

IN THE SUPREME COURT OF OHIO

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Relator.

CASE NO. 2008-0820

**RELATOR'S OBJECTIONS
TO THE BOARD OF
COMMISSIONERS
FINDINGS OF FACT AND
CONCLUSIONS OF LAW
AND BRIEF IN SUPPORT**

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Respondent

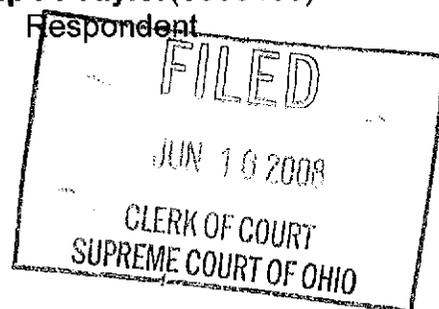


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Now comes relator, Disciplinary Counsel, and hereby submits objections to the Report of the Board of Commissioners on Grievances and Discipline (the board) filed with the court on April 29, 2008. A copy of the final report is attached as Appendix A.

INTRODUCTION

A four-count complaint was filed against respondent, Phillip P. Taylor, on August 13, 2007. Respondent filed his answer to the complaint on September 18, 2007. All of the allegations in the complaint arise out of respondent's representation of Juan and Piccola Rios. Count Four of the complaint centers on respondent's attempt to involve himself in guardianship proceedings for Piccola Rios between July 2004 and June 2006.

A panel heard this matter on January 18, 2008. Before the hearing, relator and respondent stipulated that respondent violated: DR 1-102(A)(4) (two counts), DR 5-

105(A), DR 5-105(B) (three counts), DR 7-101(A)(3) (two counts), DR 7-101(A)(3), DR 7-102(A)(1), and DR 7-102(A)(5). The parties were unable to agree on a recommended sanction. Relator, based on the seriousness of the conduct, recommended a one-year actual suspension of respondent's license. Respondent recommended a public reprimand.

Following the hearing, the board issued its report and recommendations on April 29, 2008. The board found that respondent had violated DR 1-102(A)(4) (two counts), DR 5-105(A), DR 5-105(B) (two counts), and DR 7-102(A)(5). The board dismissed Count Two of relator's complaint and recommended a six month suspension with the entire term stayed. The board largely based its recommendation on its finding that respondent was an "old time family practitioner" who was trying to fulfill his clients' wishes. (Report at 9).

The board's recommendation to stay the entire suspension period is inappropriate in this case and relator objects. The mitigation factors the board identifies do not warrant a departure from the ordinary rule that a violation of DR 1-102(A)(4) requires an actual suspension from the practice of law. Relator also objects to the board's dismissal of Count Two and to the recommendation of a six month suspension with the entire term stayed. Relator requests that respondent be actually suspended from the practice of law for one year.

FACTS

Respondent was admitted to the practice of law in the state of Ohio on May 16, 1962. He is a sole practitioner in Lorain, Ohio. Respondent was the attorney for Juan

and Piccola Rios and had known Juan for approximately 20 years. Juan was a native of Puerto Rico. He did not read or write in English. (Report at 2; stip. 9). Juan's spoken English was very broken. (Stip. 9).

At the end of May, 2004, Juan came to respondent's office unannounced. Juan was upset and stated that he had just been to the bank and his money was missing. (Stip. 9 and 10). Juan accused his step-daughter, Joann Keys, of stealing the money. (Report at 2, Stip. 10). Respondent did not review Juan's bank statements or check with Juan's bank on the veracity of the story. (Stip. 11). Respondent did not take any action to protect Juan's bank account or other assets from the alleged theft. Id.

Respondent drafted a new will for Juan making his daughter, Elizabeth Rios, the sole beneficiary. (Stip. 12). Elizabeth Rios, Juan's daughter from a previous marriage, lives in Puerto Rico. (Stip. 5). The will specifically disinherited Juan's wife, Piccola, stating, "I have deliberately made no provision herein for my beloved spouse, Piccola A. Rios, as she is gravely ill and her beloved daughter and grandchildren will care for her." (Stip.12)

Although respondent did not testify on direct examination at the disciplinary hearing, the parties stipulated that he advised Juan that a spouse cannot be disinherited and that to get around spousal election, Piccola would have to relinquish her interest in their property located at 2126 Washington Avenue, Lorain, Ohio. (Stip.13). Respondent did not make any inquiry into other property owned by the Juan and Piccola Rios. Respondent did not make any provisions regarding any other tangible or intangible property because under the new will, all of Juan's property was to go to Elizabeth Rios. (Stip. 14).

Respondent drafted a quit-claim deed with dower clause to be signed by both Juan and Piccola, transferring their home to Elizabeth Rios. (Stip.15). Respondent did not talk to Piccola about the quit-claim deed prior to drafting the document. (Stip.16). Respondent had communicated only with Juan regarding the disposition of jointly held property.

Respondent also drafted a Durable Power of Attorney for Juan granting power of attorney to Elizabeth Rios. (Stip.17). Respondent did not have any contact information for Elizabeth Rios. Respondent knew that Elizabeth Rios lived in Puerto Rico and that she had not visited Juan in a long time. (Stip.18).

On June 2, 2004, respondent and his assistant went to the Rios residence to have Juan and Piccola execute the documents. (Stip.19). Upon arrival, Juan was found in bed upstairs, dying of cancer. Respondent did not individually explain the documents to Juan and did not discuss the status of Piccola under the new will. (Stip. 20). Respondent handed the documents to Juan on a clipboard, one at a time for his signature. Id. On that date, Juan executed his new will and the power of attorney.

Respondent and his assistant then went downstairs and had Piccola execute the quit-claim deed. Piccola was in a hospital bed in the living room. She had multiple health conditions, including cancer. She was receiving 24 hour-a-day care and was completely bed-bound. Piccola was diagnosed with dementia in 2002 but respondent was unaware of this diagnosis. (Stip. 22). Piccola's diagnosis was changed to "dementia: Alzheimers" in January 2004. Respondent was also unaware of that diagnosis. (Stip. 42).

Respondent did not explain to Piccola what the quit-claim deed meant, i.e. that she was signing away her interest in her home. Respondent did not explain the consequences of signing the quit-claim deed if Juan died. Respondent did not advise Piccola to obtain other counsel to review the quit-claim deed. According to respondent, he did not believe it was necessary to take these actions under the circumstances. (Stip. 23). Respondent filed the quit-claim deed with the Lorain County Recorder on July 1, 2004. (Stip. 24, Exb. 6). At his deposition taken on May 2, 2007, Respondent testified that both Juan and Piccola were his clients throughout this entire time. (Stip. 21).

Respondent understood that Piccola spoke Spanish. According to respondent, Piccola's English skills were worse than Juan's and she did not read or write in English. (Stip. 24). Respondent does not speak Spanish and cannot communicate in Spanish. (Stip. 27).

