BOARD OF COMMISSIONERS
ON
GRIEVANCES AND DISCIPLINE
OF
THE SUPREME COURT OF OHIO

06-2309

In Re:	:	
Complaint against	:	**Case No. 06-032**
D. Daniel Heisler **Attorney Reg. No. 0029005**	:	**Findings of Fact, Conclusions of Law and Recommendation of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio**
Respondent	:	
Cincinnati Bar Association	:	
Relator	:	

This matter came on for hearing on October, 16, 2006 before John H. Siegenthaler, Panel Chair, Sandra J. Anderson and Francis E. Sweeney, Jr., duly qualified members of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio (Board), and none of whom resides in the judicial district from which the Complaint originated or served on the Probable Cause Panel that reviewed the Complaint.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This complaint involves the promotion and sale of estate plans by non-lawyers and the related involvement of Respondent, D. Daniel Heisler, an attorney admitted to practice in 1981. Relator, Cincinnati Bar Association, through counsel, and Heisler proceeding pro se, have stipulated the underlying facts and law. A copy of the stipulations, as filed, is attached as Joint Exhibit 1. Additional evidence was received from Heisler by his testimony and written information supplied at the panel hearing.

FILED
DEC 14 2006
MARCIA J. MENGEL, CLERK
SUPREME COURT OF OHIO

While only one estate plan led to the formal complaint, the usual pattern was that Heisler would receive a prospect lead from his non-attorney employee, Mid-South Estate Planning, a Louisiana corporation later known as Senior Estate Planning Services, Inc. (MSEP/SEPS) which made mass mailings as a marketing pitch. Approximately seven of Heisler's first prospects had personal contact with a MSEP/SEPS non-lawyer employee before meeting with Heisler; however, the rest of Heisler's supplied prospects, approximately 40, had their initial personal contact with Heisler. His usual practice was to telephone those elderly individuals or couples whose names were supplied by MSEP/SEPS followed by his personal interview and information gathering session with the prospects. Heisler would present a MSEP/SEPS card identifying him as an estate planning and living trust consultant. The purpose of his visit was to promote and sell revocable living trusts, general powers of attorney, advance directives, and related documents through verbal and visual devices. Occasionally, in some unspecified number of cases, Heisler would discourage the prospects from proceeding if he felt the appropriate need was not present. If the prospects determined to continue with the planning, Heisler would take the prospects as his clients, and collect a fee, payable to MSEP/SEPS and usually it was $2,395.00. He would later enter the client information into a computer program using software furnished by MSEP/SEPS, examine and revise the resulting documents as needed and forward them via the Internet to MSEP/SEPS for completion.

After Heisler reviewed the hardcopy documents compiled by MSEP/SEPS in binder format the company would then arrange for a notary public pickup and delivery of the final documents to the clients for signature and attestation. Heisler did not meet with the clients when the documents were executed. He did provide concurrent written instructions on his letterhead concerning the process required to execute the documents and to re-title properties to the newly

formed trust. He also invited inquiries concerning the trust and other matters if required, although he remembers receiving no such inquiries. Heisler did not retain hard copies of the documents. Apparently, but not known to Heisler, other non-attorney representatives of MSEP/SEPS would call on the clients after Heisler's role ended and attempt to sell insurance and annuity products. Heisler's compensation from MSEP/SEPS consisted of a $1000 per week salary, the payment of certain of his office expenses and $500 from the collected client fee for each estate plan sold and closed.

Heisler's disciplinary problems started when his clients Gerald and Audrey Day failed to get a refund from MSEP/SEPS of what they and their retained attorney felt was an excessive charge for their plan. They then filed a grievance with the Cincinnati Bar Association. A full refund was made by MSEP/SEPS and hand delivered by Heisler to the Days in October 2005 sometime after Heisler was notified of the complaint. At the time of the refund Heisler obtained the signature of Mr. and Mrs. Day on a letter prepared by him, which acknowledged return of their money and attempted a vindication of Heisler. Heisler received fewer referrals from MSEP/SEPS after the Day complaint was filed and completely severed his relationship with MSEP/SEPS in January 2006. Respondent has basically been out of work since that time. He now resides with his elderly parents in Bowling Green, Ohio.

