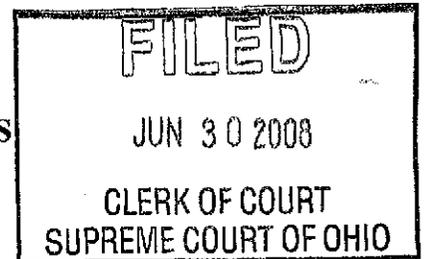


BEFORE THE BOARD OF COMMISSIONERS  
ON  
GRIEVANCES AND DISCIPLINE  
OF  
THE SUPREME COURT OF OHIO



**In Re:** : **08-1270**

**Complaint against** : **Case No. 07-035**

**Douglas B. Maher** : **Findings of Fact,**  
**Attorney Reg. No. 0024038** : **Conclusions of Law and**

**Respondent** : **Recommendation of the**  
**Akron Bar Association** : **Board of Commissioners on**  
: **Grievances and Discipline of**  
: **the Supreme Court of Ohio**

**Relator** :  
:

1. This matter was heard on March 18, 2008 in Akron, Ohio, upon the Complaint of the Akron Bar Association, Relator, against Douglas B. Maher, Attorney Registration No. 0024038, Respondent.

2. The members of the hearing panel were Alvin R. Bell and John H. Siegenthaler, Chair, comprising a quorum under Gov. Bar Rule V(6)(D)(3) and Board Rule V. Neither of the panel members is from the district from which the complaint arose and neither was a member of the probable cause panel that certified the matter to the Board of Commissioners on Grievances and Discipline.

3. Relator was represented by Lee Petersen and Robert M. Gippen. Respondent Maher was represented by Lawrence L. Delino, Jr.

4. Relator's complaint was certified on June 11, 2007, later amended and filed on August 16, 2007. Relator alleged numerous violations of the disciplinary rules arising from Maher's representation and activities in three specific matters and twenty-seven separate counts.

Relator also included violations arising out of Maher's claimed false testimony given to a hearing panel and later adopted by the Supreme Court in a prior disciplinary matter referred as *Mahe I. (Akron Bar Assn. v. Mahe, 110 Ohio St.3d 346, 2006-Ohio-4575.)*

5. Maher answered the amended complaint on November 7, 2007. In his answer, Maher admitted certain factual matters, denied others and specifically denied that his conduct caused any of the violations alleged in the amended complaint.

6. There were no stipulations of any matters of fact or law.

7. Relator's exhibits were admitted in entirety without objection including the deposition of Attorney Gino Pulito. Maher's two exhibits being letters regarding his recent mental health therapy were rejected as not containing the required causal connection.

#### **Summary of the Case**

8. Respondent, Douglas B. Maher, is accused by Relator, Akron Bar Association of violating various disciplinary rules in three separate attorney-client relationship; namely:

- a. Ward, a wrongful death claim arising out of a nursing home incident,
- b. Stoner, a domestic relations case and the attempted enforcement of a civil protection order, and
- c. Hinkle/Corzin, a probate estate matter and the subsequent personal bankruptcy of the executor.

9. Relator also accuses Maher of misrepresenting to the hearing panel and later to the Supreme Court in the earlier *Mahe I* 2006 proceeding when Maher falsely stated that he had then obtained professional liability insurance and was limiting his practice to domestic relations and criminal cases only.

#### **Findings of Fact**

The panel finds the following facts to be established by clear and convincing evidence:

**A. The Ward Matter**

10. Gary L. Ward and his wife, Susan, engaged Maher on April 13, 2004, to represent them concerning the death of the Wards' son Robert on March 22, 2004, with the expectation that an appropriate lawsuit would be filed on their behalf a few months later, as Maher promised to do. Robert was severely mentally disabled and had some physical limitations and issues as well. Robert had died from choking on a piece of food in a group home in Stark County. The circumstances of his death clearly created potential claims.