Elizabeth Rios arrived from Puerto Rico on or about June 2, 2004. Respondent met her for the first time when he went to the house to have the documents signed. Elizabeth Rios did not speak, read or write English. Elizabeth brought Elba Torres with her to act as her interpreter. At respondent's direction Elizabeth executed the quit-claim deed as power of attorney for Juan. (Stip. 26). Juan died on June 4, 2004. (Stip. 28).

The quit-claim deed prepared by respondent and executed on June 2, 2004 lists the "tax mailing address" for the property owner, Elizabeth Rios, as "2126 Washington Ave., Lorain, Ohio." (Stip. 29, Exb. 6). Respondent knew that Elizabeth Rios did not live at 2126 Washington Ave., Lorain, Ohio. He knew that she was a resident of Puerto Rico. (Stip. 30).

On June 4, 2004, the day that Juan died, Elizabeth Rios told Piccola's daughter, Joann Keys, that Piccola had to leave the house at 2126 Washington Avenue.

Elizabeth Rios believed that the house belonged to her on Juan's death. Piccola was moved from the house to Hospice on June 5, 2004 for an emergency placement. Respondent was unaware of the reason for the placement. (Stip. 32).

Soon after Piccola was admitted to Hospice, respondent drafted a new will and a Durable Power of Attorney for Piccola. The new will left all of Piccola's property to Elizabeth Rios and designated Elizabeth Rios as executor of her estate. (Stip. 33, 34). There are no provisions in Piccola's will for her daughter and granddaughter. (Exb. 8).

According to respondent, Piccola asked that all of her property be left to her husband, Juan. Because Juan was already dead, respondent drafted the will to give all of Piccola's property to Elizabeth Rios. Piccola did not know or understand that Juan had died. (Stip. 35).

Respondent also drafted a Durable Power of Attorney for Piccola, giving power of attorney to Torres. Respondent chose to give power of attorney to Torres due to the fact that Elizabeth Rios did not speak English. At that time, Piccola had known Torres for one week. (Stip. 36).

Respondent returned to Hospice on June 8, 2004 with his assistant and had Piccola execute the will and power of attorney. Respondent did not ask Piccola any open-ended questions to gauge her competency. He did not explain the documents to Piccola or read them to her. He did not explain that Juan was not mentioned in the will. (Stip. 37, 38).

Respondent was paid \$200 for his services to Piccola by Torres. Respondent believes that the money was withdrawn from the bank account of Juan and Piccola Rios by Torres using the power of attorney. (Stip. 40). Ultimately, Torres used the power of attorney to empty the bank account of Juan and Piccola Rios and did not use the money for Piccola's benefit. According to respondent, he was unaware that this had happened. (Stip. 41).

On June 22, 2004, respondent delivered a "Notice of Appearance" to the Lorain County Probate Court. Respondent believed that an application for guardianship of Piccola would be filed. Piccola's medical records and hospital reports provide evidence of her deteriorating mental condition and her increasing confusion. (Exb.12,13). On July 8, 2004, Yolanda Lee, Piccola's granddaughter, filed an application to become guardian. Respondent's Notice of Appearance was file stamped on July 29, 2004. (Stip. 44, Exb. 14).

In his notice of appearance, respondent designated himself as "amicus curiae" and did not identify a client. Respondent filed a motion for continuance on August 5, 2004 asking to continue the competency hearing for Piccola. In the motion for continuance, respondent stated that he was the attorney for Juan Rios. (Stip. 45, 46, Exb. 15). Juan did not direct respondent to represent him in the guardianship action as it was not contemplated before Juan's death. (Stip. 47). The Lorain County Probate Court did not grant the continuance and did not make respondent or Juan Rios parties to the guardianship action. (Stip. 48).

Lee was appointed Piccola's guardian on August 16, 2004. The guardianship remained in effect until Piccola died in October 2004. Prior to the Probate Court closing

the guardianship, respondent faxed a letter to the Clerk of Courts on June 12, 2006 expressing his opinion of Piccola's daughter, Joann. (Stip. 49).

Based on the foregoing, the board found that respondent violated DR 1-102(A)(4) when he advised Piccola to execute the quit claim deed and again when he had her execute the new will and power of attorney at hospice. The board found that respondent violated DR 5-105(A) and (B) by continuing to represent both Juan and Piccola after the conflict of interest arose. Finally, the board found that respondent violated DR 7-102(A)(5) by telling the Lorain County Probate Court that he represented Juan.

OBJECTIONS

I.

The Board dismissed relator's second count despite evidence establishing the violations of DR 1-102(A)(4) and DR 1-102(A)(5)

Relator alleged that respondent violated DR 1-102(A)(4) and DR 1-102(A)(5) in connection with his handling of the quitclaim deed executed by Juan and Piccola Rios. Relator alleged that respondent falsely listed the address of the property as the "tax mailing address" for Elizabeth Rios.

Respondent stipulated to and testified on cross-examination that he never met or talked to Elizabeth Rios prior to preparing the quitclaim deed. He knew that she lived in Puerto Rico and that she had not been to Ohio to visit Juan and Piccola in a long time. Respondent testified that he did not have an address for Elizabeth Rios. Respondent never obtained any information from Juan about Elizabeth Rios, including her address.

The board found that the “tax mailing address” is “simply the address where the tax bill is to be sent.” Notwithstanding relator’s evidence, the board found that even though the property address was not Elizabeth Rios’ address, it did not mean that filing the deed was an act of misrepresentation or prejudicial to the administration of justice.

Relator submits that respondent violated DR 1-102(A)(4) and DR 1-102(A)(5) by providing an address on the deed that he knew was not correct. It is undisputed that respondent knew that the address of the property was not the address of Elizabeth Rios; the address was simply not her “tax mailing address.”

The deed impacted the legal rights of several individuals. Respondent recorded it as a public record for others to rely on in determining legal rights. Respondent knowingly utilized a false statement in the document knowing that taxing authorities would rely on the accuracy of his submission. This was not an inadvertent act. Respondent knew Elizabeth Rios lived in Puerto Rico. Respondent chose not to obtain the correct information regarding her address. Again, respondent failed to fulfill his fiduciary duties to his clients. On this occasion, he did so by preparing and filing a document containing false information with the county recorder’s office.

This Court has issued actual suspensions in cases where a document that contains false information was filed with a court. See e.g. *Disciplinary Counsel v. Herman*, 99 Ohio St.3d 362, 2003-Ohio-3932, 792 N.E.2d 1078, and *Disciplinary Counsel v. Kafantaris*, 99 Ohio St.3d 94, 2003-Ohio-2477, 789 N.E.2d 192.

This Court issued a six month actual suspension of respondent’s license in *Disciplinary Counsel v. Hutchins*, 102 Ohio St.3d 97, 2004-Ohio-1805, 807 N.E.2d 303.

In that case, A. Robert Hutchins created a false order by “cutting and pasting” the signatures of opposing counsel and a magistrate from another document and fabricating a time stamp. The false order was never filed with a court but used in a real estate closing. This Court stated that Hutchins' actions in creating the order by fabricating signatures were “abhorrent to our legal system” and violated DR 1-102(A)(4-6) and DR 7-102(A)(5). *Id.* at 104.