Heisler's background is a mixture of corporate employment as an attorney and private practice. He worked for Huntington Bank, NCR Credit Corp, Star Bank (now US Bank), and Nationwide Insurance among others commencing in 1985. He was in private practice with a small law firm briefly in 1996 and 1997 and then as a sole practitioner from 1999 until his involvement with MSEP/SEPS in mid 2004. His preference is to again work as an attorney-employee of a corporation in areas of insurance or real estate. His efforts to find employment

have been hampered by this grievance proceeding. His additional personal problems, outlined in comments and correspondence provided to the panel are related to his lack of money, the care of his aged parents, his uncooperative ex-wife and visitation issues with their 15 year old son. In the stipulations are conclusions of law admitting that during his association with MSEP and SEPS, Inc., and specifically, in his contact with the Days, that Respondent violated the following Disciplinary Rules:

a. DR 3-101(A) by aiding MSEP and/or SEPS in the unauthorized practice of law;

b. DR 2-102(B) for operating under the trade names "Mid-South Estate Planning" and "Senior Estate Planning Services;"

c. DR 3-102(A) for sharing fees with non-lawyers (MSEP and/or SEPS);

d. DR 2-103(C) for improperly using a person or organization (MSEP and/or SEPS) to promote a lawyer's services.

AGGRAVATION AND MITIGATION

Heisler was admitted to the Ohio Bar in 1981. There have been no prior grievances, or other pending grievances filed against him. He acknowledges the fact of his misconduct, expresses sincere remorse and promises that he will not again engage in similar activities. Heisler has provided the panel with a listing of his professional and civic accomplishments as well as character letters from a Wood County (Bowling Green) Common Pleas Judge, an attorney and a retired high school teacher, both from Bowling Green. All of these persons are long time friends of Heisler. Copies of these letters are attached as Respondent's Exhibits 2A, 2B and 2C. The panel found no evidence of a dishonest or selfish motive and restitution has been made to the Days, the only known clients to have complained about Heisler's conduct. He has been cooperative in the investigation of the grievance and the related proceedings.

Also, Heisler's bleak financial picture, lack of current employment, and his personal problems and responsibilities with his parents and child were given some weight by the panel.

LAW AND DISCUSSION

The panel is aware of the leading Ohio cases on attorneys assisting in the unauthorized practice of law through mail order estate planning mills. Cincinnati Bar Assn v. Kathman, 92 Ohio St.3d 92, 2001-Ohio-157, and Disciplinary Counsel v. Wheatley, 107 Ohio St.3d 224, 2005-Ohio-6266, both resulted in a six month suspension from the practice of law with no time stayed, while the sanction in Columbus Bar Assn. v. Moreland, 97 Ohio St. 3d 492, 2002-Ohio-6726, which involved a remanded panel hearing on mitigation, was a public reprimand.

All of these cases and Heisler, now before the panel, concern attorneys who failed to recognize that they could not properly serve two conflicting interests. These interests are those of non-lawyers hiring lawyers to sell and assist in the preparation of boilerplate estate plans as opposed to the interests of those mostly elderly persons who are entitled to carefully considered, independent legal advice. The common thread throughout theses cases is that the lawyer attempted to serve both the non-attorney referral and fee source as well as the individual client being sold the estate plan. In all of these cases, the documents were prepared using non-attorney generated forms or software while the lawyer acted basically as a "review attorney" and did not supervise the final execution of the documents.

Heisler does have some distinguishing facts from Kathman and Wheatley that should be emphasized. In both Kathman and Wheatley, and as deemed important by the Supreme Court, non-attorney sales representatives made the initial personal contact with the clients to gather - information and promote the concept of the trust plan. Heisler, however, after initially accepting client information from non-lawyer contacts in his earliest cases with MSEP/SEPS later made

the first personal contact with the clients in his remaining cases, which was the great majority of all the cases. In Kathman and Wheatley, the respondent attorneys either refused or had great difficulty in acknowledging any misconduct. Both, in fact, continued to accept referred work from similar vendors of living trusts well after the disciplinary panel heard testimony in those cases. Moreover, in Wheatley, the attorney, through the notorious Sharp Estate Planning Service, was involved in some 900 non-lawyer generated estate plans. In Kathman, the attorney upon being confronted with a fee splitting violation, attempted to launder a portion of the split fee through an employee of the non-lawyer corporation by misrepresentating the employee as the attorney's paralegal. There are no such aggravating circumstances with Heisler. His business with MSEP/SEPS was greatly reduced shortly after the Day grievance was filed. He terminated the relationship during the discovery phase of the grievance and it now appears that he acted in innocent disregard of the disciplinary rules by associating with MSEP/SEPS in the first place.

In Moreland, there was initial personal contact with the client by a non-lawyer throughout. Because of a lack of detailed factual background it is difficult to determine the reasons for the Supreme Court imposition of the lesser public reprimand in Moreland other than the stated inexperience of the attorney (two years in practice) and his full cooperation during the disciplinary process. Heisler, while admitted to practice in 1981, was in private practice for a relatively short time and then almost entirely in solo practice. He seems to equate his previous corporate employment with his engagement with MSEP/SEPS and did not then appreciate conflict of interest situations that sometimes arise in private practice.

