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

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BOARD OF COMMISSIONERS ON GRIEVANCES & DISCIPLINE

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DEC 15 2014
BOARD OF COMMISSIONERS ON GRIEVANCES & DISCIPLINE

In re:

Complaint against

Roger Stephen Kramer, Esq.
24049 Laureldale Rd.
Shaker Heights, OH 44122

Attorney Registration No. (0019210)

Respondent,

Disciplinary Counsel
250 Civic Center Drive, Suite 325
Columbus, Ohio 43215-7411

Relator.

14-104

No. _____

COMPLAINT AND CERTIFICATE

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

Now comes the relator and alleges that Roger Stephen Kramer, an Attorney at Law, duly admitted to the practice of law in the state of Ohio is guilty of the following misconduct:

1. Respondent, Roger Stephen Kramer, was admitted to the practice of law in the state of Ohio on May 6, 1977. Respondent is subject to the Rules of Professional Conduct and the Rules for the Government of the Bar of Ohio.

2. Effective May 9, 2011, respondent was appointed by the Cuyahoga County Council to the position of Board of Revision ("BOR") Hearing Officer.

3. At or about the time he began his employment as a BOR Hearing Officer, respondent signed a document verifying that he had received a copy of Cuyahoga County's Personnel Policies and Procedures Manual. In addition, respondent completed an

electronic acknowledgment of his receipt of a link to Cuyahoga County's Personnel Policies and Procedures Manual. Both acknowledgment forms provide that respondent is required to read and understand the Personnel Policies and Procedures Manual.

4. As a BOR Hearing Officer, respondent was categorized as a "flexible schedule employee."

5. A flexible schedule employee is permitted to alter his or her daily hours within certain parameters so long as the employee works the required number of hours per workweek. In respondent's case, the required number of hours was 40 hours per workweek.

6. Respondent was not authorized or permitted to work from home or to conduct any county business outside the office.

7. Flexible schedule employees, including respondent, are required to adhere to all other personnel policies and procedures relating to the workweek and hours, including Sections 6.02 and 6.03 of the County's Personnel Policies and Procedures Manual which require all county employees to accurately record the time they begin working and the time they end work for each work day.

8. Pursuant to Section 6.08 of Cuyahoga County's Personnel Policies and Procedures Manual, county employees in overtime exempt positions, including respondent, were eligible to receive "exchange time" on an hour-for-hour basis for time worked in excess of 40 hours per week, with certain qualifying limitations. In order to receive exchange time for hours worked in excess of 40 hours per week,

   (a) There must be a compelling, extraordinary reason for the employee to stay beyond normal working hours, other than staying to finish up normal work assignments;

(b) The employee must either be required to work the overtime or be granted prior authorization by his or her supervisor to work the additional hours; and

(c) The required or authorized increment of additional time must be greater than one-half hour per day of required overtime.

9. Pursuant to Section 9.05 of the County's Personnel Policies and Procedures Manual, accrued exchange time can subsequently be used as an additional form of paid leave.

10. During his employment as a BOR Hearing Officer, respondent personally entered his starting and ending work times on Cuyahoga County's MyHR online timekeeping system.

11. During his employment as a BOR Hearing Officer, respondent was provided with an access card that permitted him to park his car at the Huntington Parking Garage, which was located directly across the street from the BOR Office in the Cuyahoga County Administration Building at 1219 Ontario Street in Cleveland, Ohio.

12. The Huntington Parking Garage electronically recorded the time that respondent entered and departed from the parking garage on a daily basis between May 9, 2011 and July 13, 2012.

13. A comparison of respondent's electronic records from the Huntington Parking Garage with the time reflected by respondent on his daily time cards on the MyHR online timekeeping system reflect that, between May 9, 2011 and July 13, 2012, respondent entered the Huntington Parking Garage at least 15 minutes after the time entered by respondent on his time card on 196 occasions. On at least 179 of those occasions, respondent entered a start time on his time card that was more than 30 minutes prior to the time that he entered the parking garage. A comparison of the parking garage records

with the times entered by respondent on his daily time card during the aforementioned time period reflects that respondent entered the parking garage prior to or within 15 minutes of the time reflected on his time card on only 28 occasions.

