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BEFORE THE BOARD OF COMMISSIONERS
ON GRIEVANCES AND DISCIPLINE OF THE SUPREME COURT OF OHIO
BOARD OF COMMISSIONERS
ON GRIEVANCES & DISCIPLINE

In re:

Complaint against

John W. Hauck, Esq.
110 Main St., First Floor
Milford, OH 45150

No. 14 - 098

Attorney Registration No. (0023153)

COMPLAINT AND CERTIFICATE

Respondent,

(Rule V of the Supreme Court Rules for
the Government of the Bar of Ohio.)

CINCINNATI BAR ASSOCIATION
225 East Sixth St., 2nd Floor
Cincinnati, OH 45202

FILED
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BOARD OF COMMISSIONERS
ON GRIEVANCES & DISCIPLINE

Relator.

Now comes Relator and alleges that John W. Hauck, an Attorney at Law duly admitted to the practice of law in the State of Ohio, is guilty of the following misconduct:

BACKGROUND

1. Respondent, John W. Hauck, was admitted to the practice of law in Ohio on November 20, 1978.
2. On July 7, 2011, the Supreme Court of Ohio suspended Respondent for a period of 12 months with six months stayed on conditions. See *Cincinnati Bar Ass'n. v. Hauck*, 2011-Ohio-3281, 129 Ohio St.3d 209.
3. On November 1, 2011, Respondent received an attorney registration suspension.
4. On January 24, 2012, Relator, Cincinnati Bar Association, filed a motion to hold Respondent in contempt for violating the Court's order of July 7, 2011.

5. On March 5, 2012, Relator's motion was granted; Respondent was found to be in contempt, the stay of the six-month suspension was revoked, and he was ordered to serve the six-month suspension in its entirety.
6. On November 15, 2012, in response to an application he had filed on September 7, 2012, Respondent was reinstated from both the attorney registration suspension and the disciplinary suspension.
7. Respondent was thus continuously suspended from the practice of law from July 7, 2011, until November 15, 2012.

COUNT ONE

8. During 2012, Respondent began a friendship with Richard Ellison.
9. In 2005, Mr. Ellison had been sentenced to six years of confinement in the penitentiary for aggravated burglary, kidnapping, and abduction of his mother, Jeanne Lee, and stepfather, Edmund Lee, III.
10. On August 11, 2010, anticipating the release of Mr. Ellison, Mr. and Mrs. Lee obtained a Civil Protection Order from the Hamilton County Court of Common Pleas, Division of Domestic Relations. This Civil Protection Order prohibited Mr. Ellison from initiating any contact with Mr. and Mrs. Lee, including but not limited to telephone, fax, email, voicemail, delivery service, writings, or communication by other means, in person or *through another person*. (Emphasis added). The Civil Protection Order was to remain in effect for five years or until August 10, 2015.
11. During the five year period when the Civil Protection Order was in effect, Respondent agreed to help Mr. Ellison draft a letter ("The Letter") to send to Mr. and Mrs. Lee.

12. From approximately September, 2013 to March, 2014, Mr. Ellison worked on The Letter, with Respondent making comments and revisions.
13. At one point, Respondent and Mr. Ellison debated over the stationary to be used. Respondent insisted that he did not want his own letterhead stationary to be used. As a result, Mr. Ellison prepared a letterhead for this purpose, which listed Respondent's name. Specifically, the letterhead stated, "John W. Hauck. Attorney at Law."
14. The Letter, using the above letterhead, was eventually mailed on March 3, 2014 to the attention of Mr. Lee. Though prepared by Mr. Ellison, it was written as if it was from Respondent. For example, The Letter described Respondent meeting Mr. Ellison at a church retreat in 2012 and getting to know him, and learning of a "disturbing family situation that has completely wrecked [Mr. Ellison's] life." Further, at one point, The Letter stated, "I should clarify that although I am an attorney, I'm not acting in that capacity here. I am writing strictly as a friend and Christian who wants to help."
15. Before sending The Letter, Respondent was aware of the Civil Protection Order. The Letter specifically requested that Mr. and Mrs. Lee file a Motion to Cancel the Restraining Order. As stated above, from September, 2013 through March, 2014, Respondent made comments and revisions on The Letter before it was eventually sent.
16. Upon receipt of The Letter, Mr. and Mrs. Lee contacted the Terrace Park Police Department. On March 13, 2014, a criminal complaint was filed against Mr. Ellison. The Complaint alleged that Mr. Ellison violated the terms of the Civil Protection Order by "initiating contact with the protected person Jeanne Lee (mother) by written communication through another person (John W. Hauck) sent through the U.S. Postal Service."

17. Mr. Ellison was subsequently arrested on this charge.

18. On March 31, 2014, Mr. Ellison was incarcerated for violating the Civil Protection Order.

19. While Respondent claimed on several occasions that he was not acting as an attorney for Mr. Ellison, his conduct showed otherwise:

(a) Respondent permitted Mr. Ellison to use his personal letterhead captioned "John W. Hauck, Attorney at Law," for The Letter sent to Mr. and Mrs. Lee;

(b) While Mr. Ellison was being held at the Hamilton County Justice Center on the charge of violating the Civil Protection Order, Respondent visited him using his Ohio bar identification to enter the jail. When asked about this by Relator's investigators, Respondent stated that at the time of the jail visit he thought there was a possibility that he could represent Mr. Ellison, but then realized he could not, so he stopped visiting Mr. Ellison in jail.