11. Maher conducted only a limited investigation of the matter in the ensuing two years. On March 22, 2006, just as the two-year statute of limitations was about to expire, Maher filed a negligence action on behalf of the Wards, but only against the group home, omitting individuals and agencies with potential liability. (Pulito deposition, p. 14)

12. Maher did not undertake a complete further investigation of the matter even after the complaint was filed, failing to obtain available relevant information. Other than obtaining the coroner's report, he took no steps to obtain expert testimony, which would be essential in such a lawsuit. (Pulito deposition, p. 18) He failed without cause to respond to defendants' justified discovery requests and orders from the Court to comply leading to a motion to dismiss the complaint. Maher admitted that he should have had someone co-counsel the case with him.

13. Facing a summary judgment motion and, if the motion were denied, an imminently scheduled trial, for neither of which was he ready to respond or proceed, Maher voluntarily dismissed the case on December 5, 2006, without the Wards' informed consent. He admittedly misled the Wards as to the reason for the voluntary dismissal.

14. Soon thereafter, on December 8, 2006, the Wards discharged Maher and demanded their files with no response from Maher. They engaged new counsel Pulito in December 2006. Their new counsel likewise demanded the files, by letter dated December 28, 2006 and otherwise. Maher did not then deliver the files. He admitted that there was no basis to withhold the files.

15. Ward filed the present grievance on February 12, 2007. Despite that, and suggestions from the initial investigator, Maher did not deliver any of the case files to the Wards (or to their counsel) until March 3, 2007. Maher did not initially respond to the Grievance at all.

16. Maher had also filed an action in Stark County Probate Court, to establish an estate for Robert that could prosecute the wrongful death action. Maher did not proceed properly with the probate matter, including disregarding orders from the Probate Court. He admitted no good reason for the non-compliance.

17. Maher failed to maintain professional liability insurance and did not give the Wards any notice of his failure to do so, in writing or otherwise.

### **B. The Stoner Matter**

18. Terri D. Stoner retained Maher as her attorney on October 20, 2006, to enforce a Civil Protective Order ("CPO") that Stoner had obtained on January 9, 2006, against Bert A. Prisby ("Prisby"), on account of Prisby's physical attacks on Stoner. Stoner paid Maher a retainer of \$500 and agreed to pay him a further \$250. Stoner expected Maher immediately to begin contempt of court proceedings against Prisby, who was threatening Stoner with physical harm, leaving her in fear for her safety. Maher promised to do so.

19. Maher failed to take any action on Stoner's behalf, despite repeated requests, other than to prepare an affidavit when Stoner came to his office unannounced on November 22,

2006, after she had not heard from him for an extended time. When they did speak, Maher falsely assured Stoner that action was being taken, or soon would be taken. However, Maher most often did not respond to Stoner's messages left for him. Maher admitted that he had no good reason for not filing the affidavit.

20. Stoner sent Maher a letter on December 29, 2006, received by him on January 8, 2007, terminating the engagement and requesting return of her files and the retainer. Maher did not respond to the letter and did not return either the files or the funds until his deposition was taken by Relator in the investigation of this matter on August 1, 2007. Maher then provided what he claimed was a complete copy of Stoner's files and promised to repay the \$500 retainer to Stoner.

21. The repayment did not actually occur until the panel hearing of March 18, 2008.

22. In his Answer, Maher admitted that he did not maintain professional-liability insurance and did not give Stoner any notice of his failure to do so, in writing or otherwise.

23. Maher failed to respond to Relator's initial requests for information about the Stoner grievance and did not voluntarily cooperate with Realtor's investigation.

24. Maher deposited the \$500 retainer he received from Stoner in his own business account, rather than in his IOLTA account. He admitted to Relator during his deposition that this conformed to his usual practice over the years. He only deposited settlement proceeds to be distributed to clients in his IOLTA account, not retainers including unearned fees or other types of client funds he had received.

### **C. The Hinkle/Corzin Matter**

25. Larry D. Hinkle retained Maher in September, 1997, to represent and assist Hinkle as Executor to administer the Estate of Helen K. Hinkle, his mother. The Estate was a

simple one, having assets worth approximately \$20,000.00, of which the principal asset was certain commercial real property being sold on land contract. There were also a few thousand dollars of cash in the Estate and a few shares of stock. The only two beneficiaries were Hinkle and his brother.

