

IN THE OHIO SUPREME COURT

Disciplinary Counsel :
Relator, :
v. : **Case No. 2007-0333**
P. Robert Broeren, Jr. :
Respondent. :

**RESPONDENT P. ROBERT BROEREN'S OBJECTIONS TO THE FINDINGS OF
FACT, CONCLUSIONS OF LAW AND THE RECOMMENDATION OF THE
BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE**

**William Mann (0024253)
Mitchell, Allen, Catalano & Boda
580 S. High St., Ste. 200
Columbus, OH 43215
Phone: (614) 224-4114
Fax: (614) 224-3804**

**Counsel for Respondent,
P. Robert Broeren**

**Stacy Solochek Beckman (0063306)
Asst. Disciplinary Counsel
250 Civic Center Dr., #325
Columbus, OH 43215-7411
Phone: (614) 461-0256
Fax: (614) 461-7205**

**Counsel For Relator,
Disciplinary Counsel**

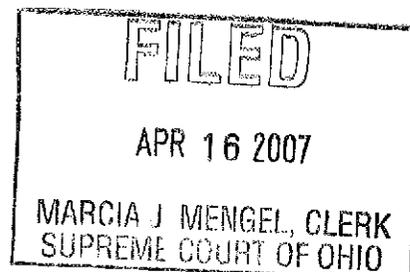


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**RESPONDENT'S OBJECTIONS TO THE FINDINGS OF
FACT, CONCLUSIONS OF LAW AND THE RECOMMENDATION OF THE
BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE**

Pursuant to Gov. Bar R. V §(8)(B), and this Honorable Court's March 5, 2007 Order To Show Cause, Respondent P. Robert Broeren, Jr. hereby makes the following objections.

1. Objections To Findings Of Fact:

A. Respondent respectfully objects to the Board's finding that Respondent's mental disability (Attention Deficit Disorder, or ADD) did not qualify as a mitigating factor in this case.

B. Respondent respectfully objects to the Board's finding that Respondent's June 18, 2004 letter, and his testimony about that letter, were fabricated.

2. Objections To Conclusions of Law:

A. Respondent respectfully objects to the Board's conclusion of law that he neglected a legal matter entrusted to him in violation of DR 6-101(A)(3).

B. Respondent respectfully objects to the Board's conclusion of law that he engaged in conduct involving dishonesty, fraud, deceit or misrepresentation in violation of DR 1-102(A)(4).

3. Objections To The Recommended Sanction:

A. Respondent respectfully objects to the Board's recommendation of a six month suspension from the practice of law, even though the Board expressly stated it made this recommendation "reluctantly." Board Decision, page 8. Given the

circumstances of this case, a stayed suspension from the practice of law, subject to strict terms of probation, would better serve and protect the public, the legal system, and Mr. Broeren's clients (who like him and appreciate his work), than would an actual suspension.

STATEMENT OF FACTS

1. Proceedings Below:

This legal ethics case was initiated on May 22, 2006 when Relator Office of Disciplinary Counsel (ODC) filed a two count complaint against Respondent P. Robert Broeren, Jr. (Rob Broeren). Both sides had an opportunity to conduct discovery and to subpoena witnesses for the formal hearing held on January 26, 2007. After the hearing, the Board found violations of DR 1-102(A)(4)(A) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation); DR 6-101(A)(3) (a lawyer shall not neglect a legal matter entrusted to him); DR 9-102(B)(4) (a lawyer shall promptly deliver to a client, as requested by the client, properties in the possession of the lawyer which the client is entitled to receive); and Gov. Bar R. V §4(G) (no justice, judge or lawyer shall refuse to assist or testify in a legal ethics investigation).

The Board found that the ODC had failed to prove the alleged violations of DR 1-102(A)(5) (a lawyer shall not engage in conduct prejudicial to the administration of justice); DR 6-101(A)(2) (a lawyer shall not handle a legal matter without adequate preparation); DR 7-101(A)(2) (a lawyer shall not intentionally fail to carry out a contract

of employment); and DR 7-101(A)(3) (a lawyer shall not intentionally prejudice or damage a client during the course of a professional relationship).

Prior to the hearing, Respondent Rob Broeren freely admitted that he violated DR 9-102(B)(4) (a lawyer shall promptly deliver to a client, as requested by the client, properties in possession of the lawyer which the client is entitled to receive) and Gov. Bar R. V §4(G) (no justice, judge or lawyer shall neglect or refuse to assist or testify in a legal ethics investigation).

Although Mr. Broeren freely admitted he violated DR 9-102(B)(4), he did not promptly give his client the case file because he believed that he was not obligated to do so based on Board of Commissioners on Grievances & Discipline Advisory Opinion 92-8 (4/10/92) which stated in part:

The entitlement to papers and property is less clear when there is a dispute regarding a fee. * * * However, assertion of the [attorney retaining] lien may not always relieve an attorney from responding to a subpoena *duces tecum* requesting client papers.

Further, the Board expressly found at page 5 of its decision:

* * * Respondent did eventually become very cooperative with Relator and participated in the disciplinary process, including filing a pro se answer, retaining counsel, submitting to a deposition, and entering into numerous stipulations.

In this case, Mr. Broeren was hired by PMR Products, Inc. (PMR) to defend it in a \$2,100 (two thousand one hundred dollars) collection case, that had been filed against PMR, in the Municipal Court of Mt. Vernon. Board Decision, p. 2. During the course of his representation, Mr. Broeren sent several bills for his professional services to PMR, totaling \$2,340 (two thousand three hundred forty dollars), but PMR only paid \$135 (one hundred thirty five dollars) of that bill. Board Decision, p. 5. In other words, PMR has refused to pay \$2,205 (two thousand two hundred and five dollars) of Mr. Broeren's bill. Board Decision, p. 5. Thus, PMR only paid about 6% (six percent) of Mr. Broeren's bill. Board Decision, p. 5.

2. Fact Summary:

In 2002 and 2003, Selective Med Components (Selective Med), a Mt. Vernon, Ohio company, sold medical electrodes to PMR Products, Inc. (PMR) of Albany, New York. Stipulated Fact 4. Due to a dispute about the quality of the electrodes, PMR refused to pay for them, and further refused to return them to Selective Med. Stipulated Fact 5.

As a result, on September 8, 2003, Selective Med filed a lawsuit, against PMR, in the Mt. Vernon Municipal Court, seeking payment for the electrodes in the amount of \$2,097.78 (two thousand ninety-seven dollars and seventy-eight cents), plus costs and interest. Stipulated Fact 6.

On October 2, 2003, PMR President William Lubin filed an answer on behalf of PMR, as well as a counterclaim against Selective Med. Stipulated Fact, 7. Mr. Lubin is not an attorney.¹

PMR President Lubin eventually hired Rob Broeren to defend PMR, and Mr. Broeren entered the Selective Med v. PMR case on December 1, 2003. Stipulated Facts, 8 & 9.

PMR President Lubin disliked Selective Med. He was therefore uncooperative, and unreasonable, with Mr. Broeren. Board Decision 2. Mr. Lubin testified that at the time of these events, PMR had sales of \$7 million a year, and that its business was concentrated in up-state New York. As such, this case appeared to have been a very low priority for him. In any event, as a result of Mr. Lubin's difficult nature, there was a discovery problem prior to the trial of the underlying case. See generally, Board Decision, 2-3. As a result, the Mt. Vernon Municipal Court awarded Selective Med a \$500 (five hundred dollars) sanction against PMR. Board Decision, 3.

