

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

08-2438

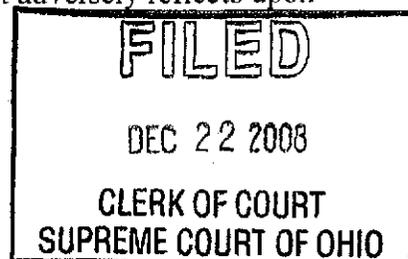
In Re:	:	
Complaint against	:	Case No. 07-086
Todd Austin Brenner	:	Findings of Fact,
Attorney Reg. No. 0051839	:	Conclusions of Law and
Respondent	:	Recommendation of the
Disciplinary Counsel	:	Board of Commissioners on
Relator	:	Grievances and Discipline of
	:	the Supreme Court of Ohio
	:	
	:	

This matter was heard on July 25, 2008, at the Ohio Judicial Center, in Columbus, Ohio, before a panel consisting of Robert V. Housel, Chair, Jana Emerick, and Patrick L. Sink.

None of the panel members resides in the district from which the complaint originated or served on the Probable Cause Panel that previously considered this matter. Representing the Disciplinary Counsel was Robert R. Berger, and the Respondent was represented by Dianna M. Anelli.

BACKGROUND

On December 10, 2007, a Complaint was filed against the Respondent alleging that he violated these provisions of the Code of Professional Responsibility: DR 1-102(A)(4) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation); DR 1-102(A)(5) (a lawyer shall not engage in conduct that is prejudicial to the administration of justice); and DR 1-102(A)(6) (a lawyer shall not engage in conduct that adversely reflects upon his fitness to practice law).



On June 24, 2008, an Amended Complaint was filed against the Respondent, alleging that he violated DR 1-102(A)(4), DR 1-102(A)(5) and DR 1-102(A)(6), as stated above and in addition that he violated DR 2-106(A) (a lawyer shall not enter into an agreement for, charge or collect a clearly excessive fee); and DR 5-101(A)(1) (except with consent of a client after full disclosure, a lawyer shall not accept employment if the exercise of professional judgment on behalf of the client will be or reasonably may be affected by the lawyer's financial and personal interests).

Stipulations were signed and submitted on July 11, 2008. Included in these Stipulations were stipulated facts, stipulated violations, mitigation, and exhibits. The panel adopted the stipulations for its findings of fact. A copy of these Stipulations is attached as Exhibit "A" without the exhibits. The rule violations agreed upon were as follows: in Count I, DR 1-102(A)(4) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation); and DR 1-102(A)(6) (a lawyer shall not engage in conduct that adversely reflects upon his fitness to practice law); in Count II, DR 1-102(A)(4) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation); and DR 1-102(A)(6) (a lawyer shall not engage in conduct that adversely reflects upon his fitness to practice law).

The parties dispute the following violations: in Count I, DR 1-102(A)(5) (a lawyer shall not engage in conduct that is prejudicial to the administration of justice); in Count II, DR 1-102(A)(5) (a lawyer shall not engage in conduct that is prejudicial to the administration of justice), and DR 2-106(A) (a lawyer shall not enter into an agreement for, charge or collect a clearly excessive fee); and DR 5-101(A)(1) (except with consent of a client after full disclosure, a lawyer shall not accept employment if the exercise of professional judgment on behalf of the client will be or reasonably may be affected by the lawyer's financial and personal interests).

**FINDINGS OF FACT
AND
CONCLUSIONS OF LAW**

Respondent is a 43 year old successful personal injury general practice lawyer with no prior disciplinary record of any kind. The essence of the complaints in both counts in this case stem from Respondent's inappropriate, fraudulent use of client/law firm funds for his personal use. In short the Respondent through deception took funds in his law firm's operating account to pay his own personal expenses. The easiest way to set this out in this report is to attach a copy of Respondent's cross-examination by Disciplinary Counsel, which was contained in Pages 31 through 62 attached herein as Exhibit "B." A reading of Exhibit "B" clearly establishes the majority of Respondent's misconduct in this matter.