26. The land contract had been entered into for twenty years in 1979. One of the buyers asserted to Hinkle in 1999 that the land contract had been paid in full and asked that the property be deeded over to the buyer by the Estate. Hinkle requested that Maher handle the matter, by determining if the land contract had in fact been satisfied and then taking the appropriate action either to convey the property or to enforce the land contract. Maher came to the view that some \$10,000 remained owing on the land contract, of which he informed Hinkle. Maher did nothing further and the matter remained unresolved with the buyers, despite Hinkle's requests and many notices from the Probate Court over the years.

27. Maher prepared an accounting in 2006, that he presented to Hinkle as accurate and which Hinkle signed on Maher's advice, that reflected the transfer of the Estate's interest in the remaining balance claimed to be owing on the land contract to Hinkle and his brother. Maher never prepared the necessary papers to transfer the real property to the estate beneficiaries subject to the land contract.

28. In November of 2006, the Summit County Fiscal Officer filed a foreclosure action on the property, served the Estate as the legal title holder, to collect what were alleged to be approximately \$19,000.00 in unpaid taxes. This complicated the administration of the Estate and potentially imposed additional expense on Hinkle. Maher had done nothing since he was retained to check on the status of the payment of taxes on the property.

29. Maher failed until 2006 to do anything substantive to wind up the Estate, despite many notices from the Probate Court and demands from Hinkle. The Estate was not closed until Hinkle retained new counsel after nearly ten years in the Probate Court.

30. In June of 2006, Maher did facilitate the distribution of some, but not all, of the \$4,616.55 of remaining cash in the Estate, including a payment for claimed legal fees of \$3000.00 made to Maher, plus \$118.00 for claimed court cost reimbursement. A money order was purchased with funds of the Estate for \$323.80 and given to Maher to be transmitted to Corzin, which had not been done as of the time of Maher's deposition in August 2007 by Relator. Hinkle repeatedly attempted to contact Maher concerning the completion of the further work on the Estate (notably concerning the real estate and land contract), but Maher did not respond to him. The Estate remained open until around May 1, 2007.

31. Hinkle and his wife filed Chapter 7 bankruptcy in 2005. Harold A. Corzin was appointed their Chapter 7 Trustee. Corzin was entitled to receive funds from the Helen Hinkle Estate on behalf of creditors and thus needed to have the Probate Estate administration completed to wind up the bankruptcy case. Corzin repeatedly attempted to contact Maher concerning those issues, without success.

32. Corzin served a notice on Maher to appear for a Bankruptcy Rule 2004 examination, in October 2006, in an effort to gain information concerning the Estate administration. Maher failed to respond to the notice and did not appear for the examination until later when he appeared at Corzin's office.

33. Maher admittedly did not maintain professional-liability insurance and did not give Hinkle any notice of his failure to do so, in writing or otherwise.

34. Maher failed to respond to Relator's initial requests for information about the Hinkle/Corzin grievances and did not voluntarily cooperate with Realtor's investigation.

#### **D. The Maher I Matter**

35. *Maher I* concerned two matters contained in separate Grievances filed on August 13, 2004, and March 28, 2005, respectively. Those Grievances, like the Ward Grievance, involved neglect of plaintiff personal injury cases to the clients' prejudice. The Complaint in *Maher I* was filed on August 8, 2005 and was later heard by a Board of Commissioners panel in March 2006 at which time the underlying matters were stipulated. The Board of Commissioners then certified a recommendation to the Supreme Court which considered the matter and issued its decision on September 20, 2006. Thus, Maher's representation in Ward and his involvement in Hinkle/Corzin was continuing through the entire duration of *Maher I*.

