

1 Office of Disciplinary Counsel v. Holzer.

2 [Cite as *Disciplinary Counsel v. Holzer* (1997), _____Ohio St.3d_____.]

3 *Attorneys at law -- Misconduct -- One-year suspension -- Engaging*
4 *in conduct involving dishonesty, fraud, deceit, or*
5 *misrepresentation.*

6 (No. 96-1965 -- Submitted January 21, 1997 -- Decided April 30,
7 1997.)

8 On Certified Report of the Board of Commissioners on Grievances
9 and Discipline of the Supreme Court, No. 95-77.

10 On October 10, 1995, relator, Office of Disciplinary Counsel, filed a
11 complaint charging respondent, Richard Jean Holzer of Dayton, Ohio,
12 Attorney Registration No. 0018814, with violation of three Disciplinary
13 Rules while representing a client, the city of Englewood. At the time,
14 respondent was a shareholder at the firm of Pickrel, Schaefer & Ebeling
15 (“firm”). On May 2, 1996, a hearing was held before a panel of the Board
16 of Commissioners on Grievances and Discipline of the Supreme Court
17 (“board”). Based on testimony at the hearing, stipulations filed by the
18 parties, and numerous letters from his clients, friends and members of the

1 bar attesting to respondent's good character, ability, and integrity, the panel
2 found the following facts.

3 From October 24, 1992 through February 1, 1995, when the city of
4 Englewood ("city") was a client of the firm, another attorney at the firm was
5 contacted by Eric. A. Smith, the Englewood City Manager, to represent him
6 in a domestic relations matter. The other attorney was designated in the
7 firm's accounting system as the "responsible attorney" for Smith, and
8 respondent was designated as the "requesting attorney," "originating
9 attorney," and "billing attorney." During the above period, with Smith's
10 knowledge, respondent transferred a portion of the time billed by several
11 attorneys of the firm from the "Eric Smith-Domestic Relations Matter"
12 account to the "City of Englewood-General Matters" account, making
13 changes that altered the nature of the legal services performed by the firm.
14 As a result, the city was billed for a total of 60.05 hours of personal legal
15 services performed on Smith's behalf by lawyers of the firm. Respondent
16 testified that because the city was a very large client of the firm and Smith
17 constantly teased him about diverting the city's work to a competing firm,
18 he felt obligated to charge Smith's fees to the city.

1 After the alterations were discovered, the firm issued a corrected
2 invoice to Smith, reimbursed the city a total of \$6,142.50, and terminated
3 respondent as a shareholder. Respondent was charged with theft, and on
4 November 8, 1995 began a “Pre-Trial Diversion Program” developed for
5 those who have committed first-time nonviolent felony offenses. Upon
6 successful completion of the program, the criminal case against respondent
7 is to be dismissed with prejudice.

8 The panel concluded that respondent’s actions violated DR 1-
9 102(A)(4) (engaging in conduct involving dishonesty, fraud, deceit, or
10 misrepresentation). Taking into account respondent’s reputation and the
11 isolated nature of the incident, the panel recommended that respondent be
12 suspended from the practice of law for two years with the entire suspension
13 stayed, and that he be placed on probation for two years under the
14 supervision of a monitoring attorney. While on probation respondent was to
15 perform 1,000 hours of work for governmental or charitable entities. The
16 board adopted the findings, conclusions, and recommendation of the panel.

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