

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

**07 - 0768**

<b>In Re:</b>	:	
<b>Complaint against</b>	:	<b>Case No. 06-028</b>
<b>Richard Ford Smith, Jr.</b>	:	<b>Findings of Fact,</b>
<b>Attorney Reg. No. 0018125</b>	:	<b>Conclusions of Law and</b>
<b>Respondent</b>	:	<b>Recommendation of the</b>
<b>Cuyahoga County Bar Association</b>	:	<b>Board of Commissioners on</b>
	:	<b>Grievances and Discipline of</b>
	:	<b>the Supreme Court of Ohio</b>
<b>Relator</b>	:	

**FILED**  
APR 26 2007  
MARCIA J. MENGEL, CLERK  
SUPREME COURT OF OHIO

This matter was referred to Master Commissioner, Judge W. Scott Gwin, on February 22, 2007, by the Secretary of the Board pursuant to Gov. Bar Rule V (6)(J) for ruling on the Relator's motion for default judgment. Master Commissioner Gwin then proceeded to prepare a report pursuant to Gov. Bar Rule V (6)(J).

**PROCEDURAL HISTORY**

Respondent, Richard F. Smith, Jr. of Cleveland, Ohio, Attorney Registration No. 0018125, was admitted the practice of law in Ohio in 1985.

On or about August 25, 2006 Relator received a grievance filed by Carrie L. Davis. Relator notified Respondent by regular mail of the Davis grievance.

Respondent replied to the Davis grievance by letter to Relator.

On or about January 10, 2006, Relator received a grievance filed by James Wilson. Relator notified Respondent of the Wilson grievance by regular mail on January

10, 2006. Respondent did respond on January 26, 2006, but has failed to fully cooperate during the course of the investigation.

On or about June 12, 2006, Relator received a grievance filed by Delilah Rogers. Relator notified Respondent by regular mail of the Rogers grievance on July 10, 2006 and by follow-up letter on August 16, 2006. Respondent was further notified by voicemail of the Rodger's grievance on September 27, 2006.

On or about June 23, 2006, Relator received a grievance filed by Pamela Davis. Relator notified Respondent by regular mail of Pamela Davis' grievance by regular mail on July 10, 2006 and by follow-up letter on August 16, 2006. Respondent was further notified by voicemail to cooperate with the investigation on September 27, 2006.

On or about July 10, 2006 Relator received a grievance filed by Robert Lindeman. Relator notified Respondent by regular mail of Lindeman grievance by regular mail on August 7, 2006 and by follow-up letter on August 24, 2006. Respondent was further notified by voicemail to cooperate with the investigation on September 27, 2006.

Relator received a grievance filed by Ruby Watson. Relator notified Respondent of the Watson grievance by regular mail on August 7, 2006 and by follow-up letter on August 24, 2006. Respondent was further notified by voicemail to cooperate with the investigation on September 27, 2006.

Relator received a grievance filed by Denise Lamberson Relator notified Respondent of the Lamberson grievance by regular mail on August 7, 2006 and by follow-up letter on August 24, 2006. Respondent was further notified by voicemail to cooperate with the investigation on September 27, 2006.

On or about July 31, 2006 Relator received a grievance filed by Kenyetta

Swanson. Relator notified Respondent by regular mail of the Swanson grievance by regular mail on August 7, 2006 and by follow-up letter on August 24, 2006. Respondent was further notified by voicemail to cooperate with the investigation on September 27, 2006.

On or about August 2, 2006 Relator received a grievance filed by Tenesha Matthews. Relator notified Respondent by regular mail of the Matthews grievance by regular mail on August 7, 2006 and by follow-up letter on August 24, 2006. Respondent was further notified by voicemail to cooperate with the investigation on September 27, 2006.

Relator received a grievance filed by Miguel Smith. Relator notified Respondent by regular mail of the Smith grievance on September 7, 2006 and by follow-up letter on September 27, 2006. Respondent was further notified by voicemail to cooperate with the investigation on September 27, 2006.

On or about August 7, 2006 Relator received a grievance filed by LuAnne Lette. Relator notified Respondent of the Lette grievance by regular mail on September 7, 2006 and by follow-up letter on September 27, 2006. Respondent was further notified by voicemail to cooperate with the investigation on September 27, 2006.

The original complaint filed by the Relator concerned only the allegations pertaining to the grievance filed by Carrie L. Davis [Count 1].

The probable cause review panel certified Relator's original complaint in this matter to the Board on April 7, 2006. On April 10, 2006, the Secretary of Board sent a notice to Respondent of the filing of the complaint by Certified Mail. The notice informed Respondent he was required to file an answer to the complaint within twenty

(20) days of April 13, 2006. Respondent did not file an answer.