As a sanction, the Bar Association recommended a six month suspension with no time stayed and some nonspecific form of supervision when Heisler returns to the practice. Heisler

requested either a public reprimand or a six month suspension with the entire suspension to be stayed.

RECOMMENDED SANCTION

The panel, having accepted the stipulated facts and violation of the disciplinary rules does find by clear and convincing evidence the existence of those facts and that the rule violations did occur. The panel has also considered applicable case law, the mitigating factors and the lack of aggravation. The Panel recommends that Heisler be suspended from the practice of law for six months, all to be stayed. Due to the type of Respondent's misconduct, his acknowledgement of wrongdoing and his desire not to practice independently in a private setting, the panel does not feel the need for continued supervision or mentoring.

BOARD RECOMMENDATION

Pursuant to Gov. Bar Rule V(6)(L), the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio considered this matter on November 30, 2006. The Board adopted the Findings of Fact, Conclusions of Law and Recommendation of the Panel and recommends that the Respondent, D. Daniel Heisler, be suspended for six months with the entire six months stayed. The Board further recommends that the cost of these proceedings be taxed to the Respondent in any disciplinary order entered, so that execution may issue.

Pursuant to the order of the Board of Commissioners on Grievances and Discipline of The Supreme Court of Ohio, I hereby certify the foregoing Findings of Fact, Conclusions of Law, and Recommendations as those of the Board.

JONATHAN W. MARSHALL, Secretary
Board of Commissioners on
Grievances and Discipline of
The Supreme Court of Ohio

BEFORE THE BOARD OF COMMISSIONERS
ON GRIEVANCES AND DISCIPLINE
OF
THE SUPREME COURT OF OHIO

FILED

OCT 10 2006

BOARD OF COMMISSIONERS
ON GRIEVANCES & DISCIPLINE

In re:

Complaint against

D. Daniel Heisler (#0029005)
17274 U.S. 6 West
Bowling Green, OH 45202

No. 06-032

RESPONDENT

STIPULATIONS OF
FACT AND LAW

Cincinnati Bar Association
225 East Sixth St., 2nd Floor
Cincinnati, OH 45202

RELATOR

Relator Cincinnati Bar Association ("Relator") and Respondent D. Daniel Heisler ("Respondent") hereby stipulate and agree to the following:

1. Respondent is an attorney duly admitted to the practice of law in the State of Ohio in 1981.

2. Respondent has had no other disciplinary complaint or action brought against him.

3. Counsel for Relator advised Respondent to retain legal counsel to represent him in this matter. Respondent has informed Relator that he does not have adequate financial resources to obtain legal counsel to represent him in this matter and is, therefore, proceeding *pro se.*

4. Respondent is competent to represent himself in these proceedings, and has carefully read, reviewed and understands the nature of the complaint filed against him. Further,

Respondent has carefully read, reviewed and understands each and every Stipulation of Fact and Law contained in this pleading.

5. Respondent has been advised by counsel for Relator that serious sanctions, including suspension from the practice of law, could result from the Stipulations of Fact and Law in this pleading.

6. Respondent became an employee of Mid-South Estate Planning ("MSEP"), a Louisiana based company, in June 2004.

7. The primary business of MSEP was marketing, promoting, and preparing living trusts and other estate-planning products to a largely elderly customer base.

8. In May or June 2005, Senior Estate Planning Services, Inc. ("SEPS") purchased the assets of MSEP and thus became the corporate successor to MSEP.

9. Respondent remained as an employee of SEPS from approximately May or June 2004 to January 2006.

10. Approximately 60% of Respondent's clients came from MSEP/SEPS.

11. Respondent viewed himself as an employee of MSEP/SEPS whose job "was to work with trust clients to whom I was referred and given information, appointment set up."

12. Respondent believes that he had a written contract with MSEP and/or SEPS, but he did not retain a copy of this contract and has been unable to obtain a copy from SEPS.

13. In early September 2004, Gerald and Audrey Day, residents of Fairfield, Ohio, contacted MSEP in response to direct mail marketing materials published by MSEP touting the benefits of a living trust. The Days were told that a "representative of MSEP" would contact them.

14. MSEP contacted Respondent and an appointment for a personal meeting between Respondent and the Days was set.

15. On Wednesday, September 22, 2004, Respondent went to Days' home for the meeting that had been arranged by MSEP.

16. Respondent identified himself to the Days as an attorney employed by MSEP.

17. The Days were both 79 years old at the time. Neither Respondent nor Relator has any information to indicate that the Days were not competent to handle their own affairs.