36. As reflected in the decision in *Maher I*, Maher misrepresented to the hearing panel in that case and to the Court that, since the beginning of those proceedings, a) he had obtained professional liability insurance and b) was restricting his practice to the criminal and domestic areas of his expertise. Neither statement was true, as Maher well knew. The statements were made in an effort to obtain leniency, which in fact occurred, with Maher receiving only a public reprimand, instead of the suspension requested by Relator. He did not change his conduct, even after the decision in *Maher I*. Maher's testimony before the panel in the current case that his intention was to get the insurance at the time of *Maher I* was clearly in conflict with his earlier testimony at that time that he had the insurance.

37. In *Maher I*, the reliance of the Court on Maher's false statements of mitigation is on page 348 of the opinion:

He added that since the beginning of these proceedings, he (Maher) has restricted his practice to criminal and domestic areas of his expertise, obtained professional liability insurance, and reconciled with his wife.

### The Claimed Violations

38. Relator claims violations by Respondent Maher of the disciplinary rules in twenty seven different Counts. The specific rules referred to are:

#### DR 1-102. Misconduct

- (A) A lawyer shall not:
  - (1) Violate a Disciplinary Rule. . .
  - (4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.
  - (6) Engage in any other conduct that adversely reflects on the lawyer's fitness to practice law.

#### DR 1-104. Disclosure of Information to the Client.

- (A) A lawyer shall inform a client at the time of the client's engagement of the lawyer or at any time subsequent to the engagement if the lawyer does not maintain professional liability insurance. . . The notice shall be provided to the client on a separate form . . .
- (B) A lawyer shall maintain a copy of the notice signed by the client for five years after termination of representation of the client.

#### DR 2-106. Fees for Legal Services.

- (A) A lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee.

#### DR 2-110. Withdrawal from Employment.

- (A) In General
  - (2) In any event, a lawyer shall not withdraw from employment until the lawyer has taken reasonable steps to avoid foreseeable prejudice to the rights of his or her client, including giving due notice to his or her client, allowing time for employment of other counsel, delivering to the client all papers and property to which the client is entitled, and complying with applicable laws and rules.

#### DR 6-101. Failing to Act Competently.

- (A) A lawyer shall not:

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

DR 7-101. Representing a Client Zealously.

- (A) A lawyer shall not intentionally:
  - (1) Fail to seek the lawful objectives of his client through reasonably available means permitted by law and the Disciplinary Rules, except as provided by DR 7-101(B).
  - (2) Fail to carry out a contract of employment entered into with a client for professional services, but he may withdraw as permitted under DR 2-110, DR 5-102 and DR 5-105.
  - (3) Prejudice or damage his client during the course of the professional relationship, except as required under DR 7-102(B).

DR 9-102. Preserving Identity of Funds and Property of a Client.

- (A) All funds of clients paid to a lawyer or law firm, other than advances for costs and expenses, shall be deposited in one or more identifiable bank accounts maintained in the state in which the law office is situated and no funds belonging to the lawyer or law firm shall be deposited therein except as follows:
  - (1) Funds reasonably sufficient to pay bank charges may be deposited therein.
  - (2) Funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited therein. . .
- (B) A lawyer shall
  - (4) Promptly pay or deliver to the client as requested by a client the funds, securities, or other properties in the possession of the lawyer which the client is entitled to receive.

Rule 1.2: Scope of Representation and Allocation of Authority Between Client and Lawyer.

- (a) Subject to divisions (c), (d), and (e) of this rule, a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued.

Rule 1.3: Diligence

A lawyer shall act with *reasonable* diligence and promptness in representing a client.

Rule 1.15: Safekeeping Funds and Property

- (a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. . . The account shall be designated as a "client trust account," "IOLTA account," or with a clearly identifiable fiduciary title.
- (c) A lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

Rule 1.16: Declining or Terminating Representation

- (d) As part of the termination of representation, a lawyer shall take steps, to the extent *reasonably* practicable, to protect a client's interest. The steps include. . . delivering to the client all papers and property to which the client is entitled. . . Client papers and property shall be promptly delivered to the client.
- (e) A lawyer who withdraws from employment shall refund promptly any part of a fee paid in advance that has not been earned. . .