On May 1, 2006, Relator filed an Amended Complaint against Respondent, adding an additional count of misconduct concerning the grievance filed by James Wilson. [Count2]. On that same day, the Secretary of Board sent a notice to Respondent of the filing of the amended complaint. The notice informed Respondent he was required to file an answer to the complaint within twenty days of May 4, 2006. Respondent was served by Certified Mail with the Amended Complaint on May 6, 2006. Respondent has not filed an answer to the amended complaint.

On November 16, 2006, Relator filed a Second Amended Complaint against Respondent adding the additional counts of misconduct concerning the grievances filed by Rogers [Count 3], Pamela Davis [Count 4], Lindeman [Count 5], Watson [Count 6], Lamberson [Count 7], Swanson [Count 8], Matthews [Count 9], Smith [Count 10], and Lette. [Count 11]. On November 20, 2006, the Secretary of Board sent a notice to Respondent of the filing of the second amended complaint. The notice informed Respondent he was required to file an answer to the complaint within twenty days of November 22, 2006. Respondent was served by Certified Mail with the Second Amended Complaint on November 30, 2006. Respondent has not filed an answer to the Second Amended Complaint. Respondent has not filed any other pleading in this proceeding, and on February 16, 2006, Relator moved for default judgment against Respondent.

Prima facie documentary evidence in support of the allegations made regarding the misconduct of Respondent is set forth in the following:

Affidavit of Howard D. Mishkind, Esq., the Relator's Certified Grievance Committee Chair, attached as Exhibit 1;

Affidavit of Robert J. Vecchio, Vice-chair of the Relator's Certified Grievance Committee, attached as Exhibit 2; and

Affidavits and documentary evidence of each grievant have also been included in the file.

## FINDINGS OF FACT

### COUNT 1 - CARRIE L. DAVIS

Respondent agreed to represent the interests of Carrie L. Davis (hereinafter Davis) in connection with the filing of a Chapter 7 voluntary Bankruptcy petition.

Respondent was paid the sum of Four Hundred Fifty Dollars plus court costs of Two Hundred Nine Dollars for a total of Six Hundred Fifty-Nine Dollars (\$659.00).

Respondent prepared and filed the Voluntary Chapter 7 Petition and schedules on November 18, 2004.

Respondent appeared with Davis at the 1<sup>st</sup> meeting of creditors held on December 6, 2004. At that hearing, the Trustee in Bankruptcy advised Respondent to produce Davis' federal and state tax returns that were to be filed on or before April 15, 2005.

Davis provided Respondent with copies of her tax returns and advised him that she would be receiving a refund believed to be in the sum of \$1,899.00 from the Internal Revenue Service and \$230.00 from the State of Ohio for the 2004 tax reporting period.

Respondent incorrectly advised Davis that the sum of the refund was minimal and that she could use the refund to pay past due bills rather than turn over the funds to the Trustee.

Davis relied upon the advice of her attorney and used the funds received to pay personal obligations.

The deadline to object to the discharge of Davis was February 11, 2005 and no party objected to or requested an extension of time to object to the discharge. For unknown reasons, a final discharge was never entered until after Respondent's services were terminated as attorney of record in this case.

On or about April 8, 2005, the Trustee filed a Motion for Order on Debtor- Davis to turn over \$2,483.00 representing the non-exempt portion of her tax refunds. (Exhibit 2). A hearing on the Motion was set for May 10, 2005 and rescheduled to May 24, 2005.

Davis was advised by Respondent that he would attend the hearing and would advise her as to the outcome.

Following the May 24, 2005 hearing date, Davis called Respondent on numerous occasions, leaving messages at his office, at his home and on his cell phone. Respondent failed to return a single telephone call or to respond in any manner as to the status of her case.

On June 8, 2005, Respondent signed an Agreed Order to turn over the non-tax exempt portion of the tax refund, to-wit: \$1,772.00 within 30 days, but never notified Davis of the Order. (Exhibit 3).

As a result of his continued neglect, Respondent was notified on August 4, 2005 that a Complaint to revoke Davis' discharge would be filed. (Exhibit 4).

On or about August 24, 2005, Davis received a Summons and Complaint to Deny Discharge, or in the Alternative, to Revoke and Deny Discharge. In said Complaint, Davis learned of the agreement that Respondent had reached with the Bankruptcy Trustee to turn over the sum of \$1,772.00 in non-exempt tax refunds. Respondent neglected to advise Davis of this agreed Order. (Exhibit 5).