Rob Broeren negotiated two possible settlements of the case. Board Decision, p. 2. However, as a result of Mr. Lubin's difficult nature, he refused to consider settlement. Board Decision, p. 2.

On June 11, 2004, the Selective Med v. PMR case went to trial. Stipulated Fact, 21. Rob Broeren appeared at the trial, and put on a totally appropriate defense on

¹ Respondent Rob Broeren cannot afford a trial transcript as this case has been a substantial financial burden for him. Therefore, we apologize for not making citations to the hearing transcript. We further apologize for any errors this may have caused. If they exist, they are not intentional.

behalf of PMR. Nonetheless, the Mt. Vernon Municipal Court ruled for Selective Med, and against PMR, and ordered PMR to pay \$2,097.78 in damages to Selective Med. Stipulated Facts, 21-22.

On July 15, 2004, the Mt. Vernon Municipal Court scheduled a Judgment Debtor Examination for August 20, 2004, and the court required Mr. Lubin to appear in Mt. Vernon for that examination. Stipulated Fact, 23. On or about September 7, 2004, the Mt. Vernon Municipal Court itself sent Mr. Lubin written notice that he was to appear in court on September 17, 2004, at 3:00 p.m. for a judgment debtor exam. Stipulated Fact, 25. Nonetheless, Mr. Lubin failed to appear as ordered. Stipulated Fact, 27. Therefore, the court ordered PMR to pay Selective Med an additional \$500 (five hundred dollars) in sanctions. Stipulated Fact, 27.

On October 6, 2004, Albany, New York Attorney Richard Doling wrote to Mr. Broeren requesting the case file on behalf of his (Mr. Doling's) client, PMR. Despite four additional requests, Mr. Broeren did not send the file. There is absolutely no evidence that Mr. Broeren's refusal to send Mr. Doling the PMR file caused any damage, of any kind, to PMR.

Mr. Broeren did not send Mr. Doling the file because PMR had refused to pay about 94% of Mr. Broeren's bill for legal services. Board Decision, p. 5. PMR only paid

\$135 (one hundred thirty-five dollars) of Mr. Broeren's \$2,340 (two thousand three hundred forty dollars) bill. Board Decision, p. 5. As previously indicated, Mr. Broeren's refusal was based on Board of Commissioners on Grievances & Discipline Advisory Opinion 92-8 (4/10/92).

The trial of this legal ethics case was heard on January 26, 2007. Mr. Lubin and Mr. Doling testified against Mr. Broeren. Based on the evidence produced at trial, they were reimbursed for their expenses associated in coming to Columbus, and for staying at a Columbus hotel the night before the trial.

The Board found that Mr. Lubin "was often less than credible." Board Decision, 3. The Board also made the following finding on page 2 of its decision:

Lubin, on behalf of PMR, proved to be a very difficult client whose dislike for Selective Med caused him to be somewhat uncooperative and unreasonable. Lubin claimed that the [sic] Selective Med's product [medical electrodes] was defective, but refused to return the product as requested by Selective Med. Respondent testified that he had negotiated two possible settlements of the case, but Lubin refused to consider either offer. Eventually Respondent was able to convince Lubin to return the merchandise to Selective Med, but the product's expiration date had passed by the time it was returned.

The evidence established that Selective Med had even agreed to pay the cost to ship the electrodes from PMR in Albany, New York back to Selective Med in Mt. Vernon, and to consider the entire matter settled. As previously indicated, Mr. Lubin rejected this settlement offer.

The evidence produced at trial established that Rob Broeren is a good person and a conscientious lawyer. For example, the statement of Knox County Clerk of Courts Mary Jo Hopkins was typical of the evidence on this point. In Stipulated Exhibit 35, she stated:

* * *

In my professional experience with Rob Broeren, I have personally observed him to be nothing but professional, prompt with my requests and he has always conducted himself in a professional manner. In fact, my office always comments about how focused he is on his work responsibilities. Many days he pops in the office at closing time with yet another issue for us to resolve. It appears to my office that he is all work and he seems to embrace it, working day and night and weekends in an effort to be prepared for court.

My legal staff respects him as a lawyer and a person. Any issue with felony indictments, warrants and/or summons are immediately addressed and he always makes himself available to my staff to resolve any legal issues that occur during the work day.

ARGUMENT

THE BOARD ERRED IN FINDING THAT ROB BROEREN'S ATTENTION DEFICIT DISORDER DID NOT QUALIFY AS A MITIGATING FACTOR IN THIS CASE IN THAT THIS FINDING WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE

The only medical evidence, produced at the trial of this case, came from Gideon King, M.D., and Stephanie Krznarich LISW, CCDC-1. Both "appeared" by way of their written reports.

Dr. King's written report of January 12, 2007 states, in relevant part:

I have diagnosed P. Robert Broeren with ADD on 4/7/06. ADD, attention deficit disorder, is a recognized medical condition. Its essential feature is a persistent pattern of inattention that often manifests itself in academic, occupational, and social situations. Individuals with this medical condition often fail to give close attention to details and they often make careless mistakes in their work and other tasks.

Effective treatments for ADD are available, and can include medication and/or behavioral therapies. I am providing medication therapy to Mr. Broeren and he has responded well to it.

Robert Broeren has been a compliant patient who has demonstrated to me that he wants to get better.

In my opinion, it is probable that Mr. Broeren's ADD has affected his ability to practice law and engage in other tasks. We are working to resolve this medical problem. (Emphasis added).

Dr. King's above-quoted statement was unrefuted. It was, however, fortified by the statement of Ohio Lawyer's Assistance Program, Inc. (OLAP) Clinical Director Stephanie Krznarich, LISW, CCDC-1. In Stipulated Exhibit 36, she stated, in relevant part:

* * *

Broeren was on time for his Chemical Dependency and Mental Health Assessment on December 19, 2006. As directed, he brought a letter from his pcp, Dr. Gideon King. His diagnosis is Attention Deficit Disorder (ADD). Dr. King's psychopharmacological approach is treatment with Adderall. Unfortunately, he had not contacted his insurance company for a preferred provider list or contacted any mental health providers for individual counseling.² I diagnosed Broeren with the following:

Axis I: Attention Deficit Disorder, Inattentive Type

* * *

I made the following recommendations that Broeren:
1) sign a Mental Health Recovery Contract for three years;
2) obtain a complete History and Physical with lab work from his pcp; 3) provide our office with his pending grievance; 4) attend Al-Anon meetings at least two per week until he has attended a total of eight then to evaluate its benefits for him; 5) begin individual counseling to address unresolved grief and loss, the ADD, and extended family issues; 6) consult his counsel regarding communication with his employer relating to the pending grievance; 7) continue his self care

² Mr. Broeren testified he has no insurance for mental health matters. Payment for mental health treatment is exempted from his health insurance policy. Mr. Broeren testified that he is treating with psychologist, Dennis Marikis, Ph.D., for his ADD, and is paying for this treatment out of his own pocket. In addition, he attends Al-Anon meetings to deal with family related matters.

regimen of: exercise, food plan, vitamins, hobbies, and practice in his family of faith; and 8) to contact our office twice per week on Mondays and Thursdays.

I am pleased to report that currently Broeren is compliant with his recovery contract and the above-listed recommendations. (Emphasis added).

