

FILED

NOV 30 2015

BEFORE THE BOARD OF PROFESSIONAL CONDUCT
OF
THE SUPREME COURT OF OHIO

BOARD OF PROFESSIONAL CONDUCT

In re:

Complaint against

Timothy Harman Champion, Esq.
Champion & Company, LPA
1655 West Market Street, Ste. 200
Akron, Ohio 44313

No. 15 - 071

Attorney Registration No. (0940254)

COMPLAINT AND CERTIFICATE

Respondent,

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

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

Relator.

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

1. Respondent, Timothy Harman Champion, was admitted to the practice of law in the state of Ohio on November 7, 1988.
2. Respondent is subject to the Ohio Rules of Professional Conduct and the Supreme Court Rules for the Government of the Bar of Ohio.

The Akron Municipal Income Tax Matter

3. On April 11, 2014, the City of Akron, Ohio filed a civil action against respondent in the Akron Municipal Court entitled *City of Akron v. Timothy H. Champion*, Case No. 14 CV 03042 for the collection of unpaid municipal taxes for 2010, 2011 and 2012 in the total amount of \$544.36, plus costs and interest. The City of Akron was represented by attorney Shelley Ann Goodrich.
4. Respondent, appearing *pro se* in the action, filed an Answer and Counterclaim on May 23, 2014. In his counterclaim, respondent alleged, among other things, that after being notified by the City of Akron of the alleged tax delinquency, he “paid any taxes which may have been due when tax returns were filed; there is no delinquency.” As a result, respondent alleged in his counterclaim that the City of Akron’s complaint had no basis in law and that it was filed “merely to harass or maliciously injure [respondent] and/or is improper for another purpose.” Respondent further alleged that the City of Akron’s filing of the complaint constituted “frivolous conduct” within the meaning of R.C. 2323.51(A)(2) and that it constituted sanctionable conduct within the meaning of R.C. 2323.51(B), thereby entitling him to an award of court costs, attorney fees and other reasonable expenses. Finally, respondent sought an award of punitive or exemplary damages against the City of Akron.
5. Upon receipt of respondent’s Answer and Counterclaim, Goodrich contacted respondent by telephone regarding respondent’s statement that he had paid the municipal income taxes in full. Respondent reiterated to Goodrich that he had paid his taxes in full and stated that he was requesting the cancelled checks from his bank. Respondent promised that he would submit the cancelled checks to Goodrich as soon as he received them.

6. The court scheduled a pretrial conference for June 9, 2014. At the conference, which both respondent and Goodrich attended, respondent represented to the court that he had paid the claimed taxes and was waiting to receive the cancelled checks from his bank. Therefore, the court scheduled a follow-up status conference for June 30, 2014.
7. The June 30, 2014 status conference was conducted by telephone. Respondent represented to the court that he had requested the cancelled checks from his bank and that he expected to receive them any day. The court scheduled a further telephonic status conference for July 7, 2014.
8. At the July 7, 2014 telephonic status conference, respondent reported that he had still not received the cancelled checks from his bank. The court set a further status conference for July 14, 2014.
9. At the telephonic status conference on July 14, 2014, respondent told the court that he could not locate the cancelled checks for his 2010 and 2012 municipal income taxes and that he would, therefore, pay those taxes. However, respondent told the court and Goodrich that he had received a cancelled check from his bank in the amount of \$286.00, which proved that he had paid his municipal income taxes for tax year 2011. Based upon respondent's representations, the court stated that it considered the case resolved and conditionally dismissed the case based upon respondent's agreement to pay the 2010 and 2012 taxes and his representation that he had a cancelled check showing that he had previously paid the 2011 taxes.
10. Following the July 14, 2014 status conference, respondent faxed a four-page document to Goodrich, which included the fax cover sheet and copies of the tax returns at issue in the case. However, the fax did not include a copy of the cancelled check that was discussed

during the status conference. Goodrich telephoned respondent to report that she had not received a copy of the cancelled check.