A hearing was scheduled on the Complaint to Deny Discharge on October 19, 2005.

Davis continued to attempt to reach Respondent to find out what was happening with her Bankruptcy, but Respondent failed to return any of Davis' telephone calls during the period from May 2005 until October 19, 2005.

On October 19, 2005, Respondent called Davis for the first time in six (6) months, approximately one (1) hour before she was to appear at Court and told Davis that he was "her long lost attorney." Respondent admitted his neglect and that he would personally pay the sum of \$100 per month in a payment plan to the Bankruptcy Trustee to resolve the tax refund issue and that Davis need not attend the hearing.

Having lost confidence in Respondent, Davis did attend the hearing, accompanied by her father at which time she waited outside of the Courtroom and was eventually advised by Respondent that an agreement had been reached to pay \$100 per month to pay the non-exempt tax refund to the Trustee and that he would personally pay the amount and would file the necessary court documents.

On October 20, 2005, the Bankruptcy, Trustee sent an Agreed Judgment Entry to Respondent, but he failed to sign the document and misrepresented to Davis when confronted that he had never received any papers to sign. (Exhibit 6).

After learning that Respondent had failed to execute the Agreed Entry and had misrepresented to her that he had not received any documents to sign, she discharged Respondent (Exhibit 7) and executed the documents directly with the Trustee. (Exhibit 8).

#### COUNT 2 - JAMES WILSON

In August of 2002, Respondent agreed to represent the interests of James Wilson

(hereinafter "Wilson") in connection with the filing of a Chapter 7 voluntary bankruptcy petition.

Wilson agreed to pay Respondent the sum of \$657.00 for attorney fees and court costs to file his bankruptcy.

During the calendar years 2002 through 2005, Respondent took no action on behalf of Wilson and failed to commence the bankruptcy action on his behalf.

On October 15, 2005, Respondent met with Wilson and was paid a final installment bringing the total paid by Wilson to Respondent to \$825.00 (Exhibit 9).

On Saturday, October 15, 2005, Respondent met with Wilson at his home and had him sign bankruptcy papers so as to commence a Chapter 7 action prior to the change in the bankruptcy laws which went into effect on October 17, 2005.

Respondent represented to Wilson that he would file the bankruptcy petition so as to meet the deadline prior to the change in the law.

Respondent failed to file the bankruptcy action on or before October 17, 2005 and took no further action during the calendar year 2005 to file the bankruptcy action notwithstanding numerous requests by Wilson.

On January 11, 2006, Respondent contacted Wilson and indicated that he would file the bankruptcy petition by the early part of February 2006.

Respondent filed the Chapter 7 voluntary bankruptcy petition on February 11, 2006.

On or about February 27, 2006, a Motion to Dismiss Wilson's bankruptcy action was filed alleging that Wilson had failed to include a certificate of creditor counseling prior to the commencement of the bankruptcy petition.

Respondent failed to advise Wilson of the need for a certificate of creditor counseling prior to the filing of the bankruptcy action and failed to take any action prior to October 17, 2005 or between October 17, 2005 and February 11, 2006 to obtain the certificate of creditor counseling on behalf of his client.

Wilson has attempted to communicate with Respondent on numerous occasions since the filing of the motion to dismiss the bankruptcy; however, Respondent has failed to return any telephone calls to Wilson.

Wilson's bankruptcy action was dismissed and Wilson has yet to be able to communicate with Respondent to receive an explanation for the dismissal.

Respondent was asked by Relator to provide verification with regard to the payments made by Wilson in the sum of \$825.00.

While Respondent claims that a portion of the funds paid to him in excess of \$657.00 was paid to him for the bankruptcy action related to a child support action in Medina County, he has failed to provide any verification of services rendered in Medina County in a child support action on behalf of Wilson, or proof that payments were made for such action.

Relator has reason to believe that Respondent did not provide any representation to Wilson in a child support action in Medina County and, as of this date, has failed to account for the overpayment made by Wilson to Respondent.

Respondent has been asked by Relator to provide verification of professional liability insurance or compliance on his part with DR1-104(A), (B) and (C), but has failed to do so.

Relator alleges that Respondent did not maintain professional liability insurance of

at least \$100,000.00 per occurrence or obtain a signed notice by Wilson acknowledging lack of professional liability insurance coverage.

Wilson, while still represented by Respondent, has been unable to obtain any explanation with regard to the status of his bankruptcy action and is being prejudiced with regard to his bankruptcy action by virtue of Respondent's failure to file the action prior to the change in the law which would have enabled the bankruptcy petition to proceed without a credit counseling certificate.