In the instant case, respondent actually recorded the deed containing false information with Lorain County. Accordingly, the board should have found that respondent violated DR 1-102(A)(4) and DR 1-102(A)(5) and should not have dismissed relator's Count Two.

II.

Sanction

A.

The Board failed to address the aggravating factors

The board's recommendation of a stayed suspension must be rejected by this Court. In *Disciplinary Counsel v. Fowerbaugh*, this Court established the standard that a violation of DR 1-102(A)(4) would result in an actual suspension of one's license to practice law. *Disciplinary Counsel v. Fowerbaugh*, 74 Ohio St.3d 187, 1995-Ohio-261, 672 N.E.2d 1016. Although this Court has found that an abundance of mitigation may justify a lesser sanction, this case demands an actual suspension.

Respondent's misconduct includes several aggravating factors. Relator submits the following aggravating factors are present:

1. Pattern of misconduct;

2. Multiple offenses;
3. Failure to acknowledge the wrongful nature of his misconduct;
4. Failure to express remorse,
5. Vulnerability of respondent's clients; and,
6. The resulting harm to respondent's clients.

See, BCGD Rules Proc. Reg. 10

Respondent chose not to testify in his own behalf. As a result, respondent provided no explanation for his actions, failed to take responsibility for the harm he caused, failed to acknowledge the wrongful nature of his conduct and failed to express any remorse for his conduct.

Combined with the evidence of multiple offenses and the vulnerability of his clients, these aggravating factors warrant an actual suspension from the practice of law. The vulnerability of respondent's clients alone is a significant aggravating factor and as this Court has determined in other cases, can lead to the imposition of an actual suspension. See, *Disciplinary Counsel v. Tomlan*, 118 Ohio St.3d 1, 2008-Ohio-1471, 885 N.E.2d 895.; *Disciplinary Counsel v. Simonelli*, 113 Ohio St.3d 215, 2007-Ohio-1535, 863 N.E.2d 1039; and *Stark Cty Bar Assn. v. Watterson*, 103 Ohio St.3d 322, 2004-Ohio-4776, 815 N.E.2d 386.

B.

The Board failed to consider the harm to respondent's clients

The respondent's misconduct caused significant harm to his clients. Respondent represented both Juan and Piccola. Respondent should have been aware of an imminent conflict between his clients when Juan requested that respondent draft a new

will disinherit his wife, Piccola. Instead of addressing this impending conflict, respondent advised Juan that to effectively disinherit Piccola, it will be necessary to have Piccola relinquish her interest in their home.

Respondent proceeded to prepare a quit claim deed for his clients Juan and Piccola to sign. He prepared this deed without ever discussing the document or its legal ramifications with Piccola. The legal impact of the quit claim deed on Piccola was enormous. She gave up ownership in her home at a time when she was suffering from dementia and cancer. Favoring the wishes of one client to the overwhelming detriment of another client was a significant breach of respondent's fiduciary duty to his clients.

When respondent appeared at his clients' home on June 2, 2004, he proceeded to have Juan execute the documents without mentioning the legal ramifications to Juan. Respondent never advised Juan that by executing the new will and the power of attorney, Juan was effectively turning over control of all his assets, including assets jointly owned with his wife, to Elizabeth Rios.

After Juan's death, just two days later, Elizabeth immediately took control of the home and had Piccola removed to hospice. She then used the power of attorney to empty the joint bank accounts of Juan and Piccola. In effect, in just a few weeks, Piccola was left homeless and without any money to pay for her care.

At no time did respondent warn Juan that upon his death, Elizabeth would have the legal authority to remove Piccola from the residence. In short, knowing that Juan could not read or write English, respondent completely failed to properly advise his client of the legal significance of the documents.

After securing Juan's signature on the new will and the power of attorney, respondent proceeded downstairs to visit with Piccola. As stipulated, respondent was unaware of Piccola's dementia. But respondent was aware that Piccola was unable to read or write English. Respondent had Piccola execute the quit claim deed giving up all her interest in her home. Again, he did this knowing that he had not advised her of the significance of the document and knowing she could not read the document. To have his client unwittingly surrender all interest in her home at a point in time when she was faced with two serious life threatening diseases was an abhorrent dereliction of his fiduciary duties.

After Piccola was admitted to Hospice, respondent prepared a new will and a power of attorney for her. Even though Piccola asked that her property be left to her husband, respondent drafted a new will for Piccola leaving her property to Elizabeth Rios. The will makes no mention of Piccola's daughter or her granddaughter.

Respondent also prepared a Durable Power of Attorney for Piccola, giving power of attorney to Torres. Piccola had known Torres for one week. Respondent chose to give the power of attorney to Torres because Elizabeth Rios did not speak English. Respondent had Piccola execute the new will and the power of attorney while she was suffering from dementia in Hospice and without explaining the documents or reading them to her. Torres used the power of attorney to empty Piccola's bank account and did not use the funds for Piccola's benefit. This constituted a gross deviation from respondent's fiduciary duty to his client, Piccola.

The board's characterization of respondent as an "old time family practitioner" who was trying to fulfill his clients' wishes does not come close to adequately describing

respondent's misconduct. Respondent failed to properly advise one client, Juan, about the consequences of the documents he was executing and by encouraging Piccola to execute the quit claim deed and later the power of attorney he caused significant harm to another client. This was not simply a matter of respondent's failure to adequately advise his clients. Respondent completely failed to advise his clients and prepared documents that affirmatively damaged his clients. Respondent's failure to realize the seriousness of his actions and the harm he caused far exceeds a simple lapse in judgment.

The fiduciary nature of the attorney client relationship has long been recognized. "The relation between attorney and client is a fiduciary relation of the very highest character, and binds the attorney to most conscientious fidelity." *Cox v. Delmas*, 99 Cal. 104, 33 P. 836 (1893). This court has acknowledged the importance of the fiduciary nature of the attorney/client relationship in several discipline cases. "The attorney stands in a fiduciary relationship with the client and should exercise professional judgment "solely for the benefit of the client and free of compromising influences and loyalties." [Wisconsin's Rules of Professional Conduct 20.23(1).]" *Disciplinary Counsel v. Moore*, 101 Ohio St.3d 261, 2004-Ohio-734, 804 N.E.2d 423, ¶ 15, quoting *In re Disciplinary Proceedings Against Gibson* (1985), 124 Wis.2d 466, 474475, 369 N.W.2d 695. See also, *Disciplinary Counsel v. Sturgeon* (2006), 111 Ohio St.3d 285, 2006-Ohio-5708, 855 N.E.2d 1221.

By completely failing to properly advise his clients and by having one client execute legal documents that significantly damaged her interests, respondent breached his fiduciary duties and engaged in serious misconduct. The harm respondent caused

his clients is a significant aggravating factor confirming the necessity of an actual suspension from the practice of law.

C.

