

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

In Re:	:	08-1991
Complaint against	:	Case No. 07-098
John Joseph Chambers Attorney Reg. No. 0064627	:	Findings of Fact, Conclusions of Law and Recommendation of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio
Respondent	:	
Disciplinary Counsel	:	
Relator	:	

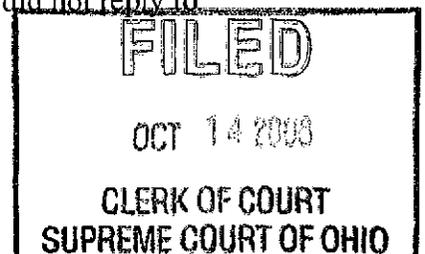
This matter was referred to Master Commissioner Judge W. Scott Gwin on September 10, 2008 by the Secretary of the Board pursuant to Gov. Bar Rule V(6)(F)(2) for ruling on the Relator's motion for default judgment. Master Commissioner Gwin then proceeded to prepare a report pursuant to Gov. Bar Rule V (6)(J).

PROCEDURAL HISTORY

Respondent John Joseph Chambers, of Fairview Park, Ohio, Attorney Registration No. 0064627, was admitted to the practice of law in Ohio in 1995.

On July 5, 2006, Relator sent a letter of inquiry to Respondent regarding a grievance filed by Michael David Wilmore. Donna M. Babinec signed the certified mail return receipt on July 7, 2006. Respondent did not reply to this letter of inquiry.

On August 3, 2006, Relator sent a second letter of inquiry to respondent at his business address listed in attorney registration records. A "Cathy (last name unclear)" signed the certified mail return receipt on August 7, 2006. Respondent did not reply to



this second letter of inquiry.

On March 1, 2007, a third letter of inquiry was sent to Respondent at both his business and home addresses listed in the attorney registration records. Both certified mail return receipts were signed. Although the signatures are illegible, the printed name reflects that John Chambers received both on March 12, 2007. Respondent never replied to either of these letters of inquiry.

On April 11, 2007, Relator served a subpoena upon Respondent by leaving it with an employee at Respondent's business address listed in attorney registration records. The subpoena required respondent to appear at a deposition at Relator's office on May 4, 2007, and to bring his complete file regarding the Wilmore matter.

On or about May 1, 2007, respondent called Relator's office, requesting an extension of time by which to respond to the letters of inquiry. Based upon this telephone call, Respondent's deposition was cancelled, and he was given until May 30th to respond to the letters of inquiry. Relator received no response.

On June 20, 2007, Relator forwarded a letter to Respondent at his business address listed in the attorney registration records, advising that Relator's investigation was completed, and that Relator determined that sufficient evidence existed to establish probable cause that Respondent committed ethical violations. Relator again received no response.

On September 17, 2007, Relator sent a letter of inquiry to respondent at his business address listed in the attorney registration records regarding a grievance filed by Thomas G. Stump. Donna M. Babinec signed the certified mail return receipt on September 20, 2007. Respondent did not reply to this letter of inquiry.

On October 12, 2007, a second letter of inquiry was sent to respondent's business and home addresses listed in the attorney registration records. Lee Anne Chambers signed the certified mail return receipt for the letter of inquiry sent to respondent business address on October 20, 2007. The certified mail sent to Respondent home address was returned as "unclaimed." Respondent did not reply to the second letter of inquiry.

A notice of intent and a copy of a proposed disciplinary complaint were forwarded to Respondent on November 15, 2007, and Respondent was advised that a response should be received no later than November 27, 2007. Respondent did not respond to the notice of intent.

On January 29, 2008, Relator sent a letter to Respondent at his business address listed in attorney registration records. This letter again requested a response to allegations relating to the Stump grievance. Respondent signed the certified mail return receipt on February 2, 2008. Respondent did not reply.

Respondent failed to file an answer or otherwise plead to both the original and amended complaints filed by Relator.

On September 9, 2008, Relator moved for a default judgment against the Respondent.