Respondent did respond on January 26, 2006, but he has failed to fully cooperate during the course of the investigation.

Respondent has failed to provide documentation verifying payment to him in excess of the \$657.00.

Respondent has failed to provide documentation that he maintained professional liability insurance.

On February 20, 2006, Respondent requested an extension from Relator until February 23, 2006 to provide documentation concerning his representation of Mr. Wilson in a child support case and verification of his malpractice insurance coverage. (See Exhibit 10.)

To date, Respondent has failed to comply with this request and the extension that was granted.

### COUNT 3 - DELILAH ROGERS

In August of 2005, Respondent was retained to file a Chapter 13 bankruptcy for Delilah Rogers.

Delilah Rogers' reason for filing a Chapter 13 bankruptcy was to prevent a pending

foreclosure action on her home from proceeding to judgment.

Respondent filed a Chapter 13 bankruptcy petition in the United States Federal Bankruptcy Court.

Within nine (9) days of filing, Respondent was notified that the petition was deficient in that debtor, Delilah Rogers, had not signed the debtor's statement of intention.

Respondent failed to notify Rogers of this deficiency or to take any other action to correct the deficiency.

Respondent failed to appear at a creditor's meeting and further failed to notify Rogers of the creditor's meeting.

An order to show cause was issued on Respondent to file necessary schedules and statements and to pay the deficient filing fee, but Respondent failed to appear at the show cause hearing or to otherwise pay the required filing fee.

Complainant Rogers was unaware of the various court dates, including the motion to show cause hearing and received no communication or notification by Respondent of same.

The bankruptcy court dismissed Respondent's bankruptcy petition and Respondent failed to notify Complainant of the dismissal or to take any other action to reinstate the bankruptcy petition or to protect Complainant's interest.

Based upon previous complaints against Respondent, it is reasonably believed that Respondent has failed to secure professional liability insurance of at least \$100,000.00 or to obtain a signed notice by his client acknowledging lack of professional liability insurance coverage. Since Respondent has not cooperated with the Investigator, verification of his subsequent purchase of insurance is impossible at this point, but it is reasonable to

conclude as in Counts One and Two, that Respondent did not maintain liability insurance.

#### COUNT 4 - PAMELA DAVIS

Respondent was retained by complainant Pamela Davis in July of 2003 to file a Chapter 13 bankruptcy petition. Respondent filed the petition and her plan was approved in March of 2004. Subsequent to the approval of the plan and timely payment by complainant Davis, she learned that her Chapter 13 case was dismissed for an alleged lack of funding. Apparently, complainant's payments were mistakenly applied to her husband's Chapter 13 case despite the appropriate case number being written on her checks.

Complainant contacted Respondent and he agreed to file an appeal of the dismissal.

After considerable effort on the part of complainant, she determined that Respondent failed to file an appeal or to take any other action to reinstate or to re-file her Chapter 13 bankruptcy.

Respondent has failed to return multiple telephone calls made by complainant to determine the status of her bankruptcy action; thus requiring complainant to seek the services of another attorney to complete the work that Respondent has failed to complete.

Based upon previous complaints against Respondent, it is reasonably believed that Respondent has failed to secure professional liability insurance of at least \$100,000.00 or to obtain a signed notice by his client acknowledging lack of professional liability insurance coverage. Since Respondent has not cooperated with the Investigator, verification of his subsequent purchase of insurance is impossible at this point, but it is reasonable to conclude as in Counts One and Two, that Respondent did not maintain liability insurance.

Respondent received the grievance from Relator but made no response.

#### COUNT 5 - ROBERT LINDEMAN

On November 11, 2004, complainant Robert Lindeman met with Respondent Richard F. Smith, Jr. to discuss the filing of a voluntary bankruptcy petition.

Lindeman agreed to pay Respondent the sum of \$620.00 to file the bankruptcy; payment was completed by April 22, 2005.

In September 2005, Respondent advised Linderman that a bankruptcy action had been filed and that a hearing would be forthcoming.

Lindeman spoke to Respondent in November 2005 and February 2006 and was assured each time that a hearing would take place in the near future.

Since February of 2006, Lindeman has attempted unsuccessfully to reach Respondent and recently determined that Respondent never filed the bankruptcy petition.

Respondent has failed to maintain records of funds and to render an appropriate accounting to Relator.