The mitigation evidence does not outweigh the presumption of a suspension

Although the parties stipulated to three mitigating factors, these mitigating factors are not sufficient to negate an actual suspension. The parties stipulated that respondent had no previous discipline, there was no dishonest or selfish motive and he displayed a cooperative attitude toward the disciplinary proceedings. Because respondent did not testify on his own behalf, there was no direct evidence from the respondent for the board's consideration.

In determining the sanction, the board found that respondent is an "old time family lawyer" or "paternalistic practitioner." Report at 9. The board concluded that respondent's "intentions were good" but his "methods" were "improper." *Id.* The information about respondent's practice was apparently garnered from the mitigation witnesses. Respondent did not testify and offered no direct evidence about the nature of his law practice or his clients.

The board did not consider any additional information or factors for mitigation. For example, respondent did not provide any direct evidence of his intentions, remorse or, even, what if anything he had learned to do differently in the future.

In previous cases where this Court has found an abundance of mitigation negating an actual suspension notwithstanding a violation of DR 1-102(A)(4), the respondent has given direct testimonial evidence of his remorse and has explained the

circumstances surrounding the misconduct. See e.g. *Disciplinary Counsel v. Fumich*, 116 Ohio St.3d 257, 2007-Ohio-6040, 878 N.E.2d 6. See also *Disciplinary Counsel v. Carroll*, 106 Ohio St.3d 84, 2005-Ohio-3805, 831 N.E.2d 1000.

Respondent did not present any evidence of remorse. Respondent did not accept responsibility for the misconduct or explain his actions. In fact, there was no evidence presented that respondent was remorseful or that he would act differently if faced with the same situation.

As a result of the limited testimony and evidence presented on behalf of respondent, there was minimal mitigation evidence presented. The three stipulated mitigation factors do not negate the need for an actual suspension in this case.

D.

The Board improperly considered altruism as a mitigating factor

In its sanction recommendation the board found that respondent was an “old time family lawyer” and that his actions demonstrated a lack of sophistication. Report at 9. The board found respondent to be a practitioner with good intentions who was trying to meet the needs of his clients. *Id.* The board also found that respondent’s methods were improper. *Id.*

This Court has previously rejected the concept of altruism or good intentions as a mitigating factor. *Disciplinary Counsel v. King*, 103 Ohio St.3d 438, 2004-Ohio-5470, 816 N.E.2d 1040. In *King* the Court found that James King’s altruistic motive in accepting a client’s case did not insulate him from the “consequences of any misconduct.” *Id.* at 443.

Although respondent had been the attorney for the Rios family for over 20 years, his desire to assist Juan does not negate his misconduct towards Piccola. Respondent effectively misled Piccola on two separate occasions. Respondent advised Piccola to execute a quitclaim deed without disclosing that its purpose was to disinherit her and transfer the property to her stepdaughter. Respondent also advised Piccola to execute a will without disclosing that it did not bequeath property to her husband as she had previously requested. At the same time, respondent had Piccola execute a power of attorney that gave authority to a virtual stranger at a time when Piccola suffered from dementia. These facts are the basis for the board finding two separate violations of DR 1-102(A)(4). Respondent's ostensibly "good intentions" pale in comparison to the depth and breadth of his misconduct.

When determining the recommended sanction, the board found that respondent was involved in "violations of a number of disciplinary rules on several occasions." The board specifically rejected respondent's argument that his conduct was akin to a single act of misconduct. The board stated that although all of the violations affected the same family, there were multiple violations on several occasions. Report at 10. Obviously, respondent could have acted differently on any one of those occasions. Respondent had numerous opportunities over a period of time to conform his conduct to his professed good intentions and respondent failed to do so. Accordingly, an actual suspension from the practice of law is warranted in this case.

CONCLUSION

A review of all the aggravating and mitigating factors does not warrant a departure from the general rule that a violation of DR 1-102(A)(4) requires an actual suspension from the practice of law. The board's recommendation of a six month suspension with the entire amount suspended is not supported by the evidence. Additionally, relator's Count Two should not be dismissed. The evidence presented showed that respondent did not provide a truthful tax mailing address for the quitclaim deed that he filed. Based upon the facts and the violations found by the board, relator respectfully requests that respondent's license to practice law be actually suspended for the term of one year.

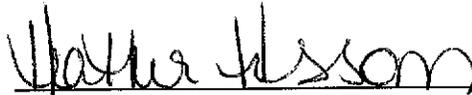
Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Relator's Objections to the Board of Commissioners Findings of Fact and Conclusions of Law and Brief in Support has been served upon the Board of Commissioners on Grievances and Discipline, c/o Jonathan W. Marshall, Secretary, 65 South Front Street, 5th Floor, Columbus, Ohio 43215-3431, and respondent's counsel, Richard S. Koblentz, Koblentz & Koblentz, Attorneys and Counselors at Law, The Illuminating Building, 55 Public Square, Suite 1170, Cleveland, Ohio 44113, via regular U.S. mail, postage prepaid, this 16th day of June, 2008.



Heather L. Hissom (0068151)

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

In Re:	:	
Complaint against:	:	Case No. 07-058
Phillip Paul Taylor Attorney Reg. No. 0003465	:	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	:	

INTRODUCTION

1. This matter came on for hearing on January 18, 2008 in Cleveland, Ohio. The hearing panel consisted of Honorable Arlene Singer, Attorney Jana Emerick and Attorney Shirley Christian (chair). None of the panel members resides in the appellate district from which the complaint arose and none of the panel members served on the probable cause panel that certified the complaint to the board.

2. Relator was represented by Heather L. Hissom, Esq. Respondent was represented by Richard S. Koblentz, Esq. and Craig Morice, Esq.

PROCEDURAL BACKGROUND

3. Respondent was admitted to the bar of the State of Ohio on May 16, 1962. Prior to the instant complaint, Respondent had never been the subject of a disciplinary proceeding.

4. On August 10, 2007, the probable cause panel certified this matter to the Board of Commissioners on Grievances and Discipline (Board). Respondent requested and was granted

an extension of time to file an answer to the complaint. Respondent's answer was filed on September 20, 2007. Thereafter, discovery proceeded and the matter was set for a formal hearing and heard on January 18, 2008.

ALLEGATIONS

5. Relator filed a four count complaint alleging numerous disciplinary rule violations in each count. The parties stipulated to a number of facts, exhibits, violations, and mitigating and aggravating factors. The panel considered the stipulations and accepted the factual stipulations but rejected a number of the stipulated violations. Those will be discussed with the appropriate counts.

FINDINGS OF FACT AND CONCLUSIONS OF LAW **COUNT ONE**

6. In May of 2004, Respondent's long time client, Juan Rios, a native of Puerto Rico who did not read or write English, came to Respondent's office and advised Respondent that he had money missing from the bank and he believed that his step daughter, Joann Keys, had stolen the money. Respondent took no action to protect his client's bank account or any other assets from the alleged theft. Rather, he drafted a new will for Mr. Rios. The new will attempted to specifically disinherit Juan's wife, Picolla. The will stated that Juan had made no provision for Picolla because she was gravely ill and her daughter and grandchildren would care for her. Respondent then advised Juan that his wife would need to sign over her interest in their property located at 2126 Washington Avenue in Lorain, Ohio. Respondent made no provisions regarding any other tangible or intangible property because all property was to go to Elizabeth Rios. Respondent then drafted a quit claim deed with a dower clause that was to be signed by both Juan and his wife, Picolla, giving their home to Elizabeth Rios. Respondent did not talk to Picolla Rios prior to drafting the document.

