Powell, Kayce (CHFS OLS DLLF)

From: Andre Bergeron <ABergeron@kybar.org>
Sent: Thursday, August 1, 2019 1:08 PM
To: Powell, Kayce (CHFS OLS DLLF)
Subject: KBA File 17-DIS-0121, 19-DIS-0006

Ms. Powell,

I am in receipt of your Answers to the above-captioned disciplinary charges (17-DIS-0121 and 19-DIS-0006), which were forwarded to me by the Disciplinary Clerk. Shortly after receiving those, I sent a letter related to each file asking to see if you wanted to explore the Consensual Discipline process. Those letters went out on July 9 and 11 and should have gotten to you shortly thereafter. As explained in the letter, by agreeing to take part in the consensual discipline discussion, it simply means you are willing to entertain the negotiation but does not bind you to any outcome. If you are interested, a response was due at the end of July. *Also, in one of your Answers you mentioned the idea of hiring counsel for this process.

Please let me know what your stance will be on the consensual discipline participation, and about retaining counsel.

If I do not hear from you in the next week, I will move forward with scheduling a Trial Commissioner. Thank you,
-Andre Bergeron

Andre L. Bergeron
Deputy Bar Counsel
Kentucky Bar Association
514 West Main Street
Frankfort, Kentucky 40601
(502) 564-3795 ext. 258

KENTUCKY BAR ASSOCIATION

514 WEST MAIN STREET
FRANKFORT, KENTUCKY 40601-1812

(502) 564-3795
FAX (502) 564-3225

Office of Bar Counsel

Andre L. Bergeron
Deputy Bar Counsel
abergeron@kybar.org

July 8, 2019

CONFIDENTIAL
Kayce Renae Powell
PO Box 4
Hopkinsville, KY 42240

RE: Kentucky Bar Association v. Kayce Renae Powell
KBA File 17-DIS-0121

Dear Ms. Powell:

I am in receipt of the Answer filed on your behalf with the Disciplinary Clerk in the above-referenced matter.

The Supreme Court Rules permit a disposition through a negotiated consensual sanction, which must be approved internally at the KBA and, ultimately, by the Supreme Court through motion practice. Specifically, SCR 3.480(2) permits discussion between a Respondent and the Office of Bar Counsel (OBC) concerning the varying degrees of discipline appropriate to resolve a disciplinary proceeding. By policy, OBC sends this letter to every Respondent to explore that option.

The acknowledgment serves to clarify both parties understand such negotiations and motions are not admissible in front of the Trial Commissioner, Board of Governors or Court. In the event the process does not reach fruition, or the Court does not accept the agreed sanction and recommendation of the Office of Bar Counsel, the matter will proceed without disclosure to the Trial Commissioner.

Negotiations for consensual discipline must be completed prior to any scheduled hearing.

In the event you are interested in entering into negotiations regarding the appropriate sanction in this matter, please sign and return the enclosed acknowledgment within fifteen (15) days.

Sincerely,

Andre L. Bergeron
Deputy Bar Counsel

ALB/

Enclosure

ACKNOWLEDGMENT

Kentucky Bar Association v. Kayce Renae Powell
KBA File 17-DIS-0121

The parties in the above-referenced disciplinary proceeding desire to engage in discussions and other procedural steps to determine if an agreement may be reached for the resolution of said disciplinary proceeding by the filing of a Motion with the Supreme Court pursuant to SCR 3.480(2). Respondent waives the confidentiality limitation of SCR 3.150(1) for the limited purpose of permitting counsel for the KBA and counsel for the Respondent, if any, to discuss any past or pending disciplinary matters during these discussions. Before the parties enter into such discussions and other procedural steps, the parties state:

The Respondent acknowledges, agrees and understands that the KBA may only concur before the Supreme Court concerning any proposed sanction if any such Motion is approved by KBA internal operating procedures.