In addition to adopting the stipulated violations set forth above, this Hearing Panel finds by clear and convincing evidence that the Respondent also violated DR 1-102(A)(5) (engaging in conduct prejudicial to the administration of justice). This rule violation applies to both Count I and Count II. The Hearing Panel finds that Relator did not prove by clear and convincing evidence the violations alleged in Count II dealing with DR 2-106(A) (charging or collecting a clearly excessive fee), and DR 5-101(A)(1) (except with consent of a client after full disclosure, a lawyer shall not accept employment if the exercise of professional judgment on behalf of the client will be or reasonably may be affected by the lawyer's financial and personal interests). Therefore, the panel recommends dismissal of those two charges in Count II.

AGGRAVATION

The panel found pursuant to the Board's Procedural Rules and Regulations,
Section 10:

- (a) Prior disciplinary offenses – None;

(b) Dishonest or selfish motive – Yes; Respondent apparently felt he had been wronged by his law partners and that the stealing and deceptive practices involved in this case were therefore justified.

(c) A pattern of misconduct – Yes. There were two cases involved over a period of years.

(d) Multiple offenses – Yes.

(e) Lack of cooperation in the disciplinary process – No. Respondent was totally cooperative in the disciplinary process.

(f) Submission of false evidence, false statements, or other deceptive practices during the disciplinary process – None.

(g) Refusal to acknowledge wrongful nature of conduct – None.

(h) Resulting harm to victims of the misconduct – An argument could be made that the funds Respondent stole could have been utilized by his former law firm.

(i) Failure to make restitution – N/A.

MITIGATION

(a) Absence of a prior disciplinary record – No prior record.

(b) Absence of a dishonest or selfish motive – Respondent deliberately acted dishonestly and selfishly.

(d) Full and free disclosure to Disciplinary Board – Yes.

(e) Character or reputation – The evidence at the hearing clearly showed that these matters were isolated instances in an otherwise outstanding career. Respondent presented over forty letters attesting to his outstanding capabilities as a lawyer. Additionally, numerous witnesses testified that Respondent's reputation was beyond reproach. Respondent possesses an

AV rating with Martindale Hubbell and two of the alleged victims included in this case testified that Respondent did an outstanding job for them. It was clear to the Hearing Panel that Respondent would be unlikely to ever commit another disciplinary violation.

(g) Chemical dependency or mental disability – None, however, Respondent testified that as a result of these charges he has been diagnosed and treated for severe depression and anxiety. He also testified that he has lost out on several employment opportunities with Columbus law firms.

(h) Other interim rehabilitation – N/A.

PANEL RECOMMENDATION

The Supreme Court of Ohio and disciplinary bodies in Ohio and other states have repeatedly stated that the appropriate sanction for an attorney who misappropriates law firm funds is a suspension from the practice of law. The following cases lead this Panel to conclude that an actual suspension from the practice of law is warranted: In *Disciplinary Counsel v. Yajko*, 77 Ohio St.3d, 385, 389, 1997-Ohio-263, Yajko converted client fees on 20 different occasions over a seven year period totaling \$21,402. The Court characterized Yajko's actions as "a deliberate scheme to defraud his employer over a period of years." *Yajko* at 389. Yajko attempted to justify taking funds due to the fact that he was not awarded bonuses by his law firm. The Court found that Yajko's actions constituted a pattern and practice over a prolonged period and that Yajko used his position as an attorney to steal firm funds. For this misconduct, the Court found violations of DR 1-102(A)(4) and (6) and ordered an indefinite suspension.

In *Toledo Bar Assn v. Crossmock*, 11 Ohio St.3d 278, 2006-Ohio-5706, Crossmock converted over \$300,000 in law firm funds to his own use between 1993 and 2003. Crossmock took these funds in violation of an agreement he had with his law firm on how such

funds should be divided. Based upon this misconduct the Court found violations of DR 1-102(A)(4) and (6). After considering the fact that Crossmock repaid the funds and that he was diagnosed with bipolar disorder, the Court ordered an indefinite suspension.

In *Office of Disciplinary Counsel v. Bussinger* (1989), 44 Ohio St.3d 145, Bussinger converted \$3,000 in legal fees on nine separate occasions between 1986 and 1988. Based upon this evidence, the Court found a violation of DR 1-102(A)(4) by default, and ordered an indefinite suspension.

In *Columbus Bar Assn v. Osipow*, 68 Ohio St.3d 338, 1994-Ohio-145, Osipow provided representation to two clients using law firm letterhead and resources, but did not report the legal fees to the law firm and instead kept the legal fees for himself. Osipow also submitted false expense vouchers. For this misconduct, the Court found a violation of DR 1-102(A)(4) and ordered an indefinite suspension.

In *Disciplinary Counsel v. Crowley*, 69 Ohio St.3d 554, 1994-Ohio-214, Crowley engaged in the misappropriation of over \$200,000 in law firm funds through improper expense reimbursements. Crowley double-billed for cash advances and reimbursement expenses, and submitted altered credit card receipts. After finding violations of DR 1-102(A)(3), (4) and (6) and noting that no funds had been repaid by Crowley, the Court ordered an indefinite suspension.

Based upon the evidence submitted, the Panel unanimously recommends that Respondent be suspended from the practice of law for eighteen (18) months, with one (1) year of that suspension stayed.

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 December 5, 2008. The

Board adopted the Findings of Fact and Conclusions of Law of the Panel. However, given his extended pattern of fraud and deception, the Board amended the sanction and recommends that the Respondent, Todd Austin Brenner, be suspended for a period of two years with one year of the suspension 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 Recommendation as those of the Board.

A handwritten signature in black ink, appearing to read 'Jonathan W. Marshall', 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

FILED

Todd Brenner
Attorney Registration No. (0051839)
555 Metro Place North
Dublin, Ohio 43017

JUL 11 2008

BOARD OF COMMISSIONERS
ON GRIEVANCES & DISCIPLINE

**AGREED
STIPULATIONS
BOARD NO. 07-086**

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

AGREED STIPULATIONS

Relator, Disciplinary Counsel, and Respondent, Todd Brenner, do hereby stipulate to the admission of the following facts, rule violations, mitigating factors, and exhibits.

STIPULATED FACTS

1. Respondent, Todd Austin Brenner, was admitted to the practice of law in the State of Ohio on May 20, 1991. Respondent is subject to the Code of Professional Responsibility, the Rules of Professional Conduct and the Rules for the Government of the Bar of Ohio.
2. The Brenner, Brown, Golian & McCaffrey law firm was formed in 1995. Respondent was a partner at this firm until October 18, 2006 and acted as managing partner from 1999 until his termination and departure on October 18, 2006.

COUNT I

3. Respondent's grandmother, Mary Stailey, hired respondent to represent her in a personal injury matter in 2002. Stailey was respondent's stepfather's mother.
4. Respondent negotiated a settlement of Stailey's claim. On September 29, 2003 a settlement check for \$4,937.96 was deposited into the Brenner, Brown, Golian & McCaffrey IOLTA account.
5. On November 11, 2003, a check for \$4,937.96 drawn on the office IOLTA account was deposited into the office operating account.
6. On the same date, respondent directed law firm administrative staff to create operating account check number 14507 for \$4,379.70 payable to The Sullivan Centre attributing this surgery expense to the Stailey case. However, this expense was a surgical expense incurred by respondent's wife .
7. Respondent signed both his name and the name of law partner Joseph Golian on the check.
8. In December 2003, respondent's firm received a \$30,000 settlement check for the Stailey case. After expenses were paid, a check for \$25,000 was issued to Stailey.