Thus, the unrefuted medical evidence in this case shows that Rob Broeren has an Attention Deficit Disorder (ADD), and that it has affected his ability to practice law and engage in other tasks.

ADD, like the diseases of alcoholism, drug addiction, cancer and so on cannot be turned on and off like a light switch. If they could be, the people who suffer from them would simply turn them off. Therefore, it is puzzling to understand why the Board found that Mr. Broeren's ADD " * * * did not qualify for consideration as mitigation in this matter." Board Decision, p. 7.

The Board offered two reasons for its conclusion. One, because no medical provider expressly said that on such and such a date, when Rob Broeren did X, he was under the influence of ADD. In response, we would note, that as stated above, this medical problem cannot be turned on and off like a light switch. Additionally, two medical professionals have diagnosed Mr. Broeren as having ADD, and both have prescribed a course of medical treatment for it. Further, Dr. King specifically said Mr. Broeren's ADD has probably affected Rob's ability to practice law, and engage in other tasks.

The Board's second reason, for rejecting the unrefuted medical evidence as a mitigating condition was because, "The two Knox County detectives, called as character witnesses by Respondent, testified that they had noticed no difference in Respondent's work or behavior before and after April 2006." (When Dr. King first diagnosed the illness). Board Decision, p. 7.

In response, we would note that neither detective is a medical professional, and there is no evidence to suggest that they would know what ADD is, or how to diagnose it.

In discussing certain neurobehavioral deficits (specifically, certain focal cerebral disorders called aphasias), Harrison's Principals of Internal Medicine, 15th Edition (2001) makes this statement at page 147:

Some of the deficits described in this chapter are so complex that they may bewilder not only the patient and family but also the physician. It is imperative to carry out a systematic clinical evaluation in order to characterize the nature of the deficits and explain them in lay terms to the patient and family.

Our only point here is that ADD is also a neurobehavioral disorder, and "brain disorders" can be complex and at times bewildering.³ Nobody should expect Sheriff's Department Detectives, no matter how good they are at their jobs, to be able to recognize or diagnose ADD symptoms, any more than they could recognize or diagnose

³ ADD is thought to be caused by biological factors that affect the chemical activity of the brain. See generally, American Medical Association Complete Medical Encyclopedia (2003), 209.

other “brain disorders,” or other medical conditions be they gallbladder disease, cancer or what have you.

For example, White House Press Secretary Tony Snow, and Elizabeth Edwards, have been medically diagnosed as suffering from very serious cases of cancer. Yet, to lay people, they appear to be “normal.” Similarly, Rob Broeren has ADD. Yet to lay people, he may appear to be “normal.”

In view of the unrefuted medical evidence in this case, Mr. Broeren’s ADD should have been recognized as a significant mitigating factor.

**THE BOARD ERRED IN FINDING THAT ROB BROEREN'S JUNE 8, 2004 LETTER,
AND HIS TESTIMONY ABOUT IT, WERE FABRICATED IN THAT THIS FINDING
WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE**

The Board found the following on page 3-4 of its decision:

On July 15, 2004, a Judgment Debtor Examination was scheduled for August 20, 2004 and Lubin was required to appear. Lubin failed to appear. Lubin testified that Respondent failed to give him notice of that hearing. Respondent claims he sent a letter, dated June 18, 2004, to Respondent notifying him of the Judgment Debtor Examination. However, upon review of the June 18th letter, especially when considered with the letter dated June 16, 2004, the panel concludes that both letters were written around September 2004 and back dated.

The Board's entire rationale for this conclusion is found in footnote 2 of its decision. Footnote 2 says:

Respondent provided the letters to Lubin on September 17, 2004, in an effort to convince Lubin that Respondent had taken steps to advise Lubin of the June and August hearings. The June 18 letter indicates that the Examination of Judgment Debtor was scheduled for August 20. However, documentation was provided indicating that the Motion for Examination of Judgment Debtor was not filed until July 14, 2004 (attached and offered into evidence as part of Joint Stipulated Exhibit 19), and the court order for the examination (attached and offered into evidence as part of Joint Stipulated Exhibit 19) wasn't issued until July 15, 2004. Clearly it was impossible for Respondent to have received the notice and inform Lubin on June 18 of a hearing that wasn't even ordered or scheduled by the Court until mid-July. Respondent tried to claim that the June 18 letter must have been a typographical error. However, the content of the letter clearly indicates that the letter had to have been written before June 30.

Different plausible inferences could be drawn from this set of facts. One is the inference the Board drew. A second plausible inference is that opposing counsel provided Mr. Broeren with a copy of the Order before he presented it to the Court, and that Mr. Broeren sent that copy on June 18, 2004. A third plausible inference is that Rob Broeren simply got mixed-up with respect to some dates, and/or that he simply wrote a sloppy letter.

Our point is that, given the variety of plausible inferences that could be made, the evidence that Rob Broeren falsified the document in question has not been proven by clear and convincing evidence. There are probably about 200 or so (I have not counted them) pages of material in the Agreed Stipulations in this case, as well as other documentary and oral evidence. Despite all of this evidence, ODC's entire case, on this point, comes down to just one time-stamp on just one page of just one document. That is simply an insufficient basis to find, by clear and convincing evidence, that Rob Broeren falsified the document in question, and that his testimony concerning that document was likewise false.

In view of the above, the Board's finding that Rob Broeren's June 18, 2004 letter, and his testimony about it, were fabricated should be reversed.

**THE BOARD ERRED IN FINDING THAT ROB BROEREN
NEGLECTED A LEGAL MATTER ENTRUSTED TO HIM IN THAT
THIS FINDING WAS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE**

Mr. Broeren was hired by PMR to defend it in a \$2100 collection case filed against it in the Municipal Court of Mt. Vernon. Board Decision, p. 2. Mr. Broeren negotiated two possible settlement agreements to resolve the case. Board Decision, p. 2. However, as a result of Mr. Lubin's (PMR's President) difficult nature, he refused to consider settlement. Board Decision, p. 2.

Therefore, on June 11, 2004 the Selective Med v. PMR case went to trial. Stipulated Fact, 21. Rob Broeren appeared at the trial, and put on a totally appropriate defense for PMR.

There is no evidence that he should have done something, in terms of presenting a defense, that he did not do. There is no evidence that he did something, in terms of presenting a defense, that he should not have done. There is no evidence that Mr. Broeren could have done something, that was cost effective, that he did not do.

In its answers to Relator's interrogatories, the ODC gave the following answer to this question, and this was admitted into evidence at the hearing:

4. Do you contend that Rob Broeren was negligent (that is, failed to meet the appropriate standard of care of a reasonably skilled lawyer) in any fashion relevant to this case?

Answer: Objection. This interrogatory calls for legal conclusions, i.e. whether the respondent was negligent, and the statement "in any fashion relevant to this case" is vague

and confusing. Notwithstanding relator's objections, however, relator indicates that it has not alleged that respondent was negligent (that is, failed to meet the appropriate standard of care of a reasonably skilled lawyer) in any fashion relevant to this case. (Emphasis added).

Given the state of the evidence, it is a mystery as to how the Board concluded Mr. Broeren neglected a legal matter entrusted to him. In view of the evidence, the Board's finding that Rob Broeren neglected a legal matter entrusted to him should be reversed.