18. During the meeting, Respondent discussed with the Days their estate planning needs and the advantages of a living trust.

19. An "Asset Form" (provided by MSEP) filled out by Respondent during his meeting with the Days on September 22, 2004, listed the Days' combined assets as having a value of approximately $462,000. This amount was overstated by approximately $275,000 because of a misunderstanding as to the value of a particular security owned by the Days (securities valued at $300,000 instead of $25,000).

20. The Days decided to purchase the living trust and associated estate planning documents offered by MSEP, shared their financial information with Respondent, and instructed Respondent to do whatever was necessary to establish a living trust.

21. During the meeting on Wednesday, September 22, 2004, the Days gave Respondent a personal check for $2,395 made payable to MSEP. This amount was the standard price charged by MSEP for a living trust and associated estate planning documents.

22. Respondent filled out and gave to the Days a MSEP document entitled "Statement of Disclosure and Compliance." This document stated, among other things, "the Representative [Respondent] is not an attorney or certified tax professional, and has not

given tax or legal advice." Respondent crossed out the word "not" in the foregoing quoted language because he was an attorney and was giving legal advice to them.

23. The "Statement of Disclosure and Compliance" also contained the following statement:

> Client(s) consent to Mid-South Estate Planning's engagement of an attorney and understand that Mid-south Estate planning will be compensating such attorney in connection with the drafting of the Trust and related documents. Clients(s) authorize Mid-South Estate Planning to exchange information provided by the Client for the purposes of providing services to the Client.

24. Respondent believed that he gave legal advice to the Days when he met with them.

25. Respondent considered the Days to be his clients and that his relationship with them was covered by attorney-client confidentiality. He considered all persons he called on for MSEP to be his clients.

26. Respondent did not discuss attorney fees with the Days or disclose to them that he would be paid $500 by MSEP if they purchased the living trust and associated estate-planning documents from MSEP.

27. Following his meeting with the Days, Respondent entered the Days' personal information and any specific language relating to the living trust and associated estate-planning documents that he deemed necessary into a computer program maintained by MSEP and made available to Respondent over the internet. The documents were available on-line, over the internet, or Respondent to review and approve.

28. After the living trust and associated estate planning documents were reviewed and approved by Respondent on-line, they were printed, assembled, and put into a binder by employees of MSEP in Louisiana. The binder was then forwarded to Respondent in Ohio for a final review. After Respondent approved the living trust and associated estate-

planning documents, a notary employed by MSEP hand delivered the documents to the Days and attended to the execution of the documents.

29. Several months after the living trust and associated estate planning documents were executed, the Days had contact with Mr. Stephen White, a representative of Mid-South Financial Planning, an entity related to MSEP. Mr. White attempted to sell the Days other financial products, but the Days did not purchase anything from him, and, in fact, demanded that MSEP refund most of their money (all except $500).

30. Respondent had nothing to do with Mr. White, was not acquainted with Mr. White, and was not aware that such a contact was going to take place. Respondent does not know how Mr. White or Mid-South Financial Planning obtained information about the Days. He was told, however, that the same person who owned MSEP also owned Mid-South Financial Planning.

31. Respondent did not meet with the Days again until after Relator began the investigation of a grievance filed by the Days.

32. Several weeks after executing the living trust and associated estate planning documents purchased from MSEP, the Days contacted an attorney from Lebanon, Ohio (Warren County). After consultation with this attorney, the Days determined they had been overcharged for the living trust and associated estate-planning documents, and sold products that they did not need. Respondent was not aware that any of these events had occurred.

33. The Days subsequently requested, both orally and in writing, that MSEP refund the monies paid to MSEP for the living trust and associated estate-planning documents.

34. Respondent received copies of the Days' written requests for a refund.

35. Although MSEP apparently agreed to refund money to the Days, they did not receive a refund within the time frame they originally demanded. As a result, the Days filed a grievance with Relator and a grievance investigation was commenced in July 2005.

36. In October 2005, more than a month after Respondent was notified of Relator's grievance investigation, Respondent went to the Days' residence and provided the Days with a complete refund of their money ($2,395). The refund came in the form of a check drawn on the account of SEPS. Respondent was told that a Mr. Tanner, the person to whom he reported at SEPS, was going to deal with Mid-South Financial Planning to get the money back that SEPS was repaying to the Days.