7. At the same time as that office visit, Respondent also drafted a durable power of attorney for Juan Rios granting power of attorney to Elizabeth Rios. At the time he drafted the power of attorney, Respondent did not have any contact information for Elizabeth Rios but was aware that she lived in Puerto Rico and had not visited Juan for a long time.

8. On June 2, 2004, Respondent went to the Rios residence to have Juan and Picolla sign the documents. At that time, Juan was dying of cancer. He was found in his bed upstairs. Although Respondent told Juan that he had documents for him to sign, he did not individually explain the documents and did not discuss the status of Picolla under the new will.

9. Respondent and his assistant then went downstairs to have Picolla sign the quit claim deed. Picolla was in a hospital bed in the living room and had multiple health conditions, including cancer. She was completely bed bound. Although Picolla had been diagnosed with dementia in 2002, Respondent was unaware of this diagnosis. Respondent did not explain the quit claim deed to Picolla and did not tell her that she was signing away her interest in her home. He likewise did not explain the consequences of the quit claim deed if Juan died. He did not advise Picolla to obtain other counsel to review the deed.

10. Picolla could speak broken English but was unable to read or write in English. No interpreter was used at that home visit, although there were people in the home who spoke Spanish.

11. At the time of the home visit, Respondent met Elizabeth Rios for the first time. Ms. Rios did not speak, read or write English. She had an interpreter with her. Ms. Rios signed the quit claim deed as power of attorney for Juan. The deed was later filed with the Recorder.

12. Juan Rios died on June 4, 2004. With regard to the initial will and power of attorney, Relator alleged the following violations in its complaint:

DR 1-102(A)(4) [A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.]

DR 1-102(A)(6) [A lawyer shall not engage in conduct that adversely reflects on the lawyer's fitness to practice law.]

DR 5-105(B) [A lawyer shall not continue multiple employment if the exercise of his independent professional judgment on behalf of a client will be or is likely to be adversely affected by his representation of another client.]

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

13. Relator dismissed all the above except for the DR 5-105(B) allegation. The parties stipulated to its violation.

14. With regard to having Picolla sign the quit claim deed, Relator initially alleged violation of the following disciplinary rules in its complaint:

DR 1-102(A)(4) [Engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.]

DR 1-102(A)(6) [Engaging in conduct that adversely reflects on the lawyer's fitness to practice law.]

DR 5-105(A) [Declining proffered employment if the exercise of independent professional judgment will be or is likely to be adversely affected.]

DR 5-105(B) [A lawyer shall not continue multiple employment if the exercise of his independent professional judgment on behalf of a client will be or is likely to be adversely affected by his representation of another client.]

DR 7-101(A)(1) [Intentionally fail to seek the lawful objectives of a client through reasonably available means.]

DR 7-101(A)(3) [Intentionally prejudice or damage his client during the course of professional relationship.]

Relator dismissed the DR 1-102(A)(6) allegation. The parties stipulated to the remaining violations.

15. All of the facts recited above were stipulated by the parties.

In assessing the remaining violations alleged in this count, the panel found that evidence, including the stipulated facts and the testimony of Respondent Taylor proved by clear and convincing evidence, violation of the following disciplinary rules:

DR 1-102(A)(4) [Engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.]

DR 5-105(A) [Failing to decline proffered employment when the exercise of his professional judgment would be adversely affected.]

DR 5-105(B) [Continuing multiple employment when the exercise of independent professional judgment on behalf of a client would be adversely affected.]

The panel did not find clear and convincing evidence of the alleged violations of DR 7-101(A)(1) [Intentionally fail to seek the lawful objectives of a client] and DR 7-101(A)(3) [Intentionally prejudice or damage the client during the course of professional relationship.] Although the panel recognizes that the parties stipulated to the violations, the panel is not bound by those stipulations. Evidence by way of factual stipulations, testimony or exhibits must be introduced to support them.

Respondent stipulated that both Juan and Picolla Rios were his clients. Evidence of Juan's intent to transfer his property to Elizabeth Rios was presented. There was no evidence that Picolla had any other intent. Therefore, there was no clear and convincing evidence that Respondent failed to seek the lawful objective of his clients. Likewise, although his method of achieving those objectives was improper, there was no proof of harm to either client.

Evidence was presented that Picolla Rios was asked to leave the house the day of Juan's death but her departure is said to have been the result of a move to Hospice due to the cancer. No evidence of prejudice to either client was presented.

COUNT TWO

16. Count Two of the Complaint alleged that Respondent prepared the quit claim deed that was executed on June 2, 2004 and listed the tax mailing address of Elizabeth Rios as 2126 Washington Avenue, Lorain, Ohio, which was the home of Juan and Picolla Rios. That deed was thereafter filed with the Recorder's office. Relator alleged that Respondent knew that Ms. Rios did not live at that address and that this action violated DR 1-102(A)(4) [A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation] and DR 1-102(A)(5) [A lawyer shall not engage in conduct that is prejudicial to the administration of justice.] The panel did not find clear and convincing evidence that this action was a violation of any disciplinary rules. The "tax mailing address" is simply the address where the tax bill is to be sent. The fact that Ms. Rios did not live at that address does not make the filing of the deed misrepresentation or prejudicial to the administration of justice.

Therefore, this Count was dismissed by the panel.

COUNT THREE

17. Juan Rios died on June 4, 2004. On June 5, 2004, Picolla was moved to hospice for an emergency placement. Soon thereafter, Respondent drafted a new will and durable power of attorney for Picolla. The will gave all of Picolla's property to Elizabeth Rios and made Elizabeth Rios the executor of her estate. Although Picolla asked that her property be left to her husband, Juan, her husband was already deceased and Picolla did not know or understand that he had died.

Respondent gave Power of Attorney to the translator, Elba Tores, because Elizabeth Rios did not speak English. Picolla had only known Elba Tores for one week. Ms. Tores thereafter used her power of attorney to empty the bank account of Juan and Picolla Rios and did not use the money for Picolla's benefit. Respondent was not aware this happened.

18. At the time that he had Picolla sign the will and power of attorney, he did not ask her any open ended questions to gauge her competency and did not explain the documents or read them to her. He did not explain to her that Juan was not mentioned in the will.

Relator alleged the following rule violations: DR 1-102(A)(4) [A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation], DR 5-105(B) [A lawyer shall not continue multiple employment if the exercise of his independent professional judgment on behalf of a client will be or is likely to be adversely affected by his representation of another client]; and DR 7-101(A)(3) [A lawyer shall not intentionally prejudice or damage his client during the course of his professional relationship]. The following alleged rule violations were dismissed by Relator:

DR 1-102(A)(6) [A lawyer shall not engage in conduct that adversely reflects on the lawyer's fitness to practice law;]

DR 5-105(A) [Failing to decline proffered employment when the exercise of his professional judgment on behalf of a client will be or is likely to be adversely affected by the acceptance of the proffered employment;]

DR 5-107(A)(1) [Accepting compensation from one other than a client without the consent of the client;] and

DR 5-107(B) [Not permitting a person who recommends, employs or pays him to render legal services for another to direct or regulate the professional judgment.]