**THE BOARD ERRED IN FINDING, ALBEIT “RELUCTANTLY,” THAT
ROB BROEREN SHOULD BE SUSPENDED FROM THE PRACTICE
OF LAW FOR SIX MONTHS AS THIS FINDING WAS AGAINST THE
MANIFEST WEIGHT OF THE EVIDENCE**

The Board said the following on page 8 of its decision:

After considering Respondent’s conduct, violations, and the mitigating and aggravating factors, the panel reluctantly recommends a six month suspension from the practice of law. While the mitigation in this case is strong and persuasive, the panel’s finding that Respondent gave false testimony and introduced false evidence during the hearing necessitates an actual suspension from the practice of law. (Emphasis added).

As previously discussed, it is respectfully submitted that the Board was in error:

1. In finding that Mr. Broeren’s ADD did not qualify as a mitigating factor in this case.
2. In finding that Respondent’s June 18, 2004 letter, and his testimony about that letter, were fabricated, and that he therefore violated DR 1-102(A)(4).
3. In finding that Rob Broeren neglected a legal matter entrusted to him in violation of DR 6-101(A)(3).

Rob Broeren has fully and freely admitted that he violated DR 9-102(B)(4) (a lawyer shall promptly deliver to a client, as requested by the client, properties in possession of the lawyer which the client is entitled to receive) and Gov. B. R. V(4)(G) (no justice, judge or lawyer shall neglect or refuse to assist or testify in an ethics investigation).

However, the Board found that after this violation occurred, Mr. Broeren “* * * did eventually become very cooperative with Relator * * *.” Board Decision, p. 5.

Each disciplinary case is unique. No two set of facts are the same, and each sanction must be tailored to fit the facts in each case. Guttenberg & Snyder, The Law of Professional Responsibility in Ohio (1992), 373. It is respectfully submitted that the sanction most appropriately tailored to fit the facts in this case, would be for this Honorable Court to:

1. Stay Mr. Broeren’s six month suspension from the practice of law; and
2. To require Mr. Broeren to obtain extra Continuing Legal Education credits in the area of legal ethics; and
3. To require Mr. Broeren to remain in full compliance with his OLAP program.

At the conclusion of the stayed six month suspension, it is respectfully submitted that Mr. Broeren should be required to prove to the Board that he has complied with the above terms. Further, if this Honorable Court believes it would be appropriate, it should require Mr. Broeren to produce a letter from his physician, and/or his psychologist (who he is now seeing at his own expense) and/or OLAP, that he is mentally competent to practice law in that his ADD is under control, and that it presents no danger to his clients, to the public, or to our court system.

It is respectfully submitted that this type of sanction will, in the long run, provide just as much, if not more, protection to Mr. Broeren’s clients, to the public, and to our

court system, as an actual six month suspension would. Further, it should be noted that the evidence produced at the trial of this case shows that Rob Broeren's clients like him and appreciate his work on their behalf, and on behalf of the citizens of Knox County, who he now serves as a full-time Assistant Prosecuting Attorney.

Rob Broeren is sincerely sorry, and ashamed, that he has violated two disciplinary rules. He explained his contrition and regret to the Hearing Panel, and his genuine remorse is part of the official record of this case.

CONCLUSION

Respondent Rob Broeren respectfully prays that this Honorable Court stay his suspension from the practice of law, as discussed above, and allow him to continue to practice law and continue with his program of repentance.

Respectfully Submitted,



William Mann (0024253)
Mitchell, Allen, Catalano & Boda
580 S. High St., Ste. 200
Columbus, OH 43215
Phone: (614) 224-4114
Fax: (614) 224-3804

APPENDIX

A. The Board Of Commissioners On
Grievances And Disciplines Findings Of
Fact, Conclusions of Law and
Recommendation

B. The Relevant Disciplinary Rules &
Gov Bar Rule

C. The 1/12/07 Report Of Gideon King,
M.D., And His Resume

APPENDIX A

Decision of the Board

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

In Re:	:	
Complaint against	:	Case No. 06-057
P. Robert Broeren Attorney Reg. No. 0069166	:	Findings of Fact, Conclusions of Law and Recommendation of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio
Respondent	:	
Disciplinary Counsel	:	
Relator	:	

This matter was heard January 26, 2007, in Columbus, Ohio before a panel consisting of Judge Harvey J. Bressler of Middletown, Jana E. Emerick of Lima, and Nancy D. Moore, Chair, of Columbus, Ohio. None of the panel members is a resident of the district from which the complaint originated or served on the probable cause panel that certified this matter to the Board.

Stacy Solocheck Beckman represented Relator, Disciplinary Counsel. Respondent, P. Robert Broeren, was present and represented by William Mann.

FINDINGS OF FACT

Respondent is currently 37 years of age and married with two children. He graduated from Kenyon College in 1991 and from Notre Dame Law School in 1994.

Respondent was admitted to the practice of law in the State of Ohio in 1998. He was also admitted in the State of Virginia in 1994 and admitted in the District of Columbia in 1999.

Respondent has practiced in Knox County, Ohio since 2002. Initially, he had a litigation practice

and at some point also began working as a part-time assistant county prosecutor. Respondent has been employed as a full-time assistant county prosecutor since January 1, 2005.

The parties submitted extensive stipulations to the panel at the commission of the hearing. Those stipulations were admitted and adopted by the panel.

In November 2003 Respondent was hired by William Lubin, president of PMR Products, Inc. (PMR) to defend PMR in a civil matter in Mt. Vernon Municipal Court. PMR had been sued by Selective Med Components (Selective Med), a Mt. Vernon company, for nearly \$2100. Lubin told Respondent to keep fees and costs to a minimum since only \$2100 was in dispute. Lubin had previously filed an answer and counter-claim pro se in the matter. Respondent entered his appearance as counsel for PMR on December 1, 2003.

Lubin, on behalf of PMR, proved to be a very difficult client whose dislike for Selective Med caused him to be somewhat uncooperative and unreasonable. Lubin claimed that the Selective Med's product was defective, but refused to return the product as requested by Selective Med. Respondent testified that he had negotiated two possible settlements of the case, but Lubin refused to consider either offer. Eventually Respondent was able to convince Lubin to return the merchandise to Selective Med, but the product's expiration date had passed by the time it was returned.

In mid-February, 2004, Selective Med filed a Motion to Compel claiming that PMR had failed to fully respond to Selective Med's discovery requests. Respondent did not respond to the Motion to Compel and the court granted Selective Med's Motion to Compel.

In mid-March Respondent replied to Selective Med's discovery requests. Respondent indicated that he had difficulty in providing complete discovery due to Lubin's lack of cooperation. Lubin testified that he provided all information that was requested by Respondent.

On March 31, 2004, Selective Med filed a Motion for Sanctions against PMR because the discovery was incomplete. Respondent submitted a response to Selective Med's Motion for Sanctions and filed a Motion for a Protective Order on April 15, 2004. The court granted both PMR's Motion for a Protective Order and Selective Med's Motion for Sanctions on April 21, 2004. The court awarded Selective Med \$500 in sanctions against PMR. Lubin testified that Respondent never informed him of the contempt hearing or sanctions.

On May 6, 2004, the Court set the matter for trial on June 11, 2004. Respondent and Lubin disagree about when Lubin was advised of the June 11 trial date. Lubin claims he wasn't told until June 10 of the June 11 trial date and was unable to come to Ohio on such short notice. Respondent claims he sent Lubin a letter dated May 7, 2004 informing Lubin of the trial date. While the panel found that Lubin was often less than credible, the panel finds that Respondent's "letter" (attached) also lacks credibility because it contradicts Lubin's instruction to keep fees and costs to a minimum.