37. While working for MSEP and/or its successor, SEPS during from June 2004 to January 2006, Respondent had personal contact with approximately 40 customers of MSEP/SEPS. In some instances during the first 2 to 3 months of Respondent's association with MSEP, non-lawyer employees of MSEP met with customers before Respondent met with them. These meetings resulted in the retention by Respondent of at least 7 clients. Not all such meetings resulted in potential customers deciding to purchase the living trusts. Thereafter, there were no non-lawyers involved with client meetings. After SEPS purchased the assets of MSEP in May of 2005, there were no meetings between non-lawyers and potential clients.

38. In some instances, Respondent counseled potential clients/customers not to purchase the living trust and associated estate-planning documents being marketed by MSEP/SEPS because they were not appropriate for their circumstances.

39. Respondent worked for MSEP and SEPS under an agreement in which MSEP or SEPS marketed the living trust products, obtained leads, and forwarded the leads to Respondent who then contacted the person or persons who had responded to those marketing efforts.

40. Respondent was paid a salary of $1,000 per week by MSEP/SEPS. In addition, MSEP/SEPS paid all rent and office expenses for Respondent. Respondent was also paid $500 for each $2,395 contract for living trust and associated estate planning documents that was sold. MSEP retained the balance of the "contract " fee.

41. The business card which Respondent gave to the Days in September 2004 was for "Mid-South Estate Planning" and he was listed as an "Estate Planning Attorney" and "Living Trust Consultant." His business card also noted that 'Mid-South Estate Planning" was offering services in Louisiana, Mississippi, Tennessee, Texas, Kentucky, North Carolina and Ohio. The website address provided was www.midsouth-ep.com.

42. Respondent admits that during his association with MSEP and SEPS, Inc., and specifically, in his contacts with the Days, he violated the following Disciplinary Rules:

    a. 3-101(A) by aiding MSEP and/or SEPS in the unauthorized practice of law;

    b. 2-102(B) for operating under the trade names "Mid-South Estate Planning "Senior Estate Planning Services;"

    c. 3-102(A) for sharing fees with non-lawyers (MSEP and/or SEPS);

    d. 2-103(C) for improperly using a person or organization (MSEP and/or SEPS) to promote a lawyer's services.

43. All documents listed in the attached Exhibit "A" may be admitted into evidence and considered by the hearing panel.

44. Exhibit "B" is an accurate list of clients that Respondent represented while employed by MSEP and/or SEP.

45. The names and other personal information related to Respondent's clients (other than the Days) are to be protected and not disclosed as a part of the public record n this matter because those clients are not direct participants in the pending grievance matters.

CINCINNATI BAR ASSOCIATION,
RELATOR

By: _____
Robert J. Gehring (#0119329)
30 Garfield Place, Suite 740
Cincinnati, OH 45202
Phone: (513) 784-1525
Fax: (513) 784-1250

By: _____
Richard L. Creighton, Jr. (#0021806)
One East Fourth Street, Suite 140
Cincinnati, OH 45202
Phone: (513) 579-6400
Fax: (513) 579-6457

D. Daniel Heiser

D. Daniel Heiser (# 0029005)
17274 U.S. 6 West
Bowling Green, Ohio 43402

RESPONDENT

1660864.3

44. Exhibit "B" is an accurate list of clients that Respondent represented while employed by MSEP and/or SEP.

45. The names and other personal information related to Respondent's clients (other than the Days) are to be protected and not disclosed as a part of the public record n this matter because those clients are not direct participants in the pending grievance matters.

CINCINNATI BAR ASSOCIATION,
RELATOR

By _____
Robert J. Gehring (#0119329)
30 Garfield Place, Suite 740
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Phone: (513) 784-1525
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By: _____
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_____
D. Daniel Heiser (# 0029005)
17274 U.S. 6 West
Bowling Green, Ohio 43402

RESPONDENT

1660864.3

Ex 2A

LAW OFFICES
MARSH AND MARSH
249 S. MAIN STREET
(Corner S. Main & Washington)
P.O. BOX 347
BOWLING GREEN, OHIO 43402
(419) 352-2518
Fax: (419) 353-6967

C. RICHARD MARSH
MICHAEL J. MARSH

BRANCH OFFICE:
FRONT STREET
GRAND RAPIDS, OHIO

October 6, 2006

The Justices of The Supreme Court of Ohio
65 South Front Street
Columbus, Ohio 43215-3431

Re: D. Daniel Heisler Attorney Number 0029005
Your Case Number 06-032

Dear Justices of the Court:

I am writing on behalf of Mr. D. Daniel Heisler, who is the subject of a hearing concerning grievances and discipline. My understanding is that Mr. Heisler will appear before you on or about October 16, 2006.

I have known Mr. Heisler since both of us were children, as we grew up together and attended Bowling Green Schools. I have not had a professional relationship with Mr. Heisler, as his focus and career path lead him to corporate law.