The panel found by clear and convincing evidence that Respondent violated DR 1-102(A)(4) [Engaging in conduct involving dishonesty, fraud, deceit or misrepresentation] and DR 5-105(B) [A lawyer shall not continue multiple employment if the exercise of his independent professional judgment on behalf of a client will be or is likely to be adversely affected by his representation of another client.] The panel did not find a violation of DR 7-101(A)(3) [A lawyer shall not intentionally prejudice or damage his client during the course of his professional relationship.] There was no evidence presented that indicated any intent to

prejudice or damage Ms. Rios. In fact, all of the evidence suggested that Respondent's intent was to carry out the wishes of his clients, albeit in an improper and totally inappropriate manner.

COUNT FOUR

19. On July 8, 2004, Picolla's granddaughter filed for guardianship over her in the Probate Court. Prior to that time, Respondent had dropped off a Notice of Appearance *Amicus Curiae* at the Lorain County Probate Court, anticipating that a guardianship would be filed. That Notice of Appearance was filed on July 29, 2004. Thereafter, on August 5, 2004, Respondent filed a Motion for Continuance of the Competency Hearing. At that time, he indicated that he was the attorney for Juan Rios. At the time of the filing of this document, Juan had already passed away. At no time did Juan direct Respondent to represent him in the guardianship action. The judge of the County Probate Court did not grant the continuance and did not make Respondent or Juan Rios parties to the guardianship action.

20. Prior to the guardianship being closed, Respondent faxed a letter to the Clerk of Courts expressing his opinion with regard to Picolla's daughter. The Court did not file the document. The parties stipulated that these actions violated DR 7-102(A)(1) [In representing a client, a lawyer shall not file a suit, assert a position, conduct a defense, delay a trial or take up other action on behalf of a client when it is obvious that such action would serve merely to harass or maliciously injure another], and DR 7-102(A)(5) [A lawyer shall not knowingly make a false statement of law or fact.] At the time of the hearing, Respondent testified that he filed the motion *Amicus Curiae* because he was trying to help the court make a proper determination in the administration of the guardianship. The panel found this testimony compelling. Although his methods were unorthodox and strange, there was no evidence that he entered his appearance to harass or injure anyone and the panel finds no violation of DR 7-102(A)(1). However, he was

overly zealous in his representation. In so doing, however, he did assert that he represented someone he did not (a deceased client, Juan). Therefore, Respondent violated DR 7-102(A)(5) by knowingly making a false statement of fact to the court.

RECOMMENDED SANCTION

The parties stipulated that the following mitigating factors were present and the panel agreed: (a) absence of a prior disciplinary record; (b) absence of a dishonest or selfish motive; and (c) full and free disclosure to the Disciplinary Board and cooperative attitude toward the proceedings.

Respondent has been practicing law since 1962. It was clear from his testimony that he had strong allegiance to the Rios family. His behavior was totally inappropriate. However, it was clear in his testimony that his motive was simply trying to move the estate assets to the beneficiary that he believed his clients wanted to receive them. His actions demonstrate the lack of sophistication of an old time “family lawyer” or “paternalistic practitioner” who provided services to the entire family and attempted, in this case unfortunately, to meet all of their needs. The panel found no intentional misrepresentation or dishonest motive at all. Additionally, there were no aggravating circumstances presented as evidence.

Relator requested a one year suspension as a sanction. Respondent requested a public reprimand or, at most, a stayed suspension. The panel heard evidence that Mr. Taylor’s clients are remarkably committed to him and he to them. He frequently represents people for modest or no fees in order to accomplish the goals of his clients. Two long time clients and a colleague provided testimony of Mr. Taylor’s character and integrity over a forty year period.

It was clear to the panel that Mr. Taylor’s intentions were good. His methods, however, were improper. Although violations of DR 1-102(A)(4) normally require some period of “time

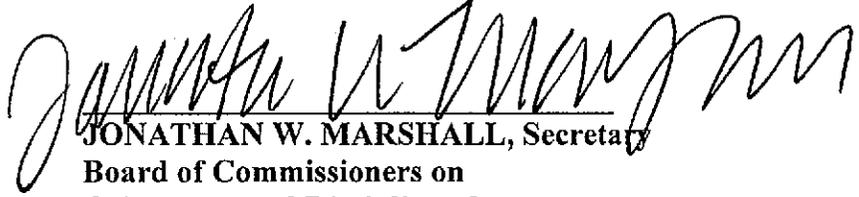
off” from the practice of law, the Supreme Court has recognized that there are circumstances which justify a lesser sanction. *Disciplinary Counsel v. Carroll*, 106 Ohio St. 3d 84, 2005-Ohio-3805. Mr. Taylor’s short cuts and improper methods were made in an effort to achieve the goals of his client and not out of any selfish or improper motive. There was no dishonesty involved.

The panel cannot, however, accept the recommended sanction of a public reprimand. The vast majority of those cases ordering a public reprimand involve single isolated instances of misrepresentation such as notarizing documents without actually witnessing the signature. *Cincinnati Bar Assn v. Gottesman*, 115 Ohio St 3d 222 , 2007-Ohio-4791; *Cleveland Bar Assn v. Russell*, 114 Ohio St.3d 171, 2007-Ohio-3603. Respondent’s actions, although limited to one family, involved violations of a number of disciplinary rules on several occasions. Therefore, the Panel believes a six month suspension with the entire six months stayed is a proper sanction.

BOARD RECOMMENDATION

Pursuant to Gov. Bar Rule V(6)(L), the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio considered this matter on April 11, 2008. The Board adopted the Findings of Fact, Conclusions of Law and Recommendation of the Panel and recommends that the Respondent, Phillip Paul Taylor, be suspended from the practice of law for a period of six months with the entire six months stayed. The Board further recommends that the cost of these proceedings be taxed to the Respondent in any disciplinary order entered, so that execution may issue.

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

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**

Phillip Paul Taylor,
3530 Oberlin Avenue
Oberlin, OH 44053-2758

BOARD NO. 07-058

FILED

Attorney Registration No. 0003465

JAN 10 2008

BOARD OF COMMISSIONERS
ON GRIEVANCES & DISCIPLINE

Respondent,

DISCIPLINARY COUNSEL
250 Civic Center Drive, Suite 325
Columbus, Ohio 43215-7411

AGREED STIPULATIONS

Relator.

AGREED STIPULATIONS

Relator, Disciplinary Counsel, and respondent, Phillip Taylor, do hereby stipulate to the admission of the following facts and exhibits.