9. Respondent then prepared or caused to be prepared a document entitled "settlement recap" dated December 4, 2003 that attributed The Sullivan Centre check as an expense of the Stailey matter.
10. This settlement recap statement contains an additional billing for \$411.12 in travel-related expenses.
11. On April 2, 2004, respondent hand wrote operating account check number 15253 for \$2,750 payable to SNY Financial Services attributing this expense to the Stailey case. However, this payment was an expense related to respondent's father's estate.
12. Respondent signed both his name and the name of law partner Joseph Golian on the check.
13. On April 14, 2004, respondent directed law firm administrative staff to create operating account check number 15309 for \$2,479 payable to the Albers & Albers law firm attributing this expense to the Stailey case. However, this payment was for attorney fees associated with respondent's father's estate.
14. As a result of respondent's directives as set forth above, several internal bookkeeping documents were created showing all of these expenses as expenses

for the Stailey matter. These six documents are dated December 4, 2003, December 18, 2003, February 16, 2004, April 14, 2004 and April 26, 2004.

15. Firm members tried to locate the closed Stailey file after respondent's termination on October 18, 2006. The firm's efforts to locate the file were unsuccessful.

COUNT II

16. In October 2004 Linda Weaver and Judy Huff were involved in an automobile accident. Weaver and Huff sustained injuries from the accident that required medical treatment.
17. In October 2004, Weaver and Huff retained respondent to represent them in personal injury claims against the driver who caused the accident. Respondent entered into separate contingency fee agreements with Weaver and Huff wherein the firm would receive one-third of the gross settlement amounts received from each of their cases.
18. Respondent negotiated a \$23,500 settlement for Weaver. The settlement check was received by respondent in August 2005. Based upon the one-third contingency fee agreement, respondent's firm collected a \$7,833.33 fee.
19. On or about August 25, 2005, respondent caused a reconciliation statement to be prepared for the Weaver matter. This statement listed dollar amounts for the

settlement payment, applicable attorney fees under the contingency fee contract and the medical expenses. However, the expense listed for Grant Hospital was not the actual amount owed, but reflected a lower amount respondent hoped to negotiate the bill down to.

20. On August 25, 2005, respondent met with Weaver and Huff to discuss disbursement of their settlement funds. During that meeting, respondent discussed with Weaver options for payment of her outstanding medical bills, as follows:
- Respondent offered to give Weaver the remaining \$15,666.67 in settlement funds after payment of the firm's \$7,833.33 contingency fee. Weaver would then be responsible personally to either negotiate with the medical providers regarding the \$16,675.70 in outstanding bills or make the final payments herself.
 - Respondent also offered to negotiate with the providers to reduce the amounts of the bills and handle final payment for Weaver. Under this scenario respondent agreed to be personally responsible for ensuring that all of Weaver's medical bills were settled in full. Accordingly, respondent would retain \$9,666.67 to pay the remaining \$16,675.70 in medical bills and was permitted to keep any funds remaining after payment of medical bills..
21. Weaver chose the option of having respondent settle the medical bills. On August 25, 2005, she received a check in the amount of \$6,000 in settlement of the personal injury matter and respondent and Weaver signed the reconciliation statement. .

22. The reconciliation statement did not specifically state that respondent agreed to be personally responsible for the payment of Weaver's medical bills or that he would receive any surplus funds.

23. On August 21, 2006, respondent directed law firm administrative staff to create operating account check number 18545 for \$2,130 payable to Dr. Laury DiMichaelangelo. Respondent further directed staff to attribute this expense to the Weaver case. However, this expense was incurred by respondent for dental work at North Columbus Dental Group.

24. On September 1, 2006, respondent directed law firm administrative staff to create operating account check number 18569 for \$300 payable to Finstad Land & Spatial Surveying Corporation attributing this expense to the Weaver case. However, this check was to pay respondent's personal expense related to a real estate survey of property in Florida.

