

**IN THE  
SUPREME COURT OF OHIO**

**IN RE:**

**HENRY R. FREEMAN  
ATTORNEY REGISTRATION NO. 0022713  
786 PREMIERA DRIVE  
TALLMADGE, OHIO 44278**

**RESPONDENT**

**DISCIPLINARY COUNSEL  
250 CIVIC CENTER DRIVE, SUITE 325  
COLUMBUS, OHIO 43215**

**RELATOR**

**CASE NO. 2008-0395**

**RESPONDENT'S BRIEF  
TO THE OBJECTIONS  
OF THE RELATOR**

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**RESPONDENT'S BRIEF**

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# IN THE SUPREME COURT OF OHIO

**Henry R. Freeman**  
Attorney Registration No. 0022713  
786 Premiera Drive  
Tallmadge, Ohio 44278

**Respondent**

**CASE NO. 2008-0395**

## **RESPONDENT'S BRIEF IN OPPOSITION TO RELATOR'S OBJECTIONS**

**Disciplinary Counsel**  
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Columbus, Ohio 43215-7411

**Relator**

Now comes the respondent, Henry R. Freeman, Pro Se, and hereby submits the following Brief in Response to the objections of the Relator to the Findings of Fact, Conclusions of Law and Recommendation of the Board of Commissioners on the Grievances and Discipline (Board) filed with the court on February 20, 2008.

### **INTRODUCTION**

The Respondent, Henry R. Freeman, for his Introduction, hereby consents to the statements made in Relator's Objections as to the facts of this case, and as to the statements made in Counts I, II, and III of Relator's Objections.

## **RESPONDENT'S BRIEF TO RELATOR'S OBJECTIONS**

### **A. Respondent's Misconduct and Disciplinary Rule Violations Merit an Actual Suspension.**

The Supreme Court has stated that the management of the attorney's Lawyer' Trust Accounts (IOLTA) accounts is something for which the Court places at the upper most importance in the management of the lawyer and his funds with the client. In this particular case, Respondent has stated that the account was manage and operated in a manner not permitted under the Disciplinary Rules resulting in funds being commingled with client funds. The Board of Commissioners on Grievances and Discipline (Board) reviewed this manner and the Panel's recommendation in these proceedings was unanimously concluded that the public would be adequately protected by a probation conditions on the Respondent's law practice as opposed to an actual suspension. It is the Respondent's position that the Board's recommendations are in line with similar cases with a similar fact pattern in terms of the mitigating factors that supported the Board's recommendations *Disciplinary Counsel vs. Croushore*, 108 Oh St. 3d. 156; 2006-Ohio-412; 841 N.E.2d. 781; 2006 Ohio Lexis 374 (2006) where there was an absence of evidence of financial harm to his clients; *Portage County Bar Association vs. Sabarese*, 102 Oh. St. 3d. 269; 2004-Ohio-2697; 809 N.E. 2d. 1119; 2004 Ohio Lexis 1327; (2004) where the counsel had no acted dishonestly or out of self interest; *Dayton Bar Association vs. Corbin*, 109 Oh. St. 3d. 241; 2006-Ohio-2289; 846 N.E. 2d. 1249; 2006 Ohio Lexis 1427 (2006) there was no evidence of deceit or misrepresentation by the Respondent; no evidence of client suffered harmed; Respondent's demeanor and sincerity at final hearing convinced the panel; *Ohio State Bar Association vs. McCray*, 109 Oh. St. 3d. 43; 2006-Ohio-1828; 845 N.E. 2d. 509; 2006 Ohio Lexis 1001 (2006); *Disciplinary Counsel vs. Conese*, 102 Oh. St. 3d. 439; 2004 Ohio 3888; 812 N.E. 2d. 944; 2004 Ohio Lexis 3134 (2006); where no clients suffered any harm and the

respondent had been remorseful in the proceedings; Disciplinary Counsel vs. Fumich, 116 Oh. St.3d. 257; 2007-Ohio-6040; 878 N.E. 2d. 6; 2007 Ohio Lexis 2866 (2007) where the mitigating factors were an absence of a disciplinary record, excellent character, lack of dishonest motive, acknowledgment of his wrongful conduct, and lack of financial harm to his clients was found; Cuyahoga County Bar Association vs. Hardiman, 100 Oh. St. 3d. 260; 2003 Ohio 5596; 798 N.E. 2d. 369; 2003 Ohio Lexis 2814;