A couple of years ago, in an effort to locate himself near his son in Cincinnati, Mr. Heisler took a job with a firm that he should not have become affiliated with. Unfortunately, due to his very limited background in private practice, having focused almost entirely on internal corporate law, Mr. Heisler could not see issues that many of us in the private practice run into from time to time.

Frankly, Dan aligned himself with what I call a "trust factory", a firm that was basically involved in the unauthorized practice of law here in our state, and elsewhere. I truly do not believe Dan perceived that situation to be the case.

Mr. Heisler is of highest character, as is his family. When you meet him that fact will be obvious within minutes. There is not a dishonest bone in his body, nor would he ever even consider undertaking even questionable acts.

Having known Mr. Heisler for more than 40 years, I think I can tell you with absolute certainty that his error in this situation was one of ignorance of the circumstances around him. Mr. Heisler's primary motivation was obtaining employment near his son, and the traditional type of job that would normally have

appealed to him were not available at that time, as many banks and industries were cutting back rather then hiring staff. He now knows that his previous employer, and the actions taken by that previous employer, constitute the unauthorized practice of law in Ohio.

I do not think any purpose whatsoever would be served by suspending Mr. Heisler. I agree it is important for the entire Bar of Ohio to be wary of these packaged legal factories that permeate the landscape, but I do not think severe punishment to Mr. Heisler is warranted under the circumstances. Certainly a public reprimand with an explanation of the facts involved would get the word out to my fellow Bar members, in an effective way, and permit Mr. Heisler to then obtain new employment so that he can support his mother and father where he resides now, as well as his son, who still resides in Cincinnati.

In short, I truly believe the only thing Mr. Heisler is guilty of is not paying close enough attention to his employer. Certainly, Dan's actions, even while working for that business group, were wholly professional and done with the best interest of Ohio consumers in mind.

Mr. Heisler does not have the resources to hire legal counsel to represent him before you. I think you will find that he will do an honest and credible job representing himself, and perhaps will be best served by permitting you the opportunity to truly have dialogue and understand this man, and that he is a credit to our community as well as our profession and deserves the proverbial second chance.

I hope you agree.

Very truly yours,
MARSH AND MARSH

Michael J. Marsh

MJM/cg

EX 23

ALAN R. MAYBERRY, JUDGE

WOOD COUNTY COURT OF COMMON PLEAS
COUNTY OFFICE BUILDING, COURTROOM FOUR
ONE COURTHOUSE SQUARE
BOWLING GREEN, OH 43402

TELEPHONE 419-354-9600
FAX 419-354-9612

To Whom It May Concern: October 5, 2006

Re: Complaint against D. Daniel Heisler (#0029005)

I have been engaged in the practice of law since 1979 in the State of Ohio. In 1980 I began full-time employment as an Assistant County Prosecutor. In 1988, I was elected to the first of four terms as Prosecuting Attorney. In 2003, I was elected to the Common Pleas Court bench where I remain.

I first met Dan Heisler while we both attended school in Bowling Green. We were in the same class and both enjoyed baseball, especially the Big Red Machine and band. We continued our friendship into college and even shared rides to law school. Dan and his family were always very honest and forthright people.

Dan has informed me of the current grievance against him. I cannot imagine that he would knowingly violate any rule or law, and now that he is fully aware of the issues, will never do it again.

Please consider his lack of any prior disciplinary complaints as more indicative of the man then this current situation. I am certain that during this matter that Dan has taken this to heart. Dan's nature is to cooperate fully and honestly, and I would anticipate that his clients would feel likewise.

I have had the opportunity to look into the motives of people for almost 30 years now and feel confident in saying that Dan is a fine, honest man. I hope you can give him a chance to prove this was an aberration.

If you need further information, please feel free to contact me.

Alan R. Mayberry

Alan R. Mayberry

My name is Michael Watkins. I am a retired teacher who taught at Bowling Green High School since 1969. I have written many recommendations about my former students but none gives me as much pleasure as this one. I need not parse words or watch what I say. Dan (DWIGHT) is of the highest character without question. I worked with Dan almost daily during his sophomore, junior and senior years and have kept in contact with him. I know a lot about Dan and have consistently liked what I have seen.

I will discuss his attributes. Dan, being a very modest man, would probably not expound on them but I will.

Dan is a hard worker. As a budding debater he worked long, hard hours to be good. No short cuts, no excuses are offered, just focus on the tasks at hand. He was an example to the other people on the team.

Dan is a very honest man. Ask him a question and he will tell you his

true opinion whether he thinks you agree with him or not. I never saw him distort the truth or try to distort what his debate opponents said. Most importantly Dan is the same person no matter what the environment, not shifting for the situation.