(c) After the prosecution issued a subpoena for Respondent to testify in the criminal case against Mr. Ellison, Mr. Ellison, through his public defender, asserted the attorney-client privilege between himself and Respondent. Mr. Ellison cited several justifications for the assertion of the privilege, including (1) the legal advice Respondent provided in contemplation of The Letter sent to Mr. and Mrs. Lee, (2) the fact that Respondent permitted Mr. Ellison to use his personal letterhead captioned "John W. Hauck, Attorney at Law," for The Letter sent to Mr. and Mrs. Lee, (3) Respondent's visit to the Hamilton County Justice Center, and (4) the letters which Respondent sent to the Terrace Park Police Department; and

(d) From March 21, 2014 through March 26, 2014, Respondent wrote three letters to Sergeant James Pruitt of the Terrace Park Police Department which addressed Mr.

Ellison's case. Respondent characterized The Letter sent to Mr. and Mrs. Lee as being "harmless" and informed Sergeant Pruitt of an Ohio Revised Code section which would have permitted Mr. and Mrs. Lee to modify the Civil Protection Order.

20. Based on the foregoing conduct, Respondent in fact acted as an attorney for Mr. Ellison. Whether or not Respondent was acting as an attorney, Respondent's violation of the civil protection order was an illegal act, in violation of the Rules of Professional Conduct.

21. Respondent was required by Gov. Bar R. VI (1)(A) to register with the Supreme Court Office of Attorney Services on or before September 1, 2013. He failed to do so. Respondent registered on April 14, 2014.

22. The counseling and legal advice which Respondent provided to Mr. Ellison were not to the standard which the Ohio Rules of Professional Conduct require. Respondent failed to thoroughly review the Civil Protection Order, and concluded, incorrectly, that it was a sealed record when it was not. In a critical lapse, Respondent failed to recognize that the Civil Protection Order prohibited Mr. Ellison from having or initiating any contact with Mr. and Mrs. Lee, including through another person.

23. By reason of the foregoing, Respondent has violated his oath of office and the Rules of Professional Conduct, specifically:

- Rule 1.1, for failing to provide competent representation to Mr. Ellison regarding the Civil Protection Order against him;
- Rule 5.5(a) [prohibiting a lawyer from practicing law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction] by practicing while having failed to register with the Supreme Court of Ohio Office of Attorney Services;

- Rule 8.4(b) [illegal act], for being complicit in the crime of violating the Civil Protection Order by allowing his name to be used in The Letter sent by Mr. Ellison to Mr. and Mrs. Lee;
- Rule 8.4(c) [misrepresentation], by permitting Mr. Ellison to use his personal letterhead captioned “John W. Hauck, Attorney at Law,” despite the fact that Mr. Ellison actually prepared The Letter; and
- Rule 8.4(d) [prejudicial to the administration of justice], for violating the Civil Protection Order issued by the Common Pleas Court and aiding Mr. Ellison to violate the same.

WHEREFORE, Relator alleges the Respondent is chargeable with misconduct as an attorney at law, which misconduct has brought disrepute to the legal profession, and, by reason thereof, Relator requests that Respondent be disciplined pursuant to Rule V of the Rules for the Government of the Bar of Ohio.

Respectfully submitted,

CINCINNATI BAR ASSOCIATION

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*EWP
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CERTIFICATE

The undersigned, Chairman of the Grievance Committee of the Cincinnati Bar Association, hereby certifies that Beth I. Silverman, Richard J. Goldberg and Edwin W. Patterson III, are duly authorized to represent relator in the premises and have accepted the responsibility of prosecuting the complaint to its conclusion. After investigation, relator believes reasonable cause exists to warrant a hearing on such complaint.

Dated: November 24, 2014



Grievance Committee Chair

Gov. Bar R. V, § 4(1) Requirements for Filing a Complaint.

(1) Definition. "Complaint" means a formal written allegation of misconduct or mental illness of a person designated as the respondent.

* * *

(6) Attachments to complaint. Sufficient investigatory materials to demonstrate probable cause shall be submitted with the complaint. The materials shall include any response filed by or on behalf of the respondent pursuant to division (1)(2) of this section and an affidavit from bar counsel or other appropriate representative of the relator documenting relator's contacts with or attempts to contact the respondent prior to filing the complaint. The materials may include investigation reports, summaries, depositions, statements, the response of the respondent, and any other relevant material.

(7) Complaint. Complaints filed by the Disciplinary Counsel shall be filed in the name of Disciplinary Counsel as relator. Complaints filed by a certified grievance committee shall be filed in the name of the committee as relator. The complaint shall not be accepted for filing unless signed by one or more attorneys admitted to the practice of law in Ohio, who shall be counsel for the relator, and by bar counsel. The complaint shall be accompanied by a written certification, signed by the president, secretary, or chair of the certified grievance committee, that the counsel are authorized to represent the relator in the action and have accepted the responsibility of prosecuting the complaint to conclusion. The certification shall constitute the authorization of the counsel to represent the relator in the action as fully and completely as if designated and appointed by order of the Supreme Court with all the privileges and immunities of an officer of the Supreme Court. The complaint also may be signed by the grievant. Relator shall file both of the following with the secretary of the Board:

(a) Four paper copies of the complaint and attachments;

(b) One electronic copy of the complaint and attachments in a readable electronic medium authorized by the secretary.

(8) Service. Upon the filing of a complaint with the Secretary of the Board, the relator shall forward a copy of the complaint to the Disciplinary Counsel, the certified grievance committee of the Ohio State Bar Association, the local bar association, and any certified grievance committee serving the county or counties in which the respondent resides and maintains an office and for the county from which the complaint arose.