STIPULATED FACTS

COUNT ONE

1. Respondent, Phillip Taylor, was admitted to the practice of law in the State of Ohio on May 16, 1962. Respondent is subject to the Code of Professional Responsibility and the Rules for the Government of the Bar of Ohio.
2. Juan Rios was a client of Respondent. He is a native of Puerto Rico and was married to Piccola Rios.
3. Piccola Rios had one daughter, Joann Keys.
4. Joann Keys' daughter, Yolanda Lee, had been living with her grandparents to help them. She later filed for guardianship over Piccola Rios.

5. Elizabeth Rios is Juan's daughter from a prior marriage. She lives in Puerto Rico. Respondent had never met her until June 2004.
6. Elba Torres is the sister-in-law of Elizabeth Rios. She is of no relation to Juan or Piccola Rios. She served as interpreter for Elizabeth Rios in June 2004.
7. Juan and Piccola jointly owned a residence located at 2126 Washington Ave., Lorain, Ohio.
8. Respondent prepared a quit claim deed on January 27, 2003 and gave it to Juan. The quit claim deed gave Piccola's interest in the residence to Juan. This deed was recorded.
9. At the end of May, 2004, Juan Rios, a client of Respondent came to Respondent's office unannounced. Respondent had been Juan's attorney for approximately twenty years. Juan is a native of Puerto Rico. Although he spoke broken English, he did not read or write English.
10. Juan was upset and stated that he had just been to the bank and his money was missing. Juan accused his step-daughter, Joann Keys, of stealing the money.
11. Respondent did not review Juan's bank statements or check with his bank on the veracity of the story. Respondent did not take any action to protect Juan's bank account or other assets from the alleged theft.
12. Respondent drafted a new will for Juan making his daughter, Elizabeth Rios, the sole beneficiary. The will specifically disinherited Juan's wife, Piccola, stating "I have deliberately made no provision herein for my beloved spouse, Piccola A. Rios, as she is gravely ill and her beloved daughter and grandchildren will care for her."

13. Respondent claims that he advised Juan that a spouse cannot be disinherited and that to get around spousal election, Piccola would have to sign over her interest in their property located at 2126 Washington Avenue, Lorain, Ohio.
14. Respondent did not make any provisions regarding any other tangible or intangible property because all property was to go to Elizabeth Rios.
15. Respondent drafted a quit-claim deed with dower clause to be signed by both Juan and Piccola, giving their home to Elizabeth Rios.
16. Respondent did not talk to Piccola about the quit-claim deed prior to drafting the document.
17. Respondent also drafted a Durable Power of Attorney for Juan granting power of attorney to Elizabeth Rios.
18. Respondent did not have any contact information for Elizabeth Rios. Respondent knew that Elizabeth Rios lived in Puerto Rico and had not visited Juan in a long time.
19. On June 2, 2004, respondent and his assistant, Pat O'Keefe, went to the Rios residence to have Juan and Piccola sign the documents.
20. Upon arrival, Juan was found in bed upstairs. Juan was dying of cancer. Respondent told Juan that he had the documents for Juan to sign. He did not individually explain the documents at that time. He did not discuss the status of Piccola under the new will. Respondent handed the documents to Juan on a clipboard, one at a time for his signature.
21. In a deposition taken on May 2, 2007, Respondent stated that both Juan and Piccola were his clients throughout this entire time.

22. Respondent and his assistant then went downstairs to have Piccola sign the quit-claim deed referred to in paragraph 14. Piccola was in a hospital bed in the living room. She had multiple health conditions, including cancer. She was receiving 24 hour-a-day care and was completely bed-bound. She had been diagnosed with dementia in 2002 but respondent was unaware of this diagnosis.
23. Respondent had Piccola sign the quit-claim deed on June 2, 2004. Respondent did not explain what the quit-claim deed meant for Piccola, and that she was signing away her interest in her home. Respondent did not explain the consequences of signing the quit-claim deed if Juan died. He did not advise Piccola to obtain other counsel to review the quit-claim deed and advise her. Respondent did not believe it was necessary to take these actions under the circumstances.
24. Respondent believed that Piccola spoke Spanish. Respondent states that Piccola's English skills were worse than Juan's and that she did not read or write in English. Respondent does not speak Spanish.
25. This quit-claim deed was filed with the Lorain County Recorder on July 1, 2004.
26. Elizabeth Rios arrived from Puerto Rico on or about June 2, 2004. Respondent met her for the first time when he went to the house to have the documents signed. Elizabeth Rios did not speak, read or write English. Elizabeth brought Elba Torres with her to act as her interpreter. Respondent had Elizabeth sign the quit-claim deed as power of attorney for Juan.
27. Respondent does not speak, nor can he communicate in Spanish.
28. Juan Rios died on June 4, 2004.

COUNT TWO

29. Respondent prepared the quit-claim deed executed on June 2, 2004 in which he lists the "tax mailing address" of Elizabeth Rios as "2126 Washington Ave., Lorain, Ohio."
30. Respondent filed the quit-claim deed with the Lorain County Recorder on July 1, 2004.
31. Respondent knew that Elizabeth Rios did not live at 2126 Washington Ave., Lorain, Ohio. He knew that she was a resident of Puerto Rico.

COUNT THREE

32. On June 4, 2004, the day that Juan died, Elizabeth Rios told Piccola's daughter, Joann, that Piccola had to leave the house at 2126 Washington Avenue. Elizabeth Rios believed that the house belonged to her on Juan's death. Piccola was moved to Hospice on June 5, 2004 for an emergency placement. Respondent was unaware of the reason for the transfer.
33. Soon after Piccola was admitted to Hospice, Respondent drafted a new will and Durable Power of Attorney for Piccola.
34. The will gave all of Piccola's property to Elizabeth Rios and made Elizabeth Rios executor of her estate.
35. Respondent claims that Piccola asked that all of her property be left to her husband, Juan. Because Juan had already passed away, Respondent drafted the will to give all of Piccola's property to Elizabeth Rios. Piccola did not know or understand that Juan had died.

36. Respondent drafted a Durable Power of Attorney for Piccola, giving the power of attorney to Elba Torres.
37. Respondent chose to give the power of attorney to Elba Torres due to the fact that Elizabeth Rios did not speak English. Piccola had known Elba Torres for one week.
38. Respondent returned to Hospice on June 8, 2004 with his assistant and had Piccola sign the documents.
39. Respondent did not ask Piccola any open-ended questions to gauge her competency. He did not explain each document fully or read them to her. He did not explain that Juan was not mentioned in the will.
40. Respondent was paid for his services by Elba Torres. Respondent believes that the money he was paid (\$200) was withdrawn from the bank account of Juan and Piccola Rios by Elba Torres using the power of attorney.
41. Elba Torres used her power of attorney to empty the bank account of Juan and Piccola Rios, but did not use the money to Piccola's benefit. Respondent was unaware that this had happened.
42. Piccola was bed-bound, unable to sit up, and unaware that her husband had passed away. She was diagnosed with dementia in 2002. Her diagnosis was changed to "Dementia: Alzheimer's" in January 2004. Respondent was unaware of this diagnosis.