Rule 8.4: Misconduct

It is professional misconduct for a lawyer to do any of the following:

- (a) Violate or attempt to violate the Ohio Rules of Professional Conduct, *knowingly* assist or induce another to do so, or do so through the acts of another;
- (d) Engage in conduct that is prejudicial to the administration of justice;
- (h) Engage in any other conduct that adversely reflects on the lawyer's fitness to practice law.

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

**Conclusions of Law**

The panel finds the following rule violations contained in the separate counts by clear and convincing evidence:

39. Count One – Failing to Act Competently (Ward) – DR 6-101(A)(3)

Maher, in accepting the representation of the Wards, neglected a legal matter entrusted to him by failing to investigate the matter fully, failing to provide requested discovery, failing to obtain necessary expert testimony and finally by dismissing the complaint on false pretenses without the Wards' informed consent. Maher failed to assert claims against all of the potentially liable parties. Maher's conduct prejudiced the Wards by delaying the Wards' case, thus creating the risk of the loss of evidence, by losing the Wards' ability to dismiss again voluntarily without prejudice, and by allowing the statute of limitations to pass on claims against the other potentially liable parties.

40. Count Two – Failing to Act Competently (Ward) – DR 6-101(A)(1)

Maher undertook to represent the Wards in a legal matter which he knew or should have known that he was not competent to handle, namely: prosecution of a wrongful death action and related causes of action.

41. Count Four – Disclosure of Information to the Client (Ward) – DR 1-104(A)

Maher failed to inform the Wards at the time of the Wards' engagement that Maher did not maintain professional liability insurance and, further, failed to provide the Wards with a separate form setting forth that Maher did not have malpractice insurance and obtain the Wards' signed acknowledgement on said form.

42. Count Five – Dishonesty, Fraud, Deceit and Misrepresentation (Ward, Hinkle/Corzin, Maher I) – DR 1-102(A)(4)

In *Maher I*, Maher told the Board of Commissioners Panel and the Supreme Court two things that he knew to be untrue, in order to obtain leniency in 2006: a) that Maher had obtained

professional liability insurance and b) that Maher had restricted his practice to the criminal and domestic areas of his expertise. He has never complied with these representations.

43. Count Six – Dishonesty, Fraud, Deceit and Misrepresentation (Ward) – DR 1-102(A)(4)

Maier failed to inform the Wards fully and honestly concerning his own lack of expertise, the status of the lawsuit, and his work concerning it, both before and after it was filed, including but not limited to the reasons for the voluntary dismissal.

44. Count Seven – Failure to Deliver Papers to Client upon Withdrawal (Ward) – DR 2-110(A)(2) and Rule 1.16(d)

Maier failed without justification to deliver the Wards' papers to them or to the Wards' new counsel promptly and when demanded. Maier's complete failure to deliver the files continued without justification until March 3, 2007, following repeated requests and the filing of the Wards' grievance on February 12, 2007.

45. Count Eight – Other Conduct Reflecting Adversely on Fitness to Practice (Ward) DR 1-1-2(A)(6) and Rule 8.4(h)

All of Maier's conduct concerning the Wards set forth herein, including his initial failure to cooperate with the investigation demonstrates his lack of fitness to practice law.

46. Count Nine – Failing to Act Competently (Stoner) – DR 6-101(A)(3)

Maier, in accepting the representation of Stoner, neglected a legal matter entrusted to him by failure to seek to enforce the Civil Protective Order.

47. Count Twelve – Disclosure of Information to the Client (Stoner) – DR 1-104(A) and (B)

Maher failed to inform Stoner at the time of Stoner's engagement that Maher did not maintain professional liability insurance and, further, failed to provide Stoner with a separate form setting forth that Maher did not have malpractice insurance and obtain Stoner's signed acknowledgement on said form.

48. Count Thirteen – Dishonesty, Fraud, Deceit and Misrepresentation (Stoner) – DR 1-102(A)(4)

Maher was dishonest towards Stoner and defrauded, deceived and made misrepresentations to her concerning the status of her matter and his work concerning it.