On June 10, 2004, Respondent requested a continuance of the trial date after speaking to Lubin. On June 11, 2004 the Motion for a Continuance was denied and the case proceeded to trial. Respondent represented PMR at the trial and cross-examined Selective Med's witnesses. The court ruled in favor of Selective Med and ordered that PMR pay nearly \$2100 to Selective Med.

On July 15, 2004, a Judgment Debtor Examination was scheduled for August 20, 2004 and Lubin was required to appear. Lubin failed to appear. Lubin testified that Respondent failed to give him notice of that hearing. Respondent claims he sent a letter, dated June 18, 2004, to Respondent notifying him of the Judgment Debtor Examination. However, upon review of the

June 18 letter, especially when considered together with the letter dated June 16, 2004,¹ the panel concludes that both letters were written around September 2004 and backdated.² Respondent was given an opportunity during the hearing to admit that he had later fabricated the June 18 letter in an attempt to “prove” to Lubin that he had notified him of the Judgment Debtor Examination, but Respondent failed to make such admission, even though he conceded that it was problematic.

Lubin testified that he received notice from Mt. Vernon Municipal Court in September 2004 that a hearing was scheduled for September 17, 2004 for a Judgment Debtor Examination and for Lubin to show cause for failing to appear for the August hearing. Lubin said that was the first time he became aware that the case had proceeded to trial, that PMR had lost, and that there had been a previous Judgment Debtor Examination scheduled for August. Lubin wrote to the judge and asked for a continuance of the September 17, 2004 hearing. However, a continuance was not granted and Lubin was held in contempt for not appearing. PMR was ordered to pay Selective Med an additional \$500.

Lubin then sought the help of Richard Dolin (Dolin), a New York attorney, to assist him in the Selective Med matter. Dolin wrote to Respondent on five occasions between October 6,

¹ Both letters are attached and were introduced into evidence as part of Joint Stipulated Exhibit 19.

² Respondent provided the letters to Lubin on September 17, 2004, in an effort to convince Lubin that Respondent had taken steps to advise Lubin of the June and August hearings. The June 18 letter indicates that the Examination of Judgment Debtor was scheduled for August 20. However, documentation was provided indicating that the Motion for Examination of Judgment Debtor was not filed until July 14, 2004 (attached and offered into evidence as part of Joint Stipulated Exhibit 19), and the court order for the examination (attached and offered into evidence as part of Joint Stipulated Exhibit 19) wasn't issued until July 15, 2004. Clearly it was impossible for Respondent to have received the notice and inform Lubin on June 18 of a hearing that wasn't even ordered or scheduled by the court until mid-July. Respondent tried to claim that the date on the June 18 letter must have been a typographical error. However, the content of the letter clearly indicates that the letter had to have been written before June 30.

2004 and January 19, 2005 requesting the PMR file be sent to him. Respondent failed to reply to any of Dolin's letters and refused to provide the file to Dolin. Respondent testified that he thought he was justified in keeping the file until his bill was paid in full.

Despite the fact that Respondent sent several bills to PMR for payment, Lubin and Dolin admitted that only one payment in the amount of \$135 was ever made by PMR. Three bills totaling \$2340, which had been prepared by Respondent and submitted to Lubin for payment, were presented to the panel.

Relator began investigating this matter in late 2004. Relator sent a letter to Respondent on December 29, 2004 which Respondent received, but to which he did not respond. Respondent stipulated that he did not provide reasonable cooperation to Relator with regard to the investigation of this matter. Respondent did eventually become very cooperative with Relator and participated in the disciplinary process, including filing a pro se answer, retaining counsel, submitting to a deposition, and entering into numerous stipulations.

CONCLUSIONS OF LAW

The Panel accepted the stipulations of the parties and considered the evidence presented at the hearing. Respondent stipulated to violations of DR 9-102(B)(4) and Gov. Bar R. V(4)(G). Based upon the evidence, the Panel finds that Respondent's conduct, by clear and convincing evidence, did violate the following rules:

- | | | |
|---------|---------------------|---|
| Count 1 | DR 1-102(A)(4) | Conduct involving dishonesty, fraud, deceit or misrepresentation. |
| Count 1 | DR 6-101(A)(3) | Neglect of a legal matter entrusted to him. |
| Count 1 | DR 9-102(B)(4) | Promptly deliver to a client as requested by the client properties in the possession of the lawyer which the client is entitled to receive. |
| Count 2 | Gov. Bar R. V(4)(G) | Failure to cooperate. |

The panel finds that the following rules were not proven by clear and convincing evidence and are hereby dismissed:

- | | | |
|---------|----------------|--|
| Count 1 | DR 1-102(A)(5) | Conduct prejudicial to the administration of justice. |
| Count 1 | DR 6-101(A)(2) | Handling a legal matter without adequate preparation. |
| Count 1 | DR 7-101(A)(2) | Intentionally fail to carry out a contract of employment. |
| Count 1 | DR 7-101(A)(3) | Intentionally prejudice or damage a client during the course of the professional relationship. |

MITIGATION AND AGGRAVATION

Respondent testified that he is the president of the Knox County Bar Association and is active in community affairs, including Kiwanis and the Red Cross. Respondent's wife testified that Respondent is a good husband and father. Two Knox County detectives testified that Respondent is a good prosecutor and is a valuable and accessible resource to law enforcement in Knox County. They further indicated that Respondent has an excellent reputation in the community for truth and honesty. The parties stipulated that Respondent has no prior disciplinary record.

Respondent was diagnosed with ADD, Attention Deficit Disorder, on April 7, 2006 by Gideon L. King, M.D. Respondent has been placed upon medication for that condition and has "responded well to it".³

Dr. King found that the ADD probably has had an effect on Respondent's ability to practice law, but did not report a finding that Respondent's ADD specifically contributed to his misconduct in this matter, or that Respondent has returned or will be able to return to competent,

³ See Stipulated Joint Exhibit 37.

ethical professional practice. The two Knox County detectives, called as character witnesses by Respondent, testified that they had noticed no difference in Respondent's work or behavior before and after April 2006. Therefore, the panel found that the mental disability did not qualify for consideration as mitigation in this matter.

Respondent has recently signed an OLAP contract and has been assessed by Stephanie Krznarich, associate director of OLAP. Respondent's first contact with OLAP was in August 2006, but his assessment wasn't done until December 19, 2006.⁴ Ms. Krznarich made several recommendations regarding the ADD which were incorporated into Respondent's OLAP contract.

When considering aggravating and mitigating factors, the panel finds the following mitigating factors with respect to Respondent in this matter:

- no prior disciplinary record;
- good character;
- no pattern of misconduct;
- this was an isolated incident and out of character for Respondent;
- Respondent eventually was very cooperative with Relator;
- Respondent accepted responsibility for some of his misconduct;
- Respondent's client was not vulnerable and paid very little for Respondent's representation; and
- Respondent's client was very difficult and uncooperative at times.

The panel makes the following findings regarding aggravating factors:

⁴ Respondent had to cancel his September 2006 evaluation date due to a funeral. When Respondent failed to call to re-schedule the appointment, an OLAP representative had to initiate contact with him in November 2006 in order to re-schedule the assessment.