Based upon previous complaints against Respondent, it is reasonably believed that Respondent has failed to secure professional liability insurance of at least \$100,000.00 or to obtain a signed notice by his client acknowledging lack of professional liability insurance coverage. Since Respondent has not cooperated with the Investigator, verification of his subsequent purchase of insurance is impossible at this point, but it is reasonable to conclude as in Counts One and Two, that Respondent did not maintain liability insurance.

Respondent received the grievance from Relator but made no response.

#### COUNT 6 - RUBY WATSON

On August 12, 2005, complainant Ruby Watson met with Respondent Richard F. Smith, Jr. and paid Respondent \$504.00 to file a Chapter 7 bankruptcy.

Respondent has failed to file the bankruptcy and has failed to return any telephone calls made by complainant Ruby Watson.

Respondent has failed to maintain records of funds and to render an appropriate accounting to Relator.

Respondent failed to maintain professional liability insurance of at least \$100,000.00 or to obtain a signed notice by his client acknowledging lack of professional liability insurance coverage.

Respondent received the grievance from Relator but made no response.

#### COUNT 7 - DENISE LAMBERSON

Respondent agreed to represent complainant Denise Lamberson in a bankruptcy action that was filed on October 16, 2005.

The bankruptcy action was dismissed for non-payment of the filing fee, even though complainant had advanced the filing fee to Respondent.

On May 1, 2006, complainant and Respondent appeared at a hearing at which time additional documents were requested by the trustee resulting in a continuation of the hearing to May 15, 2006.

Notwithstanding the fact that complainant Lamberson provided Respondent with the documents requested by the trustee, Respondent failed to provide the trustee with the documents and further advised Respondent that she did not need to appear at the May 15, 2006 hearing. As a result, on July 6, 2006 a motion to dismiss for failure to provide the necessary documents was filed.

On July 25, 2006, a hearing was held at which time complainant appeared, but Respondent failed to appear.

Since July 25, 2006, complainant has been unable to reach Respondent until August 21, 2006 at which point Respondent promised to refund to her the retainer paid for the handling of the bankruptcy action. Respondent failed to refund the retainer.

Respondent advised complainant to keep a federal tax refund in the amount of \$3,000.00 even though complainant has subsequently learned that until she pays the \$3,000.00 that she received from the refund to the trustee, she could not be discharged in bankruptcy.

Complainant has subsequently terminated her attorney client relationship with Respondent.

Respondent has failed to maintain records of funds and to render an appropriate accounting to Relator.

Respondent failed to maintain professional liability insurance of at least \$100,000.00 or to obtain a signed notice by his client acknowledging lack of professional liability insurance coverage.

Respondent received the grievance from Relator but made no response.

#### COUNT 8 - KENYETTA SWANSON

In September of 2005, complainant Kenyetta Swanson met with Respondent Richard F. Smith, Jr. in order to file a bankruptcy action.

Complainant Swanson paid Respondent \$209.00 on October 15, 2005 for filing fee and attorney fees of \$450.00 with a subsequent additional payment of \$200.00.

On and after October 15, 2005, Kenyetta Swanson has never heard from Respondent and he has failed to return her telephone calls or to file the bankruptcy action.

Respondent has failed to maintain records of funds and to render an appropriate

accounting to Relator.

Respondent failed to maintain professional liability insurance of at least \$100,000.00 or to obtain a signed notice by his client acknowledging lack of professional liability insurance coverage.

Respondent received the grievance from Relator but made no response.

#### COUNT 9 - TENESHA MATTHEWS

On March 19, 2005, complainant Tenesha Matthews retained Respondent Richard F. Smith, Jr. in order to file a bankruptcy action.

Complainant Matthews paid Respondent \$659.00 for court costs and attorney fees to file the bankruptcy action.

Respondent failed to file the bankruptcy petition notwithstanding promises and assurances by Respondent to complainant that the petition had been filed.

Respondent has failed to maintain records of funds and to render an appropriate accounting to Relator.

Respondent failed to maintain professional liability insurance of at least \$100,000.00 or to obtain a signed notice by his client acknowledging lack of professional liability insurance coverage.

Respondent received the grievance from Relator but made no response.

#### COUNT 10 - MIGUEL SMITH

Respondent was retained in July of 2005 to represent Miguel Smith in connection with the filing of a bankruptcy action.

Respondent was paid the sum of \$600.00 which included the requisite filing fee.

Respondent delayed in filing the bankruptcy petition on behalf of Miguel Smith

from July of 2005 until September of 2006.

Respondent filed the bankruptcy petition, but same was subsequently dismissed on October 5, 2006 for failing to pay the filing fee.

A show cause hearing was held on October 5, 2006 at which time Respondent, did not appear at the hearing.

