

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

In re:

Complaint against

Case No. 2017-043

**David Edward Ernst
Attorney Reg. No. 0029675**

**Report and Recommendation of
the Board of Professional Conduct**

Respondent

Warren County Bar Association

Relator

DISCIPLINE BY CONSENT

{¶1} This matter was submitted to a hearing panel consisting of Jeff M. Davis, Hon. William A. Klatt, and Lindsay Ford Ellis, panel chair, pursuant to a consent to discipline agreement filed by the parties on January 5, 2018. No member of the hearing panel resides in the appellate district from which the complaint arose.

{¶2} The hearing panel finds that this agreement was filed on a timely basis and conforms to the requirements of Gov. Bar R. V, Section 16. The panel recommends acceptance of the agreement including the statement of facts and the violations of the following Rules of Professional Conduct:

- *Prof. Cond. R. 1.3* [diligence; Count One];
- *Prof. Cond. R. 1.4* [communication; Counts Two, Three, and Four];
- *Prof. Cond. R. 1.15(c)* [failure to deposit a retainer in an IOLTA; Count Five].

{¶3} The parties stipulated to the dismissal of the alleged violations of Prof. Cond. R. 1.16(d) [Count Six] and Prof. Cond. 8.4(h) [Count Seven]. The panel accepts the stipulation and unanimously dismisses these alleged violations.

{¶4} The parties stipulated to the absence of aggravating factors and the following

mitigating factors: (a) no prior discipline;¹ (b) full and free disclosure and a cooperative attitude in this proceeding; (c) absence of a selfish or dishonest motive; (d) timely, good faith effort to make restitution; and (e) evidence of good character and reputation [Joint Ex. 2].


{¶5} The parties agreed to the sanction of a public reprimand, although no supporting case law was cited. The panel reviewed the following cases, each of which involved conduct comparable to that of Respondent and for which the attorneys were publicly reprimanded: *Akron Bar Assn. v. Harsey*, 142 Ohio St.3d 97, 2015-Ohio-965; *Toledo Bar Assn. v. Hetzer*, 137 Ohio St.3d 572, 2013-Ohio-5480; *Trumbull Cty. Bar Assn. v. Rucker*, 134 Ohio St.3d 282, 2012-Ohio-5642; and *Disciplinary Counsel v. Dundon*, 129 Ohio St.3d 571, 2011-Ohio-4199.

{¶6} Upon consideration of the rules violated, applicable mitigating factors, absence of aggravating factors, and Supreme Court precedent, the panel recommends acceptance of the consent to discipline agreement and imposition of the sanction of a public reprimand.

BOARD RECOMMENDATION

Pursuant to Gov. Bar R. V, Section 12, the Board of Professional Conduct considered this matter on February 9, 2018. The Board voted to accept the agreement entered into by Relator and Respondent and recommends that Respondent, David Edward Ernst, be publicly reprimanded. The Board incurred no costs in relation to this proceeding.

Pursuant to the order of the Board of Professional Conduct, I hereby certify the forgoing report and recommendation as that of the Board.



RICHARD A. DOVE, Director

¹Although ¶21 of the consent agreement references the imposition against Respondent of two prior sanctions for CLE noncompliance, such sanctions are not considered prior discipline for purposes of Gov. Bar R. V. See Gov. Bar R. X, Section 17(C).