological or memory issues.

It was apparent to the Panel that Ms. Holzhauser-Graber demonstrated good character and fitness and the ability to conduct herself appropriately in many realms of her life. However, she still seems to have great difficulty with providing complete and truthful answers and, in her psychologist’s words, “being open, honest, and without excuses” in discussing legal matters that she has been involved in. It is also true that in

both her 2014 and 2016 applications she omitted mention of lawsuits, and in the 2014 interview she clearly mischaracterized what the Blanchard Valley Hospital case was about. It might be argued that these omissions and fuzzy descriptions were not attempts to cover up negative information, and that applicants who omit matters on their registration applications are routinely permitted to supplement those applications. That being said, the Panel was very troubled that given the history of disapprovals by the Findlay/Hancock County Bar Association, the mixed results from the Board of Commissioners on Character and Fitness, and the lengthy period imposed by the Supreme Court disqualifying this Applicant from seeking admission, that she would nevertheless submit these more recent applications with missing information. The Panel was concerned that in addition to failing to make proper disclosures on the written applications, she did not candidly and accurately describe the Blanchard Valley Hospital litigation to the Findlay/Hancock County Bar Admissions Committee, and was either confused or evasive in her answers to Mr. Hicks at the Panel Hearing. It was also of concern that she did not demonstrate an ability to accurately describe the procedural history of her 2014 application in which she was recommended for disapproval, filed an appeal, and then withdrew her appeal. (The Panel did not ask her to testify about the complicated chronology from 1988 to 1996, and would have certainly given her leeway if she was not able to recall those details.)

In his closing remarks, Mr. Pedersen stated, "It is with no joy that I recommend to the Panel that we now bring this process to an end." While it is not within this Panel's power to "bring this process to an end," we nevertheless cannot recommend that Ms. Holzhauser-Graber be approved as to her present character and fitness. While we do not

completely understand the reasons that Ms. Holzhauser-Graber is unable to complete an accurate Bar application or testify accurately about legal proceedings, we have observed this to be the case. Therefore, in our view, she has not carried the burden to demonstrate by clear and convincing evidence her present character and fitness for the practice of law, and so we must recommend disapproval.



Darrell A. Clay



Todd C. Hicks



Mary Asbury, Chair