Respondent has failed to maintain records of funds and to render an appropriate accounting to Relator.

Respondent failed to maintain professional liability insurance of at least \$100,000.00 or to obtain a signed notice by his client acknowledging lack of professional liability insurance coverage.

Respondent received the grievance from Relator but made no response.

#### COUNT 11 - LUANNE LETTE

Respondent was retained on March 24, 2005 to file a voluntary bankruptcy petition on behalf of LuAnne Lette.

Respondent was paid the sum of \$759.00 for legal fees and court costs.

While Respondent filed the bankruptcy petition Respondent failed to pay the filing fee.

Respondent failed to appear at a July 14, 2005 hearing on behalf of LuAnne Lette and advised her that she did not need to appear at a hearing where one of her creditors had filed a motion for relief from stay. As a consequence of Respondent's failure to appear and to oppose the motion for relief from stay, LuAnne Lette's automobile was repossessed.

Respondent represented to LuAnne Lette that she need not appear at the hearing

and that subsequent to the hearing, he further misrepresented to her that the issue with regard to the relief from stay concerning her automobile had been resolved.

On November 15, 2005, an order of discharge was issued; however, the trustee filed a motion for default revoking and denying the discharge and Respondent failed to object to the revoking of the discharge. As a result, LuAnne Lette's bankruptcy was dismissed as Respondent failed to show up for the hearing.

Respondent failed to maintain professional liability insurance of at least \$100,000.00 or to obtain a signed notice by his client acknowledging lack of professional liability insurance coverage.

Respondent received the grievance from Relator but made no response.

#### **CONCLUSIONS OF LAW**

Respondent's conduct with regard to the Carrie L. Davis [Count 1] matter has violated the following provisions of the Code of Professional Responsibility:

DR1-102(A)(4) [Engaging in conduct involving dishonesty, fraud, deceit or misrepresentation];

DR1-102(A)(5) [Engaging in conduct prejudicial to the administration of justice];

DR1-102(A)(6) [Engaging in conduct adversely reflecting on his fitness to practice law];

DR6-101(A)(2) [Handling a legal matter without preparation adequate in the circumstances];

DR6-101(A)(3) [Neglecting an entrusted legal matter];

DR7-101(A)(2) [Intentionally fail to carry out a contract of employment];

DR7-101(A)(3) [Intentionally prejudice or damage a client in the course of

representation];

Gov. Bar R. V(4)(G) [Duty to cooperate in a disciplinary investigation].

Respondent's conduct with regard to the James Wilson [Count 2] matter has violated the following provisions of the Code of Professional Responsibility:

DR1-102(A)(4) [Engaging in conduct involving dishonesty, fraud, deceit or misrepresentation];

DR1-102(A)(5) [Engaging in conduct prejudicial to the administration of justice];

DR1-102(A)(6) [Engaging in conduct adversely reflecting on his fitness to practice law];

DR1-104(A) [Failure to inform client that lawyer does not maintain professional liability insurance];

DR6-101(A)(2) [Handling a legal matter without preparation adequate in the circumstances];

DR6-101(A)(3) [Neglecting an entrusted legal matter];

DR7-101(A)(2) [Intentionally fail to carry out a contract of employment];

DR7-101(A)(3) [Intentionally prejudice or damage a client in the course of representation];

DR9-102(B)(3) [Failure to maintain records and to render an appropriate accounting];

Gov. Bar R. V(4)(G) [Duty to cooperate in a disciplinary investigation].

Respondent's conduct with regard to the Delilah Rogers [Count 3] matter has violated the following provisions of the Code of Professional Responsibility:

DR1-102(A)(4) [Engaging in conduct involving dishonesty, fraud, deceit or

misrepresentation];

DR1-102(A)(5) [Engaging in conduct prejudicial to the administration of justice];

DR1-102(A)(6) [Engaging in conduct adversely reflecting on his fitness to practice law];

DR1-104(A) [Failure to inform a client that lawyer does not maintain professional liability insurance];

DR6-101(A)(2) [Handling a legal matter without preparation adequate in the circumstances];

DR6-101(A)(3) [Neglecting an entrusted legal matter];

DR7-101(A)(2) [Intentionally fail to carry out a contract of employment];

DR7-101(A)(3) [Intentionally prejudice or damage a client in the course of representation];

Gov. Bar R. V(4)(G) [Duty to cooperate in a disciplinary investigation].

