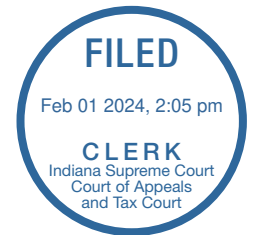


# In the Indiana Supreme Court

In the Matter of: Theodore E. Rokita,  
Respondent

Supreme Court Case No.  
23S-DI-258



## Order

The Indiana Supreme Court Disciplinary Commission has filed a “Verified Petition Requesting Conditional Agreement for Discipline and Affidavit Be Released for Public Access” (“Verified Petition”) and supporting documents. Respondent, by counsel, has filed a verified response expressly indicating he “does not object to the relief requested.” (Verified Response at 1).

In attorney disciplinary cases, the Commission and the respondent may choose to resolve the case by an agreement that is conditional upon our acceptance. *See* Ind. Admis. Disc. R. 23(12.1)(b). That rule requires conditional agreements to include several things, including a statement of agreed facts, a statement of agreed rule violations, and a proposed discipline. *Id.* Conditional agreements must also include an affidavit executed by the respondent confirming his or her knowing and voluntary consent to the agreement and acknowledgement that “the material facts set forth in the Conditional Agreement are true” and “if prosecuted, the respondent could not successfully defend himself or herself.” *Id.*

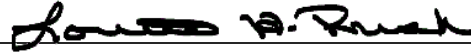
When we accept such an agreement to resolve the case, as we did here, our dispositional order or opinion summarizes the material facts and circumstances agreed upon by the parties. However, the conditional agreement itself is confidential and not open to public inspection. *See* Ind. Admis. Disc. R. 23(22)(a)(5). As the Commission observes, the purpose of confidentiality is not to shield the material facts and circumstances of the case from public view, but to allow the parties to “candidly provide sensitive information to the Court that may be relevant to a sanction decision, such as treatment and recovery information for attorneys struggling with substance use disorder or mental health issues.” (Br. in Supp. at 9 n.2). Other privacy interests, such as those of clients or other persons aggrieved by an attorney’s misconduct, also may be implicated. Of course, not all conditional agreements will include such sensitive information, but enough do to warrant a general rule of confidentiality.

The conditional agreement in this case does not include any information of this nature, and Respondent has verified in writing to this Court that he does not object to its public release. For these reasons, a majority of the Court votes to GRANT the Commission’s Verified Petition. The Clerk is directed to create a public docket entry for the Statement of Circumstances and Conditional Agreement for Discipline and to change the security setting for the Statement of

Circumstances and Conditional Agreement for Discipline, placed under seal in the Clerk's file, from 'confidential' to 'public'.

All other requests for relief, including Respondent's motion for a case management conference, are denied as moot.

Done at Indianapolis, Indiana, on 2/1/2024.



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Loretta H. Rush  
Chief Justice of Indiana