The parties acknowledge and understand as follows:

1. All discussions, correspondence and any other documents of any kind or character concerning the negotiation of said proposed resolution and the submission of such resolution within the internal operating procedures of the KBA and submission to the Supreme Court, shall remain confidential, except as necessary to obtain approval internally within the KBA and for submission to the Supreme Court. Inclusion with settlement documents of documents otherwise admissible does not change their character as admissible documents.

2. In the event said negotiations do not result in any resolution agreed to by the KBA and the Respondent, or in the event the Motion is not approved pursuant to the internal operating procedures of the KBA, or if the Supreme Court denies any such Motion, the parties acknowledge, agree and understand that any such settlement discussions, negotiations and any documents of any kind or character concerning said negotiations and discussions, shall be inadmissible and not subject to disclosure in any stage of the disciplinary proceeding, as provided for under Kentucky Rule of Evidence 408 and SCR 3.290.

_____ _____
Respondent *Date*

_____ _____
Counsel for Respondent *Date*

_____ _____
Kentucky Bar Association *Date*
Office of Bar Counsel

KENTUCKY BAR ASSOCIATION

514 WEST MAIN STREET
FRANKFORT, KENTUCKY 40601-1812

(502) 564-3795
FAX (502) 564-3225

Office of Bar Counsel

Andre L. Bergeron
Deputy Bar Counsel
abergeron@kybar.org

July 11, 2019

CONFIDENTIAL
Kayce Renae Powell
PO Box 4
Hopkinsville, KY 42240

RE: Kentucky Bar Association v. Kayce Renae Powell
KBA File 19-DIS-0006

Dear Ms. Powell:

I am in receipt of the Answer filed on your behalf with the Disciplinary Clerk in the above-referenced matter.

The Supreme Court Rules permit a disposition through a negotiated consensual sanction, which must be approved internally at the KBA and, ultimately, by the Supreme Court through motion practice. Specifically, SCR 3.480(2) permits discussion between a Respondent and the Office of Bar Counsel (OBC) concerning the varying degrees of discipline appropriate to resolve a disciplinary proceeding. By policy, OBC sends this letter to every Respondent to explore that option.

The acknowledgment serves to clarify both parties understand such negotiations and motions are not admissible in front of the Trial Commissioner, Board of Governors or Court. In the event the process does not reach fruition, or the Court does not accept the agreed sanction and recommendation of the Office of Bar Counsel, the matter will proceed without disclosure to the Trial Commissioner.

Negotiations for consensual discipline must be completed prior to any scheduled hearing.

In the event you are interested in entering into negotiations regarding the appropriate sanction in this matter, please sign and return the enclosed acknowledgment within fifteen (15) days.

Sincerely,

Andre L. Bergeron
Deputy Bar Counsel

ALB/

Enclosure

ACKNOWLEDGMENT

Kentucky Bar Association v. Kayce Renae Powell
KBA File 19-DIS-0006

The parties in the above-referenced disciplinary proceeding desire to engage in discussions and other procedural steps to determine if an agreement may be reached for the resolution of said disciplinary proceeding by the filing of a Motion with the Supreme Court pursuant to SCR 3.480(2). Respondent waives the confidentiality limitation of SCR 3.150(1) for the limited purpose of permitting counsel for the KBA and counsel for the Respondent, if any, to discuss any past or pending disciplinary matters during these discussions. Before the parties enter into such discussions and other procedural steps, the parties state:

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_____ _____
Respondent *Date*

_____ _____
Counsel for Respondent *Date*

_____ _____
Kentucky Bar Association *Date*
Office of Bar Counsel

ACKNOWLEDGMENT

Kentucky Bar Association v. Kayce Renae Powell
KBA File 17-DIS-0121, 19-DIS-0006

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_____ _____
Respondent *Date*

_____ _____
Counsel for Respondent *Date*

_____ _____
Kentucky Bar Association *Date*
Office of Bar Counsel