Dan is also a very moral person. I have never seen him take "short cuts" around the rules. He is strongly committed to doing the right thing. I admire his high standards of personal conduct. His friends respect him for it also. Dan would never purposely violate a rule. You can tell a person's morality by their actions not their words. Dan's actions strongly bespoke good character.

One of the strongest aspects of his character is is loyalty to friends. He stands up for them and helps them if he can.

Dan cares about people. He worked hard as a volunteer debate coach after graduation. His tireless

efforts brought success to his students. He put in long hours to help them be champions.

It is difficult to sum up a person on a piece of paper but I hope I have done so. I am proud to have known Dan and have worked with him. I know his friends and they share my opinion. All one has to do is spend some time with him and the truth of what I have said will show itself. Dan is just plainly a good man.

Michael Watkins
201 Napoleon Rd.
Bowling Green, O.
30 years a teacher
419-352-4936

BEFORE THE BOARD OF COMMISSIONERS
ON GRIEVANCES AND DISCIPLINE
OF
THE SUPREME COURT OF OHIO

In re: Dwight Daniel Heisler, Esq. (0029005)	:	
	:	Case No. 06-032
RESPONDENT		
	:	
Cincinnati Bar Association		STIPULATION EXHIBIT A
RELATOR	:	

BEFORE THE BOARD OF COMMISSIONERS
ON GRIEVANCES AND DISCIPLINE
OF
THE SUPREME COURT OF OHIO

FILED
OCT 10 2006
BOARD OF COMMISSIONERS
ON GRIEVANCES & DISCIPLINE

In re: Dwight Daniel Heisler, Esq. (0029005)	:	
RESPONDENT	:	Case No. 06-032
Cincinnati Bar Association	:	HEARING EXHIBIT A AND DEPOSITION EXHIBIT LIST
RELATOR	:	

Exhibit 1: Letter dated December 19, 2005, to William Mann, Esq., from Stephanie Walker Powell, together with attached subpoena duces tecum

Exhibit 2: Black binder labeled "Estate Planning Documents"

Exhibit 3: Contents of Day's Notebook as given to D. Heisler*

Exhibit 4: Day File*

Exhibit 5: IOLTA*

Exhibit 6: Visual Aids*

Exhibit 7: Insurance*

Exhibit 8: Mid-South Client Information

Exhibit 9: D. Daniel Heisler business card

Exhibit 10: Mid-South Estate Planning, Statement of Disclosure and Compliance

Exhibit 11: Letter dated July 13, 2005 to the Cincinnati Bar Association, from Audrey and Gerald B. Day.

Exhibit 12: Letter dated August 2, 2005, to Maria C. Palermo, from Gerald B. Day and Audrey C. Day

Exhibit 13: Letter dated October 24, 2005, to Richard L. Creighton, Jr, from Gerald B. Day and Audrey Day

Exhibit 14: Printouts from the Web site **www.midsouth-ep.com**

* Title of Files are those provided by Respondent.

STIPULATION
EXHIBIT B

EXHIBIT B TO STIPULATIONS

DANIEL HEISLER CLIENT FILES

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
1	88	7/21/04	N/A	No	$481,000.00	General Info	No	Cincinnati, OH	N/A
2	71	5/13/05	$2,495.00	No	$226,800.00	General Info.	Yes	Dayton, OH	D. Daniel Heisler
3	68	7/22/04	N/A	No	N/A	Fax cover of 26 page trust document	No	Cincinnati, OH	N/A
4	69	8/11/04	$2,395.00	No	$197,200.00	General Info.	Yes	Oxford, OH	Steven D. Graham
5	75	9/6/04	$2,395.00	No	$550,000.00	General Info.	Yes	North Bend, OH	D. Daniel Heisler
6				YES**					
7	71	8/6/04	$2,395.00	No	$164,000.00	General Info.	Yes	Cincinnati, OH	Steven D. Graham
8	83	8/5/04	$2,395.00	No	$143,300.00	General Info.	Yes	Cincinnati, OH	J. Greene
9	81	8/5/04	$2,395.00	No	$324,000.00	General Info.	Yes	Cincinnati, OH	J. Greene
10	70	7/9/04	N/A	No	$349,000.00	General Info.	No	Dayton, OH	N/A
11	85	8/31/04	$2.395.00	No	$40,000.00	General Info.	Yes	Mentor, KY	Steven D. Graham
12	70	7/23/04	N/A	No	N/A	General Info.	No	Franklin, OH	N/A
13	70	7/20/04	N/A	No	N/A	Fax cover of trust document	No	Cincinnati, OH	N/A
14	75	9/29/04	$2,395.00	No	$689,500.00	1 page of trust document	Yes	Cincinnati, OH	D. Daniel Heisler
15	80	10/19/04	$2,395.00	YES	$306,000.00	General Info.	Yes	Goshen, OH	D. Daniel Heisler
16	75	9/6/04	N/A	No	$393,500.00	General Info.	No	Cincinnati, OH	N/A
17	75	9/29/04	N/A	No	$689,000.00	General Info.	No	Cincinnati, OH	N/A
18	87	10/7/04	$2,395.00	YES	$190,000.00	General Info.	Yes	Cincinnati, OH	D. Daniel Heisler
19	73	8/13/04	$2.395.00	YES**	$142,000.00	Spouse's Death Certificate	Yes	Cincinnati, OH	D. Daniel Heisler
20	72	10/7/04	$2,395.00	No	$240,000.00	General Info.	Yes	Loveland, OH	D. Daniel Heisler
21	77	8/5/04	$2,395.00	YES**	N/A	General Info.	Yes	Centerville, OH	D. Daniel Heisler
22	85	10/1/04	$2,395.00	No	$180,000.00	General Info.	Yes	Cincinnati, OH	D. Daniel Heisler
23	74	10/5/04	$2,395.00	No	$381,000.00	General Info.	Yes	Hamilton, OH	D. Daniel Heisler
24	79	9/17/04	$2,395.00	No	$270,000.00	General Info.	Yes	Cincinnati, OH	D.Daniel Heisler
25	61	11/24/04	$2,395.00	No	$120,000	Copy of will	Yes	Riverside, OH	D. Daniel Heisler
26	78	11/23/04	$2,395.00	No	$210,000	General Info	Yes	Huber Heights,OH	D. Daniel Heisler

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
27	84	2/1/05	$2,495.00	No	$286,000	General Info	Yes	Dayton,OH	D. Daniel Heisler
28	73	1/13/05	$2,395.00	No	$570,000	General Info	Yes	Dayton, OH	D. Daniel Heisler
29				YES**				Dayton, OH	
30				YES**				Cincinnati, OH	
31	79	11/27/05	$2,495.00	No	$998,000	General Info	Yes	Middletown, OH	D. Daniel Heisler
32	93	1/31/05	$2,395.00	YES	$1,753,000	General Info	Yes	Hamilton, OH	D. Daniel Heisler
33	73	8/23/04	$2,395.00	No	$221,000	General Info	Yes	Cincinnati, OH	D. Daniel Heisler
34	77	2/11/005	$2,495.00	No	$283,000	General Info.	Yes	Hamilton, OH	D. Daniel Heisler
35						General Info.			
36	83	11/21/05	$2,495.00	No	$822,300	General Info	Yes	West Chester, OH	D. Daniel Heisler
37	77	3/10/05	$2,495.00	No	$257,300	General Info	Yes	Bellbrook, OH	Terry LaFrankie
38	88	2/22/05	$2,495.00	No	$320,000	General Info	Yes	Hamilton, OH	D. Daniel Heisler
39	71	5/12/05	$2,495.00	No	$621,500	General Info	Yes	Beavercreek, OH	D. Daniel Heisler
40	78	3/7/05	$3,295.00	No	$1,277,000	General Info	Yes	Fairborn, OH	Terry LaFrankie
41	74	11/9/04	$2,395.00	No	N/A	General Info	No	Hamilton, OH	N/A
42	84	1/14/05	$2,495.00	No	$700,000	General Info	Yes	Dayton, OH	D. Daniel Heisler
43	70	5/13/05	$2,495.00	No	$421,500	General Info	Yes	Xenia, OH	D. Daniel Heisler
44	84	2/9/05	$2,495.00	No	$997,400	General Info	Yes	Dayton, OH	D. Daniel Heisler
45	68	4/23/05	$2,495.00	No	$348,700	General Info	Yes	Xenia, OH	D. Daniel Heisler
46	73	1/13/05	N/A	No	$2,919,800	General Info	No	Dayton, OH	N/A
47	85	5/25/05	$2,495.00	No	$388,000	General Info	Yes	Dayton, OH	D. Daniel Heisler
48	80	6/10/05	$2,495.00	YES	$357,500	General Info	Yes	Cleves, OH	D. Daniel Heisler

* Client names redacted

** Indicates Notice of Cancellation

*** General Info. Includes: Info form, Asset form, Atty. Comment form, Statement of Disclosure and Compliance, Fact Find & Questions for a Living Trust, Form Letter Requesting Document Transfer, Copy of Check