

RECEIVED

SEP 30 2008

OFFICE OF
DISCIPLINARY COUNSEL

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 25th of September, 2008, the following order was made and entered:

Lawyer Disciplinary Board, Petitioner

vs.) No. 33802

David A. Barnabei, a member of The West Virginia State Bar, Respondent

On a former day, to-wit, July 17, 2008, came the Hearing Panel Subcommittee of the Lawyer Disciplinary Board, by David W. Frame, its chairperson, pursuant to Rule 3.10 of the Rules of Lawyer Disciplinary Procedure, and presented to the Court its written recommended disposition in this matter, recommending that: (1) the respondent be reprimanded for his conduct; (2) respondent's practice be supervised for a period of one year by an attorney agreed upon between the Office of Disciplinary Counsel and respondent. This attorney shall be currently active, in good standing with the West Virginia State Bar, in close geographical proximity and have a substantial criminal practice. The goal of the supervised practice will be to improve the quality and effectiveness of respondent's law practice to the extent that respondent's sanctioned behavior is not likely to recur; (3) based upon the totality of the circumstances, to attempt to address the specific concerns about respondent's continued refusals to respond to lawful known requests for information from the Office of Disciplinary Counsel, respondent shall undergo a psychological evaluation with a licensed psychologist. Respondent must follow the recommended treatment plan, if any, and provide written

reports of compliance to the Office of Disciplinary Counsel; (4) respondent shall complete six hours of Continuing Legal Education during the 2006-2008 reporting period, in addition to what he is otherwise required to complete to maintain his active license to practice, three hours in the area of ethics and three hours in criminal law; and (5) the respondent shall be ordered to reimburse the Lawyer Disciplinary Board the costs of these proceedings pursuant to Rule 3.15 of the Rules of Lawyer Disciplinary Procedure.

There having been heard neither concurrence nor objection from either the Office of Disciplinary Counsel or from the respondent, the Court doth hereby approve the written recommendation.

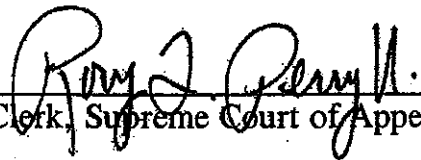
It is therefore ordered that: (1) the respondent be , and he hereby is, reprimanded for his conduct; (2) respondent's practice be supervised for a period of one year by an attorney agreed upon between the Office of Disciplinary Counsel and respondent. This attorney shall be currently active, in good standing with the West Virginia State Bar, in close geographical proximity and have a substantial criminal practice. The goal of the supervised practice will be to improve the quality and effectiveness of respondent's law practice to the extent that respondent's sanctioned behavior is not likely to recur; (3) based upon the totality of the circumstances, to attempt to address the specific concerns about respondent's continued refusals to respond to lawful known requests for information from the Office of Disciplinary Counsel, respondent shall undergo a psychological evaluation with a licensed psychologist. Respondent must follow the recommended treatment plan, if any, and provide written reports of compliance to the Office of Disciplinary Counsel; (4) respondent shall complete six hours of Continuing

Legal Education during the 2006-2008 reporting period, in addition to what he is otherwise required to complete to maintain his active license to practice, three hours in the area of ethics and three hours in criminal law; and (5) the respondent shall be ordered to reimburse the Lawyer Disciplinary Board the costs of these proceedings pursuant to Rule 3.15 of the Rules of Lawyer Disciplinary Procedure. Justice Albright did not participate in the consideration or decision of this matter. Senior Status Justice McHugh sitting by temporary assignment.

Service of an attested copy of this order shall constitute sufficient notice of its contents.

A True Copy

Attest:


Clerk, Supreme Court of Appeals