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

1. Formal Complaint filed December 10, 2007
2. Amended Complaint filed April 2, 2008
3. Letter from the Secretary for the Board of Commissioners on Grievances and Discipline dated January 28, 2008

4. Letter from the Secretary for the Board of Commissioners on Grievances and Discipline dated June 3, 2008

5. Letter of Inquiry of July 5, 2006 with certified mail return receipt

6. Letter of Inquiry dated August 3, 2006 with certified mail return receipt

7. Letters of Inquiry dated March 1, 2007 with certified mail return receipts

8. Subpoena served upon respondent on April 11, 2007

9. Affidavit of Attorney Carol A. Costa, Esq.

10. Relator's letter to Respondent of June 20, 2007

11. Letter of Inquiry dated September 17, 2007 with certified mail return receipts

12. Letters of Inquiry dated October 12, 2007 with certified mail return receipt

13. Letter dated January 29, 2008 with certified mail return receipt

14. Notice of Intent

15. Grievance of Michael David Wilmore

16. Grievance of Thomas G. Stump

17. Letter to Relator from Stump of December 11, 2007

18. Letter to Relator from Stump of December 28, 2007

19. Letter to Relator from Stump of January 17, 2008

20. Docket, *Thomas Stump v. John J. Chambers, et al.*, Case No. CV-07-624477, Cuyahoga County Court of Common Pleas

FINDINGS OF FACT

COUNT ONE – MICHAEL D. WILMORE

On or about June 6, 2006, Grievant, Michael D. Wilmore, filed a Complaint with the Relator. Mr. Wilmore, who was incarcerated at the time, provided a letter dated

August 16, 2005 from the Respondent to Mr. Wilmore. In that letter, Respondent informed Mr. Wilmore that he had not received the agreed upon retainer to represent Mr. Wilmore in an attempt to gain an early release from prison.

In his grievance, Mr. Wilmore stated that a James and Barbara Smith paid the retainer in September 2005. Mr. Wilmore alleged that Respondent took no action on his behalf.

As previously noted, on July 5, 2006, Relator sent a letter of inquiry to Respondent regarding the grievance filed by Mr. Wilmore. Donna M. Babinec signed the certified mail return receipt on July 7, 2006. Respondent did not reply to the letter of inquiry.

On August 3, 2006, Relator sent a second letter of inquiry to Respondent at his business address listed in the attorney registration records. A "Cathy (last name unclear)" signed the certified mail return receipt on August 7, 2006. Respondent did not reply to the second letter of inquiry.

On March 1, 2007, a third letter of inquiry was sent to respondent at both his business and home addresses listed in attorney registration records. Both certified mail return receipts were signed. Although the signatures are illegible, the printed name reflects that John Chambers received both on March 12, 2007. Respondent never replied to either of these letters of inquiry.

On April 11, 2007, Relator served a subpoena upon Respondent by leaving it with an employee at respondent's business address listed in the attorney registration records. The subpoena required Respondent to appear at a deposition at Relator's office on May 4, 2007, and to bring his complete file regarding the Wilmore matter.

On or about May 1, 2007, Respondent called Relator's office, requesting an extension of time by which to respond to the letters of inquiry. Based upon this telephone call, Respondent's deposition was cancelled, and he was given until May 30th to respond to the letters of inquiry.

Relator received no response.

COUNT TWO – THOMAS G. STUMP

On December 7, 2006, the Cleveland Municipal Court found Respondent guilty of misdemeanor assault, arising out of an altercation with Thomas G. Stump. Respondent was sentenced to one year of probation.

On May 15, 2007, Stump filed a civil lawsuit against Respondent in the Cuyahoga County Court of Common Pleas.

On or about July 10, 2007, Relator received a grievance against Respondent from Mr. Stump.

The grievance alleged Respondent assaulted Stump because of Stump being called to testify in a juvenile court matter involving Respondent's children.

On December 11, 2007, Relator received a letter from Stump requesting that his grievance be withdrawn in order that Stump could pursue civil remedies against Respondent.

On December 28, 2007, Relator received a letter from Stump advising that Stump refused to settle any of his claims with Respondent.

In correspondence dated December 11, 2007 from Respondent to Stump's attorney in the civil matter, Respondent advised Stump's attorney that in order to settle the matter:

“Mr. Stump must immediately dismiss the pending complaint he filed with the Disciplinary Counsel of the Supreme Court of Ohio and agree not to file any additional grievances against me (I have attached a letter of withdrawal for your approval).”

