

**OFFICE OF DISCIPLINARY COUNSEL V. MILLER.**

**[Cite as *Disciplinary Counsel v. Miller*, 1997-Ohio-24.]**

*Attorneys at law—Misconduct—One-year suspension with credit for time served—Conviction for aiding and abetting the filing of a false corporate tax return.*

(No. 97-437--Submitted April 16, 1997--Decided June 25, 1997.)

ON CERTIFIED REPORT by the Board of Commissioners on Grievances and Discipline of the Supreme Court, No. 96-07.

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{¶ 1} On May 3, 1995, respondent, John R. Miller of Fairlawn, Ohio, Attorney Registration No. 0015201, pled guilty in federal district court to aiding and abetting the filing of a false tax return in violation of Section 7206(2), Title 26, U.S. Code. On September 14, 1995, we suspended respondent from the practice of law in Ohio pending investigation by relator, Office of Disciplinary Counsel.

{¶ 2} On February 5, 1996, relator filed a complaint charging that respondent's conduct resulting in his conviction constituted violations of DR 1-102(A)(3)(engaging in illegal conduct involving moral turpitude), 1-102(A)(4) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation), and 7-102(A)(7) (counseling or assisting a client in illegal or fraudulent conduct).

{¶ 3} The parties stipulated before a panel of the Board of Commissioners on Grievances and Discipline of the Supreme Court ("board") that from November 1989 through August 1990, when the corporate tax return of Diversified Holdings, Inc. was filed, respondent advised and counseled James Dipolito, a director of the corporation, to file a false tax return. Respondent pled guilty to this felony, was convicted, and was sentenced to two years of probation during which time he was to give four hundred hours of community service. The federal court also required

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respondent to donate \$3,000 to a community service project in which he participated, and to pay a \$100 administrative fee. The court terminated respondent's probation on July 26, 1996.

{¶ 4} The panel, after finding the facts as stipulated, concluded that respondent had violated DR 1-102(A)(4) and 7-102(A)(7). Because respondent had no prior disciplinary violations, had cooperated with the investigation, and did not profit from the acts which constituted the violations, the panel recommended that respondent be suspended from the practice of law for one year with credit for time served. The board adopted the findings, conclusions, and recommendation of the panel.

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*Geoffrey Stern*, Disciplinary Counsel, and *Harald F. Craig III*, Assistant Disciplinary Counsel, for relator.

*Frank M. Pignatelli*, for respondent.

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***Per Curiam.***

{¶ 5} We agree with the findings, conclusions, and recommendation of the board. We hereby suspend respondent from the practice of law for one year with credit for time served since his interim suspension was imposed. Costs are taxed to respondent.

*Judgment accordingly.*

DOUGLAS, F.E. SWEENEY, PFEIFER and LUNDBERG STRATTON, JJ., concur.

MOYER, C.J., AND RESNICK, J., dissent because they would not give respondent credit for time served.

COOK, J., not participating.

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