COUNT FOUR

43. On July 8, 2004, Yolanda Lee, Piccola's granddaughter, filed for guardianship over Piccola in the Lorain County Probate Court.

44. On June 22, 2004, Respondent dropped off a "Notice of Appearance" at the Lorain County Probate Court in anticipation that a guardianship would be filed. The Notice of Appearance was filed on July 29, 2004.
45. Respondent does not list a client in the Notice of Appearance but enters his appearance "amicus curiae."
46. Respondent filed a Motion for Continuance on August 5, 2004 to attempt to continue the competency hearing for Piccola. He states that he is the attorney for Juan Rios.
47. Juan had passed away on June 4, 2004. Juan did not direct Respondent to represent him in the guardianship action as it had not been contemplated before his death.
48. Judge Horvath of Lorain County Probate Court did not grant the continuance and did not make Respondent or Juan Rios parties to the guardianship action.
49. Prior to the Probate Court closing the guardianship, Respondent faxed a letter to the Clerk of Courts on June 12, 2006 expressing his opinion of Piccola's daughter, Joann.
50. Respondent took Piccola's will to the Lorain County Probate Court where it was put in a safe. It has never been offered for probate.

STIPULATED VIOLATIONS

In regard to Count One, Respondent violated DR 5-105(B), [A lawyer shall not continue multiple employment if the exercise of his independent professional judgment in behalf of a client will be or is likely to be adversely affected by his representation of another client].

In regard to having Piccola sign the quit-claim deed in 2004, also Count One, Respondent violated DR 1-102(A)(4), [A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation]; DR 5-105(A), [A lawyer shall decline proffered employment if the exercise of his independent professional judgment in behalf of a client will be or is likely to be adversely affected by the acceptance of the proffered employment]; DR 5-105(B), [A lawyer shall not continue multiple employment if the exercise of his independent professional judgment in behalf of a client will be or is likely to be adversely affected by his representation of another client]; and DR 7-101(A)(3), [A lawyer shall not prejudice or damage his client during the course of the professional relationship].

In having Piccola sign the will and Power of Attorney, Count Three, Respondent violated DR 1-102(A)(4), [A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation]; DR 5-105(B), [A lawyer shall not continue multiple employment if the exercise of his independent professional judgment in behalf of a client will be or is likely to be adversely affected by his representation of another client]; and DR 7-101(A)(3), [A lawyer shall not intentionally prejudice or damage his client during the course of the professional relationship].

Pursuant to the facts as stated in Count Four, Respondent violated DR 7-102(A)(1), [In his representation of a client, a lawyer shall not file a suit, assert a position, conduct a defense, delay a trial, or take other action on behalf of his client when he knows or when it is obvious that such action would serve merely to harass or maliciously injure another]; and DR 7-102(A)(5), [In his representation of a client, a lawyer shall not knowingly make a false statement of law or fact].

STIPULATED EXHIBITS

1. Attorney Registration Records
2. Transcript of May 7, 2007 deposition of Respondent, Phillip Taylor
3. Last Will and Testament of Juan Rios
4. January 27, 2003 copy of deed
5. Durable Power of Attorney appointing Elizabeth Rios
6. Quit Claim Deed with Dower Clause
7. New Life Hospice Transfer Summary
8. Last Will and Testament of Piccola Rios
9. Durable Power of Attorney appointing Elba Torres
10. Probate Court of Lorain County, Ohio Statement of Expert Evaluation, Case No. 2004GI00069
11. Letter of June 14, 2004 to Mr. Wightman from Florencio E. Yuzon, M.D., F.A.C.P.
12. Medical Records of Piccola Rios from Florencio E. Yuzon, M.D. F.A.C.P. showing diagnosis of dementia.
13. January 16, 2004 Preliminary Report from Community Health Partners
14. Probate Court of Lorain County, Ohio Notice of Appearance, Case No. 2004GI00069
15. Probate Court of Lorain County, Ohio Motion for Continuance, Case No. 2004GI00069
16. Probate Court of Lorain County, Ohio Judgment Entry, Case No. 2004GI00069
17. Transcript of July 17, 2007, deposition of Patricia O'Keefe

STIPULATED MITIGATING AND AGGRAVATING FACTORS

Relator and Respondent stipulate to the following mitigating factors pursuant to BCGD Proc. Reg. § 10 (B)(2):

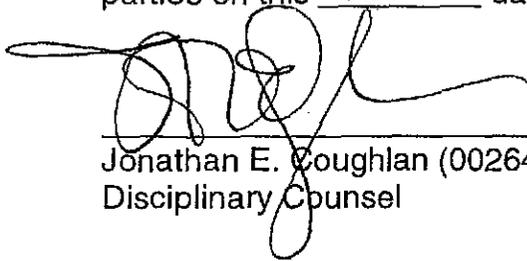
- (a) absence of a prior disciplinary record;
- (b) absence of a dishonest or selfish motive;
- (c) full and free disclosure to disciplinary board or cooperative attitude toward proceedings.

SANCTION

Relator and Respondent are unable to stipulate to an appropriate sanction. Instead the parties leave the determination as to appropriate sanction to the wisdom and discretion of the panel.

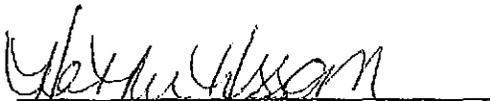
CONCLUSION

The above are stipulated to and entered into by agreement by the undersigned parties on this 10th day of January, 2008.



Jonathan E. Coughlan (0026424)
Disciplinary Counsel

Richard S. Koblentz (0002677)
Counsel for Respondent



Heather L. Hissom (0068151)
Assistant Disciplinary Counsel

Phillip Paul Taylor (0003465)
Respondent

- (a) absence of a prior disciplinary record;
- (b) absence of a dishonest or selfish motive;
- (c) full and free disclosure to disciplinary board or cooperative attitude toward proceedings.

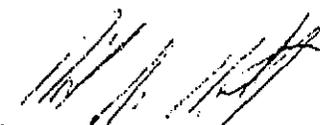
SANCTION

Relator and Respondent are unable to stipulate to an appropriate sanction. Instead the parties leave the determination as to appropriate sanction to the wisdom and discretion of the panel.

CONCLUSION

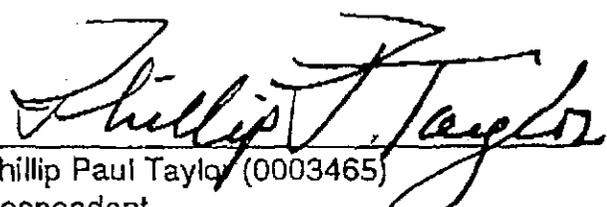
The above are stipulated to and entered into by agreement by the undersigned parties on this ____ day of _____, 2008.

Jonathan E. Coughlan (0026424)
Disciplinary Counsel



Richard S. Koblentz (0002677)
Counsel for Respondent

Heather L Hissom (0068151)
Assistant Disciplinary Counsel



Phillip Paul Taylor (0003465)
Respondent