Respondent's conduct with regard to the Pamela Davis [Count 4] matter has violated the following provisions of the Code of Professional Responsibility:

DR1-102(A)(4) [Engaging in conduct involving dishonesty, fraud, deceit or misrepresentation];

DR1-102(A)(5) [Engaging in conduct prejudicial to the administration of justice];

DR1-102(A)(6) [Engaging in conduct adversely reflecting on his fitness to practice law];

DR1-104(A) [Failure to inform a client that lawyer does not maintain professional liability insurance];

DR6-101(A)(2) [Handling a legal matter without preparation adequate in the

circumstances];

DR6-101(A)(3) [Neglecting an entrusted legal matter];

DR7-101(A)(2) [Intentionally fail to carry out a contract of employment];

DR7-101(A)(3) [Intentionally prejudice or damage a client in the course of representation];

Gov. Bar R. V(4)(G) [Duty to cooperate in a disciplinary investigation].

Respondent's conduct with regard to the Robert Lindeman [Count 5] matter has violated the following provisions of the Code of Professional Responsibility:

DR1-102(A)(4) [Engaging in conduct involving dishonesty, fraud, deceit or misrepresentation];

DR1-102(A)(5) [Engaging in conduct prejudicial to the administration of justice];

DR1-102(A)(6) [Engaging in conduct adversely reflecting on his fitness to practice law];

DR1-104(A) [Failure to inform a client that lawyer does not maintain professional liability insurance];

DR6-101(A)(2) [Handling a legal matter without preparation adequate in the circumstances];

DR6-101(A)(3) [Neglecting an entrusted legal matter];

DR7-101(A)(2) [Intentionally fail to carry out a contract of employment];

DR7-101(A)(3) [Intentionally prejudice or damage a client in the course of representation];

DR9-102(B)(3) [Failure to maintain records and to render an appropriate accounting];

Gov. Bar R. V(4)(G) [Duty to cooperate in a disciplinary investigation].

Respondent's conduct with regard to the Ruby Watson [Count 6] matter has violated the following provisions of the Code of Professional Responsibility:

DR1-102(A)(4) [Engaging in conduct involving dishonesty, fraud, deceit or misrepresentation];

DR1-102(A)(5) [Engaging in conduct prejudicial to the administration of justice];

DR1-102(A)(6) [Engaging in conduct adversely reflecting on his fitness to practice law];

DR1-104(A) [Failure to inform a client that lawyer does not maintain professional liability insurance];

DR6-101(A)(2) [Handling a legal matter without preparation adequate in the circumstances];

DR6-101(A)(3) [Neglecting an entrusted legal matter];

DR7-101(A)(2) [Intentionally fail to carry out a contract of employment];

DR7-101(A)(3) [Intentionally prejudice or damage a client in the course of representation];

DR9-102(B)(3) [Failure to maintain records and to render an appropriate accounting];

Gov. Bar R. V(4)(G) [Duty to cooperate in a disciplinary investigation].

Respondent's conduct with regard to the Denise Lamberson [Count 7] matter has violated the following provisions of the Code of Professional Responsibility:

DR1-102(A)(4) [Engaging in conduct involving dishonesty, fraud, deceit or misrepresentation];

DR1-102(A)(5) [Engaging in conduct prejudicial to the administration of justice];

DR1-102(A)(6) [Engaging in conduct adversely reflecting on his fitness to practice law];

DR1-104(A) [Failure to inform a client that lawyer does not maintain professional liability insurance];

DR6-101(A)(2) [Handling a legal matter without preparation adequate in the circumstances];

DR6-101(A)(3) [Neglecting an entrusted legal matter];

DR7-101(A)(2) [Intentionally fail to carry out a contract of employment];

DR7-101(A)(3) [Intentionally prejudice or damage a client in the course of representation];

DR9-102(B)(3) [Failure to maintain records and to render an appropriate accounting];

Gov. Bar R. V(4)(G) [Duty to cooperate in a disciplinary investigation].

Respondent's conduct with regard to the Kenyetta Swanson [Count 8] matter has violated the following provisions of the Code of Professional Responsibility:

DR1-102(A)(4) [Engaging in conduct involving dishonesty, fraud, deceit or misrepresentation];

DR1-102(A)(5) [Engaging in conduct prejudicial to the administration of justice];

DR1-102(A)(6) [Engaging in conduct adversely reflecting on his fitness to practice law];

DR1-104(A) [Failure to inform a client that lawyer does not maintain professional liability insurance];

DR6-101(A)(2) [Handling a legal matter without preparation adequate in the circumstances];

DR6-101(A)(3) [Neglecting an entrusted legal matter];

DR7-101(A)(2) [Intentionally fail to carry out a contract of employment];

DR7-101(A)(3) [Intentionally prejudice or damage a client in the course of representation];

DR9-102(B)(3) [Failure to maintain records and to render an appropriate accounting];

Gov. Bar R. V(4)(G) [Duty to cooperate in a disciplinary investigation].