Respondent enclosed a proposed settlement/release that stated:

“The plaintiff will immediately send the attached correspondence to Carol A. Costa, Assistant Disciplinary Counsel of the Ohio Supreme Court, and withdraw grievance number A7-1825. In [sic] the Ohio Supreme Court imposes any discipline against Defendant John Chambers due to the allegations set forth in grievance number A7-1825, or considers the allegations set forth in plaintiff's grievance in any way as an aggravating factor in any future disciplinary proceedings against Defendant John Chambers, the plaintiff agrees to be subject to a lawsuit for defamation, and specifically waives the applicable statute of limitations. In lieu of filing a separate suit alleging defamation, however, defendant John Chambers, at his sole option, may compel liquidated damages from the plaintiff in the amount of \$15,000.”

On January 17, 2008, Relator received a letter from Stump again requesting to withdraw his grievance, as Stump's claim against Respondent was "purely civil in nature."

On January 18, 2008, Stump's civil lawsuit against Respondent was settled and dismissed.

CONCLUSIONS OF LAW

Respondent's conduct with regard to the Michael D. Wilmore matter violated the following provisions of the Ohio Rules of Professional Conduct.

Letters of Inquiry sent in July and August 2006:

Gov. Bar R. V (4)(G) [Duty to Cooperate in a Disciplinary Investigation].

Letter and subpoenas issued in March, April, May and June 2007:

Prof. Cond. Rule 8.1(b): “In connection with a bar admissions application or in connection with a disciplinary matter, a lawyer shall not do any of the following:

“(b) in response to a demand for information from an admissions or disciplinary authority, fail to disclose a material fact or knowingly fail to respond, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.”

Gov. Bar R.V (4)(G) [Duty to Cooperate in a Disciplinary Investigation].

Respondent’s conduct with regard to the Thomas G. Stump matter violated the following provisions of the Rules of Professional Conduct:

Prof. Cond. Rule 8.1(b): “In connection with a bar admissions application or in connection with a disciplinary matter, a lawyer shall not do any of the following:

“(b) in response to a demand for information from an admissions or disciplinary authority, fail to disclose a material fact or knowingly fail to respond, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.”

Prof. Cond. Rule 8.4(a) (No lawyer shall 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);

Prof. Cond. Rule 8.4(d) (No lawyer shall engage in conduct that is prejudicial to the administration of justice);

Prof. Cond. Rule 8.4(h) (No lawyer shall engage in any other conduct that adversely reflects on the lawyer's fitness to practice law);

Gov. Bar R. V (4)(G) [Duty to Cooperate in a Disciplinary Investigation].

MITIGATING FACTORS

Respondent has no prior disciplinary record.

AGGRAVATING FACTORS

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

- (d) Multiple Offenses;
- (e) Lack of Cooperation in the Disciplinary Process;
- (g) Refusal to acknowledge the Wrongful Nature of Conduct;
- (h) Vulnerability of and Resulting Harm to Victims;

RECOMMENDED SANCTION OF RELATOR

Relator recommends the sanction of indefinite suspension.

RECOMMENDATION OF MASTER COMMISSIONER

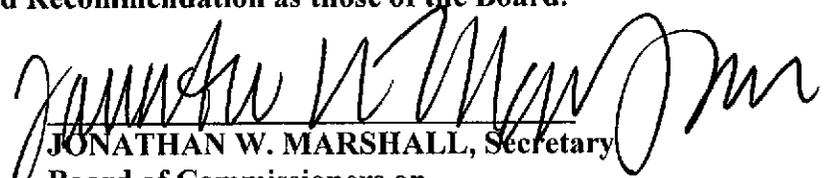
In light of the multiple offenses involving an actual prejudice to the client and to the administration of justice and because of the Respondent's failure to cooperate in the disciplinary investigation, the Master Commissioner recommends that Respondent be suspended from the practice of law for a period of one year with six (6) months stayed on the condition that Respondent (1) successfully complete an approved anger management program, and (2) complete six months of monitored probation pursuant to Gov.Bar R. V(9), and (3) pays the costs of these proceedings.

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 October 3, 2008.

The Board adopted the Findings of Fact, Conclusions of Law and Recommendation of the Master Commissioner and recommends that the Respondent, John Joseph Chambers, be suspended from the practice of law in the State of Ohio for a period of one year with six months stayed upon the conditions contained in the Master Commissioner's Report. 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 Recommendation as those of the Board.


JONATHAN W. MARSHALL, Secretary
Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio