

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

RECEIVED

JAN 26 2018

In re:

BOARD OF PROFESSIONAL CONDUCT

Complaint against

Hon. Timothy Solomon Horton
Tenth District Court of Appeals
373 S. High Street, 24th Floor
Columbus, OH 43215

No. 18-010

Attorney Registration No. (0065934)

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

FILED

JAN 30 2018

Relator.

BOARD OF PROFESSIONAL CONDUCT

Now comes the relator and alleges that Timothy Solomon Horton, 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 Solomon Horton, was admitted to the practice of law in the state of Ohio on May 13, 1996. Respondent is subject to the Code of Judicial Conduct, the Rules of Professional Conduct, and the Rules for the Government of the Bar of Ohio.
2. In 2006, respondent was elected as judge in the Franklin County Court of Common Pleas. He remained in that position until February 2015, when he began his term as judge for the Tenth District Court of Appeals.

COUNT ONE

Criminal Conviction

3. On February 2, 2017, respondent was charged by information in the Franklin County Court of Common Pleas under:

- R.C. 3517.13(B) and 3599.40: Failure to File Accurate Statements – M1 (3 counts)

State of Ohio v. Timothy S. Horton, Franklin County Court of Common Pleas, Case No. 17 CR 670.

4. On February 2, 2017, respondent filed a Petition to Enter a Plea of Guilty to all charges in the information.

5. On March 16, 2017, respondent was sentenced to serve 6 months on each count to run concurrently. His sentence was suspended on the following conditions: that respondent remain on probation for 1 year; serve 10 consecutive days in the Franklin County Corrections Center; complete a drug and alcohol assessment and any follow up treatment; pay restitution of \$2,065.00 to the Mid-Ohio Food Bank; complete 100 hours of community service; attend at least 1 AA meeting per week; and stay involved in the Ohio Lawyers Assistance Program.

6. On November 2, 2017, the Tenth District Court of Appeals affirmed respondent's sentence. *State of Ohio v. Timothy S. Horton*, Tenth District Court of Appeals, Case No. 17 AP 266.

Underlying Facts

7. Leading up to March 2014, respondent anticipated facing an opponent in his campaign for a seat on the Tenth District Court of Appeals.

8. On or about March 4, 2014, respondent held a campaign fundraiser at Due Amici restaurant. The bill totaled \$978.75. Only one person, aside from respondent and his campaign staff, attended the event. Respondent reported this expenditure to his campaign treasurer knowing that it was unreasonable and excessive, and caused a false campaign finance report to be filed with the Ohio Secretary of State.
9. In late March 2014, respondent learned that his opponent was withdrawing. Since the filing deadlines had already passed, respondent knew that he would be unopposed for the appeals court seat.
10. On March 24, 2014, respondent hosted a private campaign event celebrating the withdrawal of his opponent at Hyde Park restaurant. Several of respondent's supporters attended the event. The bill totaled \$1,014.09. Respondent reported this expenditure to his campaign treasurer knowing that it was unreasonable and excessive, and caused a false campaign finance report to be filed with the Ohio Secretary of State.
11. On or about July 23, 2014, respondent purchased cigars from Tinderbox Tobacco and Gifts, which were intended for campaign supporters during campaign functions even though respondent was running unopposed. The cost was \$173.29. Respondent reported this expenditure to his campaign treasurer knowing that it was unreasonable and excessive, and caused a false campaign finance report to be filed with the Ohio Secretary of State.
12. By the foregoing conduct in Count One, respondent violated the following provisions of the Code of Judicial Conduct and Rules of Professional Conduct:

- Jud.Cond.R. 1.2 [a judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety];
- Prof.Cond.R. 8.4(b) [a lawyer shall not commit an illegal act that reflects adversely on the lawyer's honesty or trustworthiness]; and
- Prof.Cond.R. 8.4(c) [a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation].

COUNT TWO

Misuse of County Resources and Staff

13. At all times relevant to this complaint, three Franklin County employees were on respondent's staff: a bailiff, a staff attorney, and a secretary.
14. Respondent hired Emily Vincent to be his staff attorney in May 2012. Vincent worked for respondent until September 5, 2014.
15. Elise Wyant began working as respondent's secretary on October 7, 2013.
16. Respondent's campaign as judge for the Tenth District Court of Appeals began in December 2013. In March 2014, respondent learned he would not have an opponent for the November 2014 election.
17. Sometime before March 2014, respondent asked Vincent to provide him with the attorneys' names and the parties they represented in connection with the Ohio casino cases (*State ex rel. Walgate v. Kasich*, Franklin County Court of Common Pleas, Case No. 11 CV 013126). Respondent had presided over the case and told Vincent that he wanted this information in order to seek campaign contributions from the parties who

received favorable rulings. This request was made and completed during regular business hours.

18. Respondent also asked Vincent to compile a list of cases that involved the City of Columbus in preparation for a meeting respondent scheduled with then Mayor Michael Coleman. Respondent told Vincent he wanted to mention cases where he ruled in favor of the city during his meeting with Coleman to gain Coleman's support. Vincent completed the work during regular business hours and during her personal time.
19. From May 29, 2014 to October 1, 2014, Wyant prepared at least seven letters in furtherance of respondent's campaign during regular business hours and while on the Franklin County payroll.
20. Wyant and respondent exchanged numerous campaign-related emails and text messages during regular business hours.
21. At respondent's request, and during regular business hours, Wyant solicited, retrieved, or delivered checks on behalf of his campaign on at least eight occasions.

Date	Amount of Check	Recipient of Check
4/7/14	\$700.00	Simon Kenton Council – Golf Outing
4/25/14	\$750.00	Franklin County Democratic Party
5/7/14	\$150.00	Kevin Boyce
5/21/14	\$150.00	Dress for Success
5/29/14	\$5,000.00	Franklin County Democratic Party
8/25/14	\$200.00	African American Male Wellness Walk
7/22/14	\$1,500.00	Franklin County Democratic Party
7/30/14	\$515.67	Franklin County Democratic Party

22. As Wyant’s supervisor, respondent was responsible for approving leave time she submitted. Respondent did not instruct Wyant to take leave time for various campaign activities, and he was aware that she did not request leave time to attend them. Wyant was being paid by Franklin County while attending the following campaign-related activities:

Date	Amount of Time	Campaign Activity
5/12/14	5.5 hours	Boy Scout Golf Outing at Jefferson Country Club
5/23/14	6 hours	Columbus Country Club Golf Outing
5/30/14	8 hours	Memorial Tournament
6/5/14	8 hours	Labor Golf Outing at the Links at Groveport Golf Course
6/20/14	8 hours	Franklin County Democratic Golf Outing at the Links at Groveport Golf Course
Total	35.5 hours	

23. On February 12, 2014, and July 21, 2014, two attorneys delivered campaign contributions to Wyant during regular business hours at the courthouse. On each occasion, Wyant contacted respondent’s campaign fundraiser, Bridgette Tupes, and informed her that Wyant was in possession of campaign donations. On each occasion, Tupes came to the courthouse to retrieve the checks.

24. On August 18, 2014, respondent directed Wyant to set up a donor lunch. She was instructed to contact the donors on August 19, 2014, before 11:00 a.m. Wyant called the donors from her office phone during regular business hours.

25. By the foregoing conduct in Count Two, respondent violated the following provisions of the Code of Judicial Conduct:

- Jud.Cond.R. 1.2 [a judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety]; and
- Jud.Cond.R. 4.4(B) [a judicial candidate shall prohibit public employees subject to his or her direction or control from soliciting or receiving campaign contributions].

COUNT THREE

Inappropriate Sexual Conduct

M.B.

26. During the summer of 2013, respondent employed three summer interns; one of those interns was M.B.
27. At the time of her employment, M.B. had just finished her first year of law school.
28. During the three months that M.B. worked for respondent, he repeatedly commented on her appearance. Respondent's comments began with statements that he liked her outfit or she looked good, but quickly progressed to statements that she had "a nice ass" and looked sexy. On one occasion, respondent summoned M.B. into his office under the pretense of note-taking for a meeting between respondent and another attorney, but later informed M.B. that he had asked her to be present because he "just wanted something pretty to look at." Respondent sexually harassed M.B. at least weekly during her employment.
29. Respondent frequently commented on the appearances of female judges, female attorneys, and other female employees in front of M.B. For example, respondent repeatedly told M.B. that he thought Wyant was "sexy" and that he wanted "to fuck" her.

30. Respondent frequently invited his staff to happy hour. During one happy hour, M.B. and respondent remained at the bar after the rest of the group left. When M.B. stood up to go to the restroom, respondent told her to “walk away slowly.” When M.B. returned from the restroom, respondent told her he wanted to “fuck [her] in the ass.”
31. In April 2014, after M.B.’s employment ended, respondent and M.B. had lunch together at a local restaurant. During the lunch, respondent invited M.B. to happy hour that evening and M.B. attended. At the happy hour, respondent kissed M.B. They left the bar and went to another bar. At the end of the night, respondent drove M.B. back to her car. While in respondent’s car, respondent instructed M.B. to perform oral sex on him and M.B. did so. Respondent then performed oral sex on M.B.
32. Later in April 2014, respondent again invited M.B. to happy hour. At the bar, respondent encouraged his friend to “touch her ass, just touch her ass.” M.B. said “no” multiple times, but respondent’s friend groped her at respondent’s insistence.
33. In October 2014, M.B. asked respondent to go to lunch and she planned to tell him that she was starting a new job. Instead of going to lunch, respondent set up a happy hour. That evening, respondent and M.B. went to multiple bars. While at the first bar, respondent told M.B. to take off her bra. M.B. complied with respondent’s instruction. At one of the other bars, respondent encouraged a friend to touch M.B.’s breasts under her shirt. M.B. said “no” multiple times, but respondent’s friend groped her bare breasts at respondent’s insistence.
34. That same evening, respondent and M.B. left the bar and went to the home of one of respondent’s friends where several people were gathered. While on the balcony, respondent lifted M.B.’s shirt, exposing her bare breasts, and encouraged people to touch

her, saying “feel these.” M.B. said “no” and tried to pull her shirt down, but respondent kept lifting her shirt back up. One person groped M.B.’s breasts at respondent’s insistence.

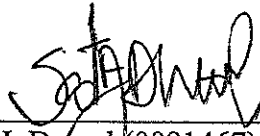
Elise Wyant

35. Wyant met respondent in the summer of 2013 when she was an employee at T. Murray’s restaurant.
36. Sometime in August 2013, as Wyant was getting ready to leave T. Murray’s, respondent asked her to stay and have a drink with him. Wyant stayed, and during their conversation, learned he was a judge. During this conversation, respondent told Wyant, “I want to fuck you in the ass.” Respondent asked Wyant to stay for another drink, but she declined and left.
37. In September 2013, respondent contacted Wyant at her place of employment and invited her to meet to discuss a possible job. Wyant accepted and met respondent at Starbucks the same day.
38. During their meeting, respondent asked Wyant if she would be interested in being his secretary. After Wyant accepted the job offer, respondent scheduled an interview with Wyant and other members of respondent’s staff.
39. On October 7, 2013, Wyant began working as respondent’s secretary. Respondent began sexually harassing Wyant soon after she began working with him.
40. During Wyant’s employment, respondent repeatedly told Wyant that she “looked sexy” and that he wanted “to fuck” her. Respondent sexually harassed Wyant multiple times a week until she resigned from her employment on October 20, 2014.

41. Respondent also made comments about employees and Wyant's friends in front of Wyant and described his sexual activities to her in detail. Respondent also told Wyant that he wanted to have sex with other members of his staff.
42. On May 15, 2014, while at T. Murray's, respondent grabbed Wyant by the waist and stated, "I want to fuck you." Wyant told him to stop a number of times, and ultimately left the restaurant because of his behavior.
43. On August 7, 2014, respondent and Wyant went to M restaurant for a drink. While waiting for the elevator, respondent pulled the waistband of Wyant's skirt back approximately six inches away from her body. Then he let go of the skirt and smiled at Wyant.
44. By the foregoing conduct in Count Three, respondent violated the following provisions of the Code of Judicial Conduct and Rules of Professional Conduct:
 - Jud.Cond.R. 1.2 [a judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety];
 - Jud.Cond.R. 1.3 [a judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others];
 - Jud.Cond.R. 2.3(B) [a judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment]; and
 - Respondent's conduct in sexually harassing M.B. and Wyant was sufficiently egregious that he also violated Prof.Cond.R. 8.4(h) [a lawyer shall not engage in conduct that adversely reflects on the lawyer's fitness to practice law].

CONCLUSION

Wherefore, pursuant to Gov. Bar R. V, the Code of Judicial Conduct, 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.



Scott J. Drexel (0091467)
Disciplinary Counsel

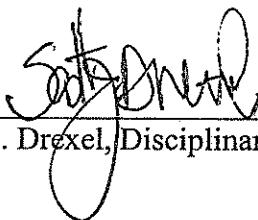


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CERTIFICATE

The undersigned, Scott J. Drexel, Disciplinary Counsel, of the Office of Disciplinary Counsel of the Supreme Court of Ohio hereby certifies that Catherine M. Russo 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: January 25, 2018



Scott J. Drexel, Disciplinary Counsel