49. Count Fourteen – Failure to Deliver Papers to Client Upon Withdrawal (Stoner) – DR 2-110(A)(2) and Rule 1.16(d).

Maher failed without justification to deliver Stoner's papers to her promptly when demanded.

50. Count Seventeen – Failure to pay over Funds (Stoner) – DR 9-102(B)(4) and Rule 1.15.

Maher refused without justification to repay Stoner her retainer as requested.

51. Count Eighteen – Misconduct (Stoner) – Gov. Bar Rule V(4)(G) and Rule 8.4(d)

Maher is guilty of misconduct by reason of his failure to cooperate voluntarily with Relator's investigation.

52. Count Nineteen – Other Conduct Reflecting Adversely on Fitness to Practice (Stoner) – DR 1-102(A)(6) and Rule 8.4(h)

All of Maher's conduct concerning Stoner set forth herein demonstrates his lack of fitness to practice law.

53. Count Twenty – Failing to Act Competently (Hinkle/Corzin) – DR 6-101(A)(3) and Rule 1.3.

Maher, in accepting the representation of Hinkle, neglected a legal matter entrusted to him by failure to administer the Helen Hinkle estate in a timely and appropriate manner. Maher's conduct prejudiced Hinkle by complicating the real estate matter and delaying the conclusion of the bankruptcy proceedings.

54. Count Twenty-Three – Disclosure of Information to the Client (Hinkle/Corzin) – DR 1-104(A) and (B)

Maher failed to inform Hinkle at the time of Hinkle's engagement that Maher did not maintain professional liability and, further, failed to provide Hinkle with a separate form setting forth that Maher did not have malpractice insurance and obtain Hinkle's signed acknowledgement on said form.

55. Count Twenty-Five – Misuse of Client Funds (Stoner) – DR 9-102(A) and Rule 1.15(a) and (c).

Maher failed to deposit unearned fees he received from Stoner in a separate, interest-bearing IOLTA account and instead took possession of the fees before they were earned.

56. Count Twenty-Six – Misconduct (Hinkle/Corzin) – Gov. Bar Rule V, DR 1-102(A)(1) and Rules 8.4(a) and (d).

Maher is guilty of misconduct by reason of his failure to cooperate voluntarily with Relator's investigation and by reason of his failure to appear for the Bankruptcy Rule 2004 Examination and otherwise to cooperate with Corzin.

57. Count Twenty-Seven – Other Conduct Reflecting Adversely on Fitness to Practice (General) (Hinkle/Corzin) – DR 1-102(A)(6) and Rule 8.4(h)

All of Maher's conduct concerning Hinkle and Corzin set forth herein, demonstrates his lack of fitness to practice law.

58. The panel does not find by the required clear and convincing evidence the claimed violations set forth in:

Count Three (Ward) – Intentionally failing to seek lawful objectives of client, carry out contract and prejudice the client.

Count Ten (Stoner) – handling a legal matter that he is not competent to handle.

Count Eleven (Stoner) – Intentionally failing to seek lawful objectives of client, carry out contract and prejudice the client.

Count Fifteen (Stoner) – Conduct adversely affecting fitness to practice law being the alleged unsolicited sexual conduct.

Count Sixteen (Stoner) – Collecting an excessive fee.

Count Twenty-one (Hinkle/Corzin) – Handling a legal matter that he is not competent to handle.

Count Twenty-two (Hinkle/Corzin) – Intentionally failing to seek lawful objectives of client and carry out a contract and prejudice the client.

Count Twenty-four (Hinkle/Corzin) – Misrepresent to the client that the estate was handled with diligence.

Accordingly, the panel recommends dismissal of the counts listed in this paragraph.

### **Aggravation and Mitigation**

#### Aggravating Factors

59. Maher, as stated, was given a public reprimand in *Maheer I (Akron Bar Assn v. Maheer (2006), 110 Ohio St.3d 346, 2006-Ohio-4575)* which involved inaction and delay in two plaintiff personal injury cases.