Respondent's conduct with regard to the Tenesha Matthews [Count 9] matter has violated the following provisions of the Code of Professional Responsibility:

DR1-102(A)(4) [Engaging in conduct involving dishonesty, fraud, deceit or misrepresentation];

DR1-102(A)(5) [Engaging in conduct prejudicial to the administration of justice];

DR1-102(A)(6) [Engaging in conduct adversely reflecting on his fitness to practice law];

DR1-104(A) [Failure to inform a client that lawyer does not maintain professional liability insurance];

DR6-101(A)(2) [Handling a legal matter without preparation adequate in the circumstances];

DR6-101(A)(3) [Neglecting an entrusted legal matter];

DR7-101(A)(2) [Intentionally fail to carry out a contract of employment];

DR7-101(A)(3) [Intentionally prejudice or damage a client in the course of

representation];

DR9-102(B)(3) [Failure to maintain records and to render an appropriate accounting];

Gov. Bar R. V(4)(G) [Duty to cooperate in a disciplinary investigation].

Respondent's conduct with regard to the Miguel Smith [Count 10] matter has violated the following provisions of the Code of Professional Responsibility:

DR1-102(A)(4) [Engaging in conduct involving dishonesty, fraud, deceit or misrepresentation];

DR1-102(A)(5) [Engaging in conduct prejudicial to the administration of justice];

DR1-102(A)(6) [Engaging in conduct adversely reflecting on his fitness to practice law];

DR1-104(A) [Failure to inform a client that lawyer does not maintain professional liability insurance];

DR6-101(A)(2) [Handling a legal matter without preparation adequate in the circumstances];

DR6-101(A)(3) [Neglecting an entrusted legal matter];

DR7-101(A)(2) [Intentionally fail to carry out a contract of employment];

DR7-101(A)(3) [Intentionally prejudice or damage a client in the course of representation];

Gov. Bar R. V(4)(G) [Duty to cooperate in a disciplinary investigation].

Respondent's conduct with regard to the LuAnne Lette [Count 11] matter has violated the following provisions of the Code of Professional Responsibility:

DR1-102(A)(4) [Engaging in conduct involving dishonesty, fraud, deceit or

misrepresentation];

DR1-102(A)(5) [Engaging in conduct prejudicial to the administration of justice];

DR1-102(A)(6) [Engaging in conduct adversely reflecting on his fitness to practice law];

DR1-104(A) [Failure to inform a client that lawyer does not maintain professional liability insurance];

DR6-101(A)(2) [Handling a legal matter without preparation adequate in the circumstances];

DR6-101(A)(3) [Neglecting an entrusted legal matter];

DR7-101(A)(2) [Intentionally fail to carry out a contract of employment];

DR7-101(A)(3) [Intentionally prejudice or damage a client in the course of representation];

Gov. Bar R. V(4)(G) [Duty to cooperate in a disciplinary investigation].

#### **MITIGATING FACTORS**

There are no known mitigating factors.

#### **AGGRAVATING FACTORS**

Respondent received a Public Reprimand on April 28, 1999. *Lake Cty. Bar Assn. v. Smith*, 85 Ohio St.3d 402, 1999-Ohio-402.

At least six of the nine aggravating factors set forth in Section 10 (B) (1) of the Rules and Regulations Governing the Procedure on Complaints and Hearings before the Board are present here:

(c) Pattern of Misconduct;

(d) Multiple Offenses;

- (e) Lack of Cooperation in the Disciplinary Process;
- (g) Refusal to acknowledge the Wrongful Nature of Conduct;
- (h) Vulnerability of and Resulting Harm to Victims;
- (i) Failure to make Restitution.

#### **RECOMMENDED SANCTION OF RELATOR**

Relator recommends the sanction of permanent disbarment.

#### **RECOMMENDATION OF MASTER COMMISSIONER**

In light of the multiple offenses resulting in actual prejudice to the clients and to the administration of justice, and because of Respondent's failure to cooperate with the disciplinary investigation, I would recommend the sanction of an indefinite suspension.

#### **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 April 13, 2007. The Board adopted the Findings of Fact and Conclusions of Law of the Master Commissioner. The Board, however, amended the recommended sanction to permanent disbarment based on his multiple acts of dishonesty and the harm done to his clients. 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**