14. On an additional 13 occasions between May 9, 2011 and July 13, 2012, a comparison of the Huntington Parking Garage records and respondent's time cards reflects that respondent exited the parking garage at least 15 minutes prior to the time recorded on his time card as the end of his work day.

15. Between May 9, 2011 and July 13, 2012, the work hours claimed by respondent on his time cards for which he was paid exceeded the hours that he was on his job site (as reflected by the records of the Huntington Parking Garage) by at least 110 hours and 17 minutes.

16. Between May 9, 2011 and July 13, 2012, the number of exchange hours actually earned by respondent did not exceed 32 hours. However, during this same period of time, respondent claimed an additional 121.75 hours of exchange time that he had not earned and took 141.5 hours of exchange time for which he was paid. Respondent was paid for at least 109.5 hours of exchange time that he had not earned.

17. On August 24, 2012, respondent was interviewed by Cuyahoga County Inspector General Nailah K. Byrd and by Assistant Inspector General Case/Research Manager ("AIG") Rebecca Keck.

18. When Inspector General Byrd and AIG Keck advised respondent of the purpose of their interview, he immediately admitted to falsifying his time cards. In particular, respondent admitted that he had entered starting times on his time cards that were earlier than the times he had actually arrived at work.

19. Respondent admitted to Inspector General Byrd and AIG Keck that he knew what he was doing was wrong but he thought he could get away with it. Respondent further admitted that his motivation for falsifying his time records was to earn exchange time.

20. Respondent acknowledged to Inspector General Byrd and to AIG Keck that, as a result of his conduct, he was paid for work that he did not perform.

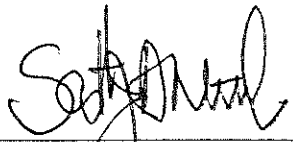
21. Effective August 24, 2012, respondent was relieved from duty as a Hearing Officer for the Cuyahoga County Board of Revision without pay pending the completion of the Inspector General's investigation.

22. Respondent was offered an opportunity to resign his position as a BOR Hearing Officer in lieu of termination. Respondent submitted his resignation on September 14, 2012.

23. Respondent's conduct as set forth above violates the Ohio Rules of Professional Conduct, specifically: Prof. Cond. R. 8.4(c) (prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit or misrepresentation); and Prof. Cond. R. 8.4(d) (prohibiting a lawyer from engaging in conduct that is prejudicial to the administration of justice.

CONCLUSION

Wherefore, pursuant to Gov. Bar R. V, the Code of Professional Responsibility and Rules of Professional Conduct, relator alleges that respondent is chargeable with misconduct; therefore, relator requests that respondent be disciplined pursuant to Rule V of the Rules of the Government of the Bar of Ohio.



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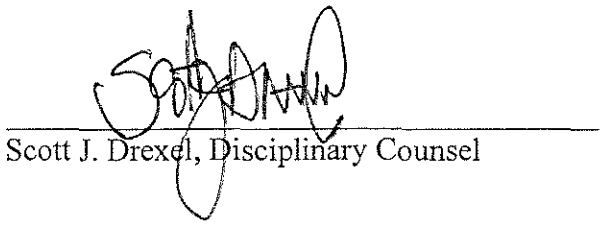
CERTIFICATE

The undersigned, Scott J. Drexel, Disciplinary Counsel, of the Office of Disciplinary Counsel of the Supreme Court of Ohio hereby certifies that Scott J. Drexel is duly authorized to represent relator in the premises and has 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: December 1, 2014



Scott J. Drexel, Disciplinary Counsel

Gov. Bar R. V, § 4(I) ***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.

* * *

(7) Complaint Filed by Certified Grievance Committee. Six copies of all complaints shall be filed with the Secretary of the Board. 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. 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.

(8) Complaint Filed by Disciplinary Counsel. Six copies of all complaints shall be filed with the Secretary of the Board. Complaints filed by the Disciplinary Counsel shall be filed in the name of the Disciplinary Counsel as relator.

(9) 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.