- Respondent initially was uncooperative with the disciplinary process;
- Respondent submitted exhibits (as part of Joint Exhibit 19) and testimony during the disciplinary hearing that the panel found to be false;
- Respondent failed to acknowledge the wrongfulness of some of his conduct;
- Respondent's client was harmed by the financial sanctions imposed; and
- Respondent had a selfish motive when he refused to return the client's file until receiving his fee.

RECOMMENDATION

Relator recommended a six month suspension from the practice of law. Respondent recommended a public reprimand or a stayed suspension from the practice of law.

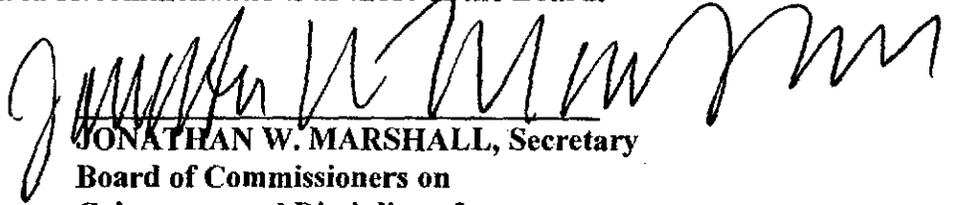
After considering Respondent's conduct, violations, and the mitigating and aggravating factors, the panel reluctantly recommends a six month suspension from the practice of law.

While the mitigation in this case is strong and persuasive, the panel's finding that Respondent gave false testimony and introduced false evidence during the hearing necessitates an actual suspension from the practice of law.

BOARD RECOMMENDED SANCTION

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 February 9, 2007. The Board adopted the Findings of Fact, Conclusions of Law and Recommendation of the Panel and recommends that the Respondent, Peter R. Broeren, Jr., be suspended for six months from the practice of law in the State of Ohio. 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.**

A handwritten signature in black ink, appearing to read 'Jonathan W. Marshall', is written over a horizontal line.

**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

P. Robert Broeren, Jr.
Attorney Registration No. 0069166
P.O. Box 267
Gambier, OH 43022,

JAN 24 2007

BOARD OF COMMISSIONERS
ON GRIEVANCES & DISCIPLINE

Respondent,

BOARD NO. 06-057

v.

AGREED STIPULATIONS
OF FACT AND LAW

Disciplinary Counsel
250 Civic Center Drive, Suite 325
Columbus, OH 43215-7411,

Relator.

AGREED STIPULATIONS OF FACT AND LAW

Relator, Disciplinary Counsel, and respondent, P. Robert Broeren, do hereby stipulate to the admission of the following facts and mitigating factors as well as to the admission and authenticity of the attached exhibits. The parties will supplement this information at the trial of this case.

STIPULATED FACTS

COUNT I

1. Respondent, P. Robert Broeren, was admitted to the practice of law in the state of Ohio on May 11, 1998.
2. On or about the end of November 2003, William Lubin, president of PMR Products, Inc. ("PMR"), retained respondent to represent PMR in a civil matter pending in the Mt. Vernon Municipal Court.

3. PMR is a retailer of medical devices and is located in Albany, New York.
4. In 2002 and 2003, PMR purchased electrodes for its medical devices from Selective Med Components ("Selective Med"), a company headquartered in Mt. Vernon, Ohio.
5. Due to a dispute about the quality of the electrodes, PMR refused to pay for the electrodes or return the electrodes to Selective Med.
6. On September 8, 2003, Selective Med initiated a lawsuit against PMR in the Mount Vernon Municipal Court, seeking money damages in the amount of \$2,097.78 plus costs and interest.
7. On October 2, 2003, Lubin filed an answer on behalf of PMR, and a counterclaim on behalf of PMR.
8. At the end of November 2003, respondent agreed to represent Lubin and PMR in the Selective Med litigation.
9. Respondent filed a notice of appearance on PMR's behalf on December 1, 2003.
10. On February 13, 2004, Selective Med filed a motion to compel answers to interrogatories and request for production of documents and a request for a hearing on sanctions after PMR failed to fully respond to Selective Med's discovery requests.
11. Respondent did not reply to Selective Med's motion to compel.
12. On February 23, 2004, the court granted Selective Med's motion to compel.
13. On or about March 17, 2004, respondent submitted responses to Selective Med's discovery requests.

14. On March 18, 2004 and March 19, 2004, the court considered Selective Med's motion for sanctions that had been previously filed and ordered that its attorney had until April 2, 2004 to review the discovery response and determine whether the response was complete.
15. On March 31, 2004, Selective Med filed a motion for sanctions against PMR because it alleged that the discovery responses submitted by respondent on March 17, 2004 were incomplete.
16. On April 15, 2004, respondent submitted a revised response to Selective Med's motion for sanctions along with a motion for a protective order.
17. On April 21, 2004, the court granted PMR's motion for a protective order as well as Selective Med's motion for sanctions and awarded sanctions against PMR in the amount of \$500.
18. On May 6, 2004, the court scheduled a trial in the Selective Med litigation for June 11, 2004.
19. Respondent contacted Lubin by telephone on June 10, 2004. Lubin advised respondent that he would be unable to attend the trial on June 11, 2004.
20. On June 10, 2004, respondent filed a motion to continue the trial, which the court denied on June 11, 2004.
21. On June 11, 2004, respondent appeared at the trial on PMR's behalf. Respondent cross-examined Selective Med's witnesses, and argued that judgment should be awarded to PMR by operation of Ohio's version of the Uniform Commercial Code.
22. The court ruled against PMR and ordered that PMR pay Selective Med \$2,097.78.

23. On July 15, 2004, the court scheduled a Judgment Debtor Examination for August 20, 2004 and required Lubin to appear at that time.
24. When Lubin failed to appear for the examination, the court issued a show cause order requiring PMR to appear on September 17, 2004 to participate in the Judgment Debtor Examination and to show cause as to why it should not be held in contempt.
25. On or about September 7, 2004, the court itself sent Lubin a copy of the show cause order.
26. On September 14, 2004, Lubin wrote to Mt. Vernon Municipal Court Judge Spurgeon requesting that the court set aside or vacate the judgment and continue the hearing scheduled for September 17, 2004.
27. On September 17, 2004, the court held a show cause hearing and found Lubin in contempt for failure to appear at the September 17, 2004 Judgment Debtor's Examination. The court ordered PMR to pay Selective Med an additional \$500.
28. On September 17, 2004, respondent forwarded Lubin a facsimile transmission that included materials respondent says he previously provided to Lubin.
29. On October 6, 2004, Attorney Richard E. Doling wrote to respondent regarding Lubin and PMR's case.
30. On October 25, 2004, Doling wrote to respondent regarding Lubin and PMR's case. Respondent did not reply to Doling's letter.
31. On November 15, 2004, Doling wrote to respondent regarding Lubin and PMR's case. Respondent did not reply to Doling's letter.

32. On November 29, 2004, Doling wrote to respondent regarding Lubin and PMR's case. Respondent did not reply to Doling's letter.

33. On January 19, 2005, Doling wrote to respondent regarding Lubin and PMR's case. Respondent did not reply to Doling's letter.

COUNT II

34. On December 29, 2004, relator forwarded respondent a letter of inquiry relating to Lubin's grievance by certified mail to the business address provided to the Attorney Registration Office, 110 E. Gambier Street, Mt. Vernon, Ohio 43050. Although respondent received the letter, he did not reply to it as requested.

35. Respondent neglected to provide reasonably cooperation to relator with regard to its investigation.

STIPULATED MITIGATING FACTORS

Pursuant to the mitigating factors identified in BCGD Proc. Reg. § 10 (B)(2), relator and respondent stipulate that respondent has no prior disciplinary record.

STIPULATED EXHIBITS

The parties stipulate to the authenticity and admissibility of each of the following exhibits. Stipulated Exhibits 20 through 25 are admitted only to the extent that they are relevant to an issue in this case.

Exhibit 1 Complaint, *Selective Med Components, Inc., v. PMR Products, Inc.*, Mt. Vernon Municipal Court, Case No. 03CVH785, filed September 8, 2003.

Exhibit 2 Answer, *Selective Med Components, Inc., v. PMR Products, Inc.*, Mt. Vernon Municipal Court, Case No. 03CVH785, filed October 2, 2003.

Exhibit 3 Notice of Appearance, *Selective Med Components, Inc., v. PMR Products, Inc.*, Mt. Vernon Municipal Court, Case No. 03CVH785, filed December 1, 2003.

- Exhibit 4 Motion to Compel Answers to Interrogatories and Request for Production of Documents and Request for Hearing on Sanctions, *Selective Med Components, Inc., v. PMR Products, Inc.*, Mt. Vernon Municipal Court, Case No. 03CVH785, filed February 13, 2004.
- Exhibit 5 Journal Entry, *Selective Med Components, Inc., v. PMR Products, Inc.*, Mt. Vernon Municipal Court, Case No. 03CVH785, filed February 23, 2004.
- Exhibit 6 Journal Entry, *Selective Med Components, Inc., v. PMR Products, Inc.*, Mt. Vernon Municipal Court, Case No. 03CVH785, filed March 19, 2004.
- Exhibit 7 Motion for Sanctions Under Ohio Civil Rule 37(B), *Selective Med Components, Inc., v. PMR Products, Inc.*, Mt. Vernon Municipal Court, Case No. 03CVH785, filed March 31, 2004.
- Exhibit 8 Revised Responses of Defendant to Plaintiff's Motion for Sanctions, *Selective Med Components, Inc., v. PMR Products, Inc.*, Mt. Vernon Municipal Court, Case No. 03CVH785, filed April 15, 2004.
- Exhibit 9 Motion for Protective Order Under Civil Rule 26(C), *Selective Med Components, Inc., v. PMR Products, Inc.*, Mt. Vernon Municipal Court, Case No. 03CVH785, filed April 15, 2004.
- Exhibit 10 Journal Entry, *Selective Med Components, Inc., v. PMR Products, Inc.*, Mt. Vernon Municipal Court, Case No. 03CVH785, filed April 21, 2004.
- Exhibit 11 Journal Entry, *Selective Med Components, Inc., v. PMR Products, Inc.*, Mt. Vernon Municipal Court, Case No. 03CVH785, filed May 6, 2004.
- Exhibit 12 Motion for Continuance, *Selective Med Components, Inc., v. PMR Products, Inc.*, Mt. Vernon Municipal Court, Case No. 03CVH785, filed June 10, 2004.
- Exhibit 13 Transcript, *Selective Med Components, Inc., v. PMR Products, Inc.*, Mt. Vernon Municipal Court, Case No. 03CVH785, dated June 11, 2004.
- Exhibit 14 Journal Entry, *Selective Med Components, Inc., v. PMR Products, Inc.*, Mt. Vernon Municipal Court, Case No. 03CVH785, filed June 11, 2004.
- Exhibit 15 Order for Examination of Judgment Debtor, *Selective Med Components, Inc., v. PMR Products, Inc.*, Mt. Vernon Municipal Court, Case No. 03CVH785, filed July 15, 2004.
- Exhibit 16 Entry, *Selective Med Components, Inc., v. PMR Products, Inc.*, Mt. Vernon Municipal Court, Case No. 03CVH785, filed September 7, 2004.

- Exhibit 17 Letter from William Lubin to Judge Paul E. Spurgeon filed September 15, 2004.
- Exhibit 18 Entry, *Selective Med Components, Inc., v. PMR Products, Inc.*, Mt. Vernon Municipal Court, Case No. 03CVH785, filed September 17, 2004.
- Exhibit 19 Facsimile transmission from P. Robert Broeren, Jr., to Bill Lubin dated September 17, 2004.
- Exhibit 20 Letter from Richard E. Doling to P. Robert Broeren, Jr., dated October 6, 2004.
- Exhibit 21 Letter from Richard E. Doling to P. Robert Broeren, Jr., dated October 25, 2004.
- Exhibit 22 Letter from Richard E. Doling to P. Robert Broeren, Jr., dated October 26, 2004.
- Exhibit 23 Letter from Richard E. Doling to P. Robert Broeren, Jr., dated November 15, 2004.
- Exhibit 24 Letter from Richard E. Doling to P. Robert Broeren, Jr., dated November 29, 2004.
- Exhibit 25 Letter from Richard E. Doling to P. Robert Broeren, Jr., dated January 19, 2005.
- Exhibit 26 Letter from Stacy Solochek Beckman to P. Robert Broeren, Jr., dated December 29, 2004.
- Exhibit 27 Letter from Stacy Solochek Beckman to P. Robert Broeren, Jr., dated January 20, 2005.
- Exhibit 28 Subpoena Duces Tecum issued on February 17, 2005.
- Exhibit 29 Transcript of Attempted Deposition of P. Robert Broeren, Jr., dated March 10, 2005.
- Exhibit 30 Letter from Stacy Solochek Beckman to P. Robert Broeren, Jr., dated March 14, 2005.
- Exhibit 31 Letter from Stacy Solochek Beckman to P. Robert Broeren, Jr., dated March 29, 2005.
- Exhibit 32 Letter from Stacy Solochek Beckman to P. Robert Broeren, Jr., dated May 26, 2005.

- Exhibit 33 Subpoena Duces Tecum issued on June 21, 2005.
- Exhibit 34 Letter from Stacy Solochek Beckman to P. Robert Broeren, Jr., dated January 30, 2006.
- Exhibit 35 Letter from Mary Jo Hawkins to William Mann dated January 18, 2007.
- Exhibit 36 Letter from Stephanie Krznarich to William Mann dated January 23, 2007.

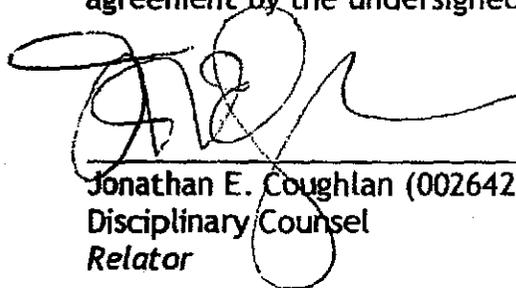
LEGAL STIPULATIONS

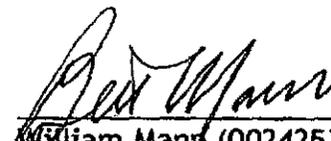
Relator, Disciplinary Counsel, and respondent, P. Robert Broeren, do hereby stipulate to the following legal conclusions:

1. Respondent's failure to properly respond to Attorney Richard Doling's letters constituted a violation of DR 9-102 (B)(4) [a lawyer shall promptly deliver to a client as requested by the client properties in the possession of the lawyer which the client is entitled to receive].
2. Respondent's failure to cooperate with relator's investigation violated Gov. Bar R. V (4)(G) [no lawyer shall neglect or refuse to assist or testify in an investigation].

CONCLUSION

The above facts and legal conclusions are stipulated to and entered into by agreement by the undersigned parties on this ___ day of January 2007.


Jonathan E. Coughlan (0026424)
Disciplinary Counsel
Relator


William Mann (0024253)
Mitchell, Allen, Catalano & Boda Co., LPA
580 South High Street, Suite 200
Columbus, Ohio 43215-5603
Counsel for Respondent


Stacy Solochek Beckman (0063306)
Assistant Disciplinary Counsel
Office of Disciplinary Counsel of
The Supreme Court of Ohio
250 Civic Center Drive, Suite 325
Columbus, Ohio 43215
Telephone (614) 461-0256
Facsimile (614) 461-7205
Counsel for Relator

P. Robert Broeren, Jr. (0069166)
Respondent

APPENDIX B

Relevant Rules

DR 1-102. MISCONDUCT.

(A) A lawyer shall not:

(1) Violate a Disciplinary Rule or, as a judicial candidate as defined in Canon 7 of the Code of Judicial Conduct, the provisions of the Code of Judicial Conduct applicable to judicial candidates.

(2) Circumvent a Disciplinary Rule through actions of another.

(3) Engage in illegal conduct involving moral turpitude.

(4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.

(5) Engage in conduct that is prejudicial to the administration of justice.

DR 6-101. FAILING TO ACT COMPETENTLY.

(A) A lawyer shall not:

(1) Handle a legal matter which he knows or should know that he is not competent to handle, without associating with him a lawyer who is competent to handle it.

(2) Handle a legal matter without preparation adequate in the circumstances.

(3) Neglect a legal matter entrusted to him.

DR 7-101. REPRESENTING A CLIENT ZEALOUSLY.

(A) A lawyer shall not intentionally:

(1) Fail to seek the lawful objectives of his client through reasonably available means permitted by law and the Disciplinary Rules, except as provided by DR 7-101(B). A lawyer does not violate this Disciplinary Rule, however, by acceding to reasonable requests of opposing counsel which do not prejudice the rights of his client, by being punctual in fulfilling all professional commitments, by avoiding offensive tactics, or by treating with courtesy and consideration all persons involved in the legal process.

(2) Fail to carry out a contract of employment entered into with a client for professional services, but he may withdraw as permitted under DR 2-110, DR 5-102, and DR 5-105.

(3) Prejudice or damage his client during the course of the professional relationship, except as required under DR 7-102(B).

DR 9-102. PRESERVING IDENTITY OF FUNDS AND PROPERTY OF A CLIENT.

(A) All funds of clients paid to a lawyer or law firm, other than advances for costs and expenses, shall be deposited in one or more identifiable bank accounts maintained in the state in which the law office is situated and no funds belonging to the lawyer or law firm shall be deposited therein except as follows:

- (1) Funds reasonably sufficient to pay bank charges may be deposited therein.
- (2) Funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited therein, but the portion belonging to the lawyer or law firm may be withdrawn when due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

(B) A lawyer shall:

- (1) Promptly notify a client of the receipt of his funds, securities, or other properties.
- (2) Identify and label securities and properties of a client promptly upon receipt and place them in a safe deposit box or other place of safekeeping as soon as practicable.
- (3) Maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to his client regarding them.
- (4) Promptly pay or deliver to the client as requested by a client the funds, securities, or other properties in the possession of the lawyer which the client is entitled to receive.

Gov. Bar. R. V Section 4

(G) Duty to Cooperate. The Board, the Disciplinary Counsel, and president, secretary, or chair of a Certified Grievance Committee may call upon any justice, judge, or attorney to assist in an investigation or testify in a hearing before the Board or a panel for which provision is made in this rule, including mediation and ADR procedures, as to any matter that he or she would not be bound to claim privilege as an attorney at law. No justice, judge, or attorney shall neglect or refuse to assist or testify in an investigation or hearing.

APPENDIX C

Report and Resume of Gideon King,
M.D.

Community Family Medicine of Mount Vernon

Gideon L. King, MD
Board Certified in Family Medicine

**KNOX
COMMUNITY
HOSPITAL**

*One team united
in caring*

Dear William Mann

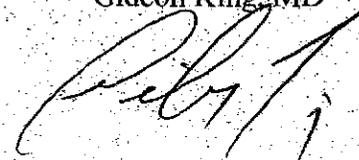
I have diagnosed P. Robert Broeren with ADD on 4/7/2006. ADD, attention deficit disorder, is a recognized medical condition. Its essential feature is a persistent pattern of inattention that often manifests itself in academic, occupational, and social situations. Individuals with this medical condition often fail to give close attention to details and they often make careless mistakes in their work and in other tasks.

Effective treatments for ADD are available, and can include medication and/or behavioral therapies. I am providing medication therapy to Mr. Broeren and he has responded well to it.

Robert Broeren has been a compliant patient who has demonstrated to me that he wants to get better.

In my opinion, it is probable that Mr. Broeren's ADD has affected his ability to practice law and engage in other tasks. We are working to resolve this medical problem.

Gideon King, MD



1/12/07

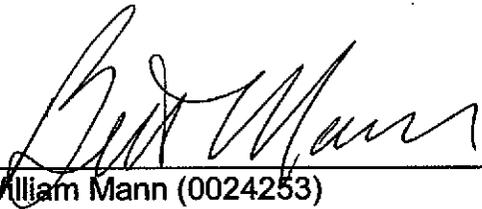
Gideon L King, M.D.

Education	University of Missouri, Kansas City, Family Practice Residency, 2001 to 2004 University of Kansas School of Medicine, MD degree, 2001 Sterling College, BS, Biology, 1997
Licensure and Certification	Advanced Cardiac Life Support Provider, 1999 to present Neonatal Resuscitation Program Provider, 2001 to present Pediatric Advanced Life Support Provider, 2001 to present Fully licensed to practice medicine in the State of Missouri, 2002 Fully licensed to practice medicine in the State of Ohio, 2004 Family Medicine Board certification, August 2004
Professional Experience	Work full-time as a Family Physician in Mt Vernon, Ohio, 2004 to present Full admitting privileges at Knox Community Hospital in Mt Vernon, OH Work part-time in Knox Community Hospital Emergency Department Urgent Care. 2005 to present Developed a special interest in adolescent and preventive medicine with involvement in counseling and mentoring high school students on healthy practices and lifestyles Worked in the urgent care and emergency department at Truman Medical Center-Lakewood in Kansas City Missouri Assessed and treated high school athletes for sports related injuries Assessed and treated a wide range of injuries and illnesses of all age ranges
Community Activities	Tutored high school and college students Volunteered at homeless shelters Volunteered to do well-child exams and sports physicals at the Knox County Health Department
Special Skills	Experience in dealing with Third World poverty and disease. I spent two years working in Haiti to improve sanitation and health conditions and helping to provide potable water for rural areas
References	Available upon request

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document was sent, by regular U. S. mail, to the following on the 16 day of April 2007:

Stacy Solochek Beckman, Esq.
Asst. Disciplinary Counsel
250 Civic Center Dr., #325
Columbus, OH 43215-7411



William Mann (0024253)