11. On Wednesday, July 16, 2014, Goodrich received a telephone call from respondent's office asking whether she had received the fax that the caller (a female) had just sent to her. Goodrich went to the fax machine and retrieved the fax, which consisted of the front and back of a cancelled check (#9419) dated October 12, 2012 and payable to the City of Akron in the amount of \$286.00.
12. Goodrich scanned and emailed a copy of the above-referenced cancelled check to Kim Heaton, Tax Coordinator for the City of Akron in order to determine why a payment made on respondent's account was not reflected in the City of Akron's tax system.
13. After conducting considerable research, the Tax Department was unable to find any record that they had processed the cancelled check that had been faxed from respondent's law office.
14. The City of Akron Tax Department processes payments in batches. Each year, the batch numbers start over. The batch number consists of four numbers, beginning with batch number 0001 and sequentially increasing as the year progresses. The batch number appearing on the reverse side of the cancelled check provided to Goodrich by respondent's law office on July 16, 2014 was "4808." The processing date appearing on the reverse side of respondent's cancelled check was October 22, 2012. However, the batch number assigned to the checks that were actually processed by the City of Akron Tax Department on October 22, 2012, was batch number "3991," not batch number "4808."

15. In light of this discrepancy, the Tax Department conducted a search for all payments that had been made in the amount of \$286.00 during the second half of 2012. The search revealed that there were three payments made in that amount; however, none of the \$286.00 payments corresponded to the check submitted by respondent.
16. Upon closer inspection of the cancelled check that respondent's law office faxed to Goodrich, the Tax Department concluded that a previous check had been physically altered. Therefore, the Tax Department retrieved previous checks that had been tendered by respondent to the City of Akron. The Tax Department found that, in 2009, respondent had tendered check number #3339, in the amount of \$37.00, to the City of Akron, which was processed by the Tax Department on October 22, 2009 as part of batch number "4308." Thus, the Tax Department concluded that someone had altered the processing date on the reverse side of the check from "10-22-2009" to "10-22-2012" and that he or she had altered the batch number on the reverse side of the check from "4308" to "4808."
17. After discussing the matter with the Tax Department, Goodrich met with the City Treasurer, Steve Fricker, and with Account Analyst Sarah Buccigross, who conducted multiple searches of the City of Akron's records to determine if the cancelled check as presented had ever been processed by the City of Akron. The City Treasurer could not find any record that the City of Akron had ever cashed the cancelled check.
18. Ms. Buccigross then contacted FirstMerit Bank, the bank appearing on the reverse side of the processed check, to determine if the bank had any record of the City of Akron cashing the \$286.00 check. FirstMerit Bank had no record of the cancelled \$286.00 check. However, FirstMerit Bank retrieved a copy of the 2009 check (#3339) that was processed in batch number 4308 on October 22, 2009. The 2009 check had a "document index

number” or “DIN” on it that is assigned by the bank and that is unique to that check in that deposit. No two cancelled checks have the same “DIN” number. The DIN number on the reverse side of the 2009 check (#3339) is “020040820.” The reverse side of the cancelled check that respondent faxed to Goodrich on July 16, 2014 contained the same unique “DIN” number as that which appeared on respondent’s 2009 cancelled check.

19. After concluding that the reverse side of the cancelled check that respondent’s office submitted to Goodrich on July 16, 2014 had been altered, Goodrich filed with the Akron Municipal Court on July 23, 2014, a Motion to Reactivate its complaint for unpaid taxes against respondent.
20. Upon receiving the motion, respondent telephoned Goodrich, who discussed the falsified document with him. Respondent told Goodrich that he would pay the balance of the taxes owed by certified check and that he would self-report the situation to the Office of Disciplinary Counsel. Respondent subsequently delivered a certified check to the City of Akron for the full amount of municipal taxes due and dismissed his counterclaim against the City. The City of Akron then dismissed its complaint against respondent on August 21, 2014.
21. Respondent did not self-report the altered check situation to relator. Goodrich ultimately filed a grievance against respondent on November 5, 2014.
22. In the course of relator’s investigation of the grievance filed by Goodrich, respondent acknowledged that the reverse side of check #3339, which is dated October 15, 2009 and is payable to the City of Akron in the amount of \$37.00, had apparently been altered.
23. Respondent or an employee, representative or agent of respondent’s law office altered the reverse side of the above-referenced check #3339, by changing the batch number

reflected on the check from “4308” to “4808” and by changing the date on which the check was processed by the City of Akron’s Tax Department from “10-22-09” to “10-22-12”.

24. By the foregoing conduct, respondent violated the following provisions of the Ohio Rules of Professional Conduct:

(a) By altering or causing the alteration of the reverse side of check #3339 to make it appear that the check had been processed by the City of Akron’s Tax Department on October 22, 2012 instead of October 22, 2009, and by submitting a copy of the reverse side of that to Goodrich along with the front of a different check (#9419) dated October 12, 2012 payable to the City of Akron in the amount of \$286.00, respondent violated Prof. Cond. R. 8.4(c) [a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation];

(b) By falsely representing to the court in Case No. 14 CV 03042 that he had paid his municipal income taxes to the City of Akron in the amount of \$286.00 when he had not, in fact, done so, respondent violated Prof. Cond. R. 3.3(a)(1);

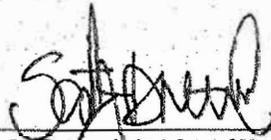
(c) By falsely representing to Goodrich that he had paid his municipal income taxes to the City of Akron in the amount of \$286.00 and by causing a fax transmission of an altered check to be sent to Goodrich in support of his claimed payment of those taxes, respondent violated Prof. Cond. R. 4.1(a);

(d) By directing, authorizing or permitting an employee, representative or agent of respondent’s law firm to alter the reverse side of check #3339 to make it appear that the check had been processed by the City of Akron’s Tax Department on October 22, 2012 instead of October 22, 2009 and by directing, authorizing or permitting such

employee, representative or agent of his law firm to transmit a copy of the reverse side of that check to Goodrich along with the front of a different check (#9412), respondent violated Prof. Cond. R. 5.3(c);

CONCLUSION

Wherefore, pursuant to Gov. Bar R. V, the Code of Professional Responsibility and the 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.

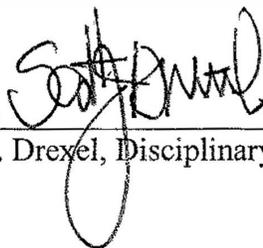


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CERTIFICATE

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: November 30, 2015



Scott J. Drexel, Disciplinary Counsel

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In re:

Complaint against

Timothy Harman Champion, Esq.
Champion & Company, LPA
1655 West Market Street, Suite 200
Akron, Ohio 44313

Case No. 15-071

Attorney Registration No. 0040254

WAIVER OF DETERMINATION
OF PROBABLE CAUSE

Respondent,

(Rule V(11)(B), Supreme Court Rules
for Government of the Bar of Ohio)

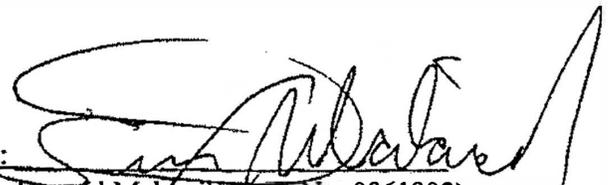
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Relator.

Pursuant to the provisions of Rule V(11)(B) of the Supreme Court Rules for the Government of the Bar of Ohio, respondent Timothy Harman Champion by and through his attorney, Donald J. Malarcik, Jr., stipulates that there is probable cause for the filing of a Complaint in the above-referenced proceeding and hereby waives the determination of probable cause by a Probable Cause Panel of the Board of Professional Conduct.

Dated: November 25, 2015

By:



Donald Malarcik (Reg. No. 0061902)
Attorney for Respondent