**B. A stayed Suspension Does not Adequately Protect the Public**

The Respondent's status with regards to his treatment with his physician (Dr. John Lowenfeld PhD) is the basis upon which the Relator believes there is need for an actual suspension of the Respondent. Relator has taken the testimony of the Respondent before the Board and only given a limited interpretation. Granted there was a stipulation that the Respondent had been in treatment with Dr. Lowenfeld. Due to the Respondent's limited funds, the Respondent has signed a release for the Relator to have discussion with Dr. Lowenfeld as to the treatment of the Respondent. In terms of the time reference as to when these discussions to place, there is nothing in the record or stipulations of the parties. So when a statement is made by Dr. Lowenfeld that the Respondent's recovery is about at 70-75 percent completed, and only routine legal matters can be provided to clients. The Respondent's response I can't necessarily say that meant something totally different from what was present to the Court for review in these proceedings. As was stated to the Board, the Respondent has no ideal of what Dr. Lowenfeld estimates the Respondent's full potential is to provide legal services to clients. Without knowledge of the ultimate potential that the Dr. Lowenfeld states he feels is necessarily to provide full legal services to clients Respondent can't make a proper assessment or judgment as to the status of the Respondent's recovery. The "I can't" statement was in reference to the total potential of 100 percent function as an individual versus those services and legal matters

that are being performed at the present time. Furthermore, there was testimony that the ultimate potential that the Dr. Lowenfeld felt needed for full recovery was something that had not be the level of professional functioning by the Respondent, and therefore, unknown to the Respondent.

Furthermore, the Respondent has openly agreed for the continuation of treatment with Dr. Lowenfeld. The Respondent had entered into treatment for the mental disorders on his owned. While the status of this treatment for Respondent had been for a little over a one year period, there were no allegations before the Board that the Respondent had been neglecting clients. While there had been a failure to respond to the Disciplinary Counsel process for investigation in to the conduct, there had not been any evidence present that client matters had been neglected by the Respondent.

Additionally, all of the recommendations of the Board had been part of the stipulations agreed on by the Relator and Respondent as a part of the sanctions part of these proceedings. After hearing the testimony of the Respondent as to the various services being used by the Respondent to ensure the proper protect of his clients and other services being provided to the public, the Respondent submits that appropriate conditions have be put into place to protect the interests of the public. Columbus Bar Association vs. Micciulla, 106 Oh. St. 3d. 19; 2005 Ohio 3470; 830 N.E.2d. 332; 2005 Ohio Lexis 1582 (2005); Warren County Bar Association vs. Marshall, 105 Oh. St. 3d. 59; 2004 Ohio 7011; 822 N.E. 2d. 355; 2004 Ohio Lexis 3052; Disciplinary Counsel vs. O'Neill, 103 Oh St. 3d. 204, 2004-Ohio-4704 (“in determining the appropriate length of the suspension and any attendant conditions, we must recognize that the primary purpose of the disciplinary sanctions is not to punish the offender, but to protect the public.”).

## CONCLUSION

The Board in its review of the proceedings before the Court had an opportunity to fully investigate the misconduct of the Respondent and the medical issues that the Respondent had been confronted with for recovery. The Board also reviewed the contract that the Respondent had entered into with the Ohio Lawyer's Assistance Program, and additionally found the Respondent had taken responsibility for the improper operation of the IOLTA account violations. In view of the corrective measures that the Respondent has taken to avoid any further violations in the IOLTA account. The corrective measures to improve the health conditions of the Respondent, and the conditions placed in the Ohio Lawyers Assistance Program Contract, the Respondent requests the Board's recommendation be accepted by the Court.

Respectfully submitted,



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HENRY R. FREEMAN

PRO SE

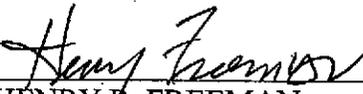
786 Premier Drive

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing Respondent's Brief in Opposition to Relator's Objections has been serviced upon the Board of Commissioners on Grievances and Discipline, c/o Jonathan Marshall, Secretary, 65 South Front Street, Columbus, Ohio 43215-3431, and to Robert R. Berger, Assistant Discipline Counsel, 250 Civic Center Drive, Suite 325, Columbus, Ohio 43215-7411 on this 10<sup>th</sup> day of April, 2008.

  
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HENRY R. FREEMAN  
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