60. Maher has shown a pattern of misconduct in all three of the current matters particularly in repeated instances of inaction and delay. These also constitute multiple offenses.

61. Maher has not cooperated in the disciplinary process by his failure to respond to inquiries and failure to release client papers until well into the proceedings.

62. Maher showed a dishonest or selfish motive and made false statements to the hearing panel and later, through his counsel to the Supreme Court in *Maheer I*, where he was untruthful about having malpractice insurance and limiting his practice to domestic relations and criminal matters.

63. Maher's clients were harmed by his inaction and delay in all of the Ward, Stoner and Hinkle/Corzin matters.

#### Mitigating Factors

64. Maher was cooperative and candid in his testimony before the panel and in this case admitted his wrongful acts and inaction.

65. Maher did attempt to introduce two letters from mental health providers as to some recent treatment which he has undertaken; however, since there was no causal connection shown between any condition and the disciplinary matters, the letters were rejected. The panel does, however, consider this treatment as a mitigating circumstance.

66. Maher does acknowledge some past marital problems and states that he has an autistic child which could certainly be a distraction to his practice.

67. Maher's character witness, Patricia Millhoff, an attorney, testified as to her long friendship with Maher and his wife, the good relationship between Maher and the autistic child and that Maher is calmer and less anxious since seeking mental health treatment. Maher's brother, another witness, testified as to Maher's awareness of his personal issues and his improvement since obtaining help.

#### **Recommendations of Relator and Respondent**

68. Relator has recommended that Maher be indefinitely suspended from the practice of law. Maher acknowledges the seriousness of the charges and urges that there be a suspension for a lesser specific term of years. Relator was particularly interested in Maher meeting whatever standards would be required for his eventual return to his law practice.

#### **Panel Recommendation**

69. There is precedent for a severe sanction particularly where an attorney is found to have lied during the investigation or in the disciplinary process.

70. *Disciplinary Counsel v. Baumbaugh*, 99 Ohio St.3d 65, 2003-Ohio-2470, involved an attorney with several prior disciplinary matters who was charged with inattention to his cases, lack of response to client inquiries, inappropriate use of alcohol and unreasonable delay in paying off a mortgage debt with client funds in his possession. He also falsely told the grievance committee that he had forwarded the funds to pay off the client's debt when he had not done so. The panel, the Board and the Supreme Court concurred and an indefinite suspension was imposed.

70. In contrast in *Disciplinary Counsel v. Watson*, 107 Ohio St.3d 182, 2005-Ohio-6178, the Supreme Court upheld the Board's recommendation of disbarment. Watson had been given earlier term suspensions in two matters, continued to practice while under suspension and

was later charged with misconduct respecting eight separate clients. He refused to admit wrongdoing, was defiant and expressed contrived remorse. Among other findings, the Court stated that Watson repeatedly misrepresented events or lied to his clients and others, including Relator and the Board.

71. Lack of cooperation in the investigation, when coupled with earlier violations and neglect of client matters, has also resulted in an indefinite suspension from the practice of law. See *Akron Bar Assn. v. Goodlet*, 115 Ohio St.3d 7, 2007-Ohio 4271 and *Disciplinary Counsel v. Gosling*, 114 Ohio St.3d 474, 2007-Ohio-4267.

72. The panel feels that Maher's misconduct in the three specific matters referred to and his false statements in *Maher I* make an indefinite suspension the appropriate sanction in this case. There are insufficient mitigating factors to suggest a more lenient result. The panel recommends to the Board that Maher be indefinitely suspended from the practice of law.

### **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 June 6, 2008. The Board adopted the Findings of Fact, Conclusions of Law and Recommendation of the Panel and recommends that the Respondent, Douglas Maher, be indefinitely suspended from the practice of law in the State of Ohio. The Board further recommends that the cost of these proceedings be taxed to the Respondent in any disciplinary order entered, so that execution may issue.

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

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

**JONATHAN W. MARSHALL, Secretary**

**Board of Commissioners on  
Grievances and Discipline of  
The Supreme Court of Ohio**