25. On September 12, 2006, respondent directed law firm administrative staff to create operating account check number 18609 for \$1,450 payable to Dr. Alice Epitropoulos attributing this expense to the Weaver case. However, this expense was an expense incurred by respondent for eye surgery at Ophthalmic Surgeons & Consultants of Ohio Inc.

26. On October 12, 2006, respondent directed law firm administrative staff to create operating account check number 18715 for \$910 payable to Dr. Mark Preston attributing this expense to the Weaver case. However, this expense was an expense for surgery that respondent was planning to have completed.
27. On October 12, 2006, law firm staff prepared a document with regard to the Weaver case and printed it on law firm stationary attributing the \$4,790 in expenses for Dr. Laury DiMichaelangelo, Finstad, Dr. Alice Epitropoulos and Dr. Mark Preston to the Weaver case.
28. On October 13, 2006, respondent met with Weaver regarding payment of her medical bills.
29. At this point, respondent had settled Weaver's \$16,675.70 in medical bills for a total of \$2,113.80. At this meeting, respondent gave Weaver a check for \$2,762.87 and retained the remaining \$4,790.00 from the settlement of the medical expenses.
30. On October 13, 2006 law firm employee Christina Hallam observed respondent dispose of materials in the office trash dumpster.
31. On October 20, 2006 respondent again met with Weaver presenting her with a personal check for \$4,790.

STIPULATED VIOLATIONS

32. Respondent's conduct as set forth in Count I violates the Code of Professional Responsibility: DR 1-102(A)(4) [a lawyer shall not engage in conduct involving fraud, deceit, dishonesty, or misrepresentation]; and DR 1-102(A)(6) [a lawyer shall not engage in conduct that adversely reflects upon his fitness to practice law].
33. Respondent's conduct as set forth in Count II violates the Code of Professional Responsibility: DR 1-102(A)(4) [a lawyer shall not engage in conduct involving fraud, deceit, dishonesty, or misrepresentation]; DR 1-102(A)(6) [a lawyer shall not engage in conduct that adversely reflects upon his fitness to practice law].

STIPULATED MITIGATION

34. Respondent has no prior disciplinary record.
35. Respondent has cooperated with relator's investigation of the within matter.

STIPULATED EXHIBITS

- | | |
|-----------|--|
| Exhibit 1 | November 11, 2003 operating account check number 14507 for \$4,379.70 |
| Exhibit 2 | Stailey settlement recap |
| Exhibit 3 | April 2, 2004 operating account check number 15253 for \$2,750 and check stub |
| Exhibit 4 | Respondent's handwritten request for check number 15309 |
| Exhibit 5 | April 14, 2004 operating account check number 15309 for \$2,479 and check stub |

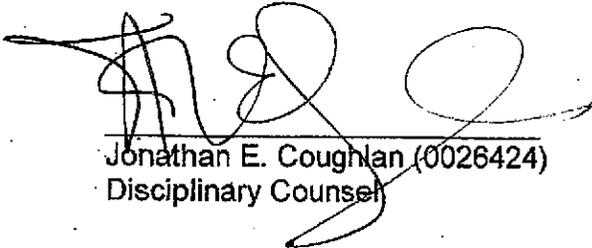
- Exhibit 6 Law firm billing records dated December 4, 2003, December 18, 2003, February 16, 2004, April 14, 2004 and April 26, 2004
- Exhibit 7 Weaver contingency fee agreement
- Exhibit 8 Weaver reconciliation statement
- Exhibit 9 Respondent's handwritten request for check number 18545
- Exhibit 10 August 21, 2006 operating account check number 18545 for \$2,130
- Exhibit 11 Respondent's handwritten request for check number 18569
- Exhibit 12 September 1, 2006 operating account check number 18569 for \$300 and check stub
- Exhibit 13 Respondent's handwritten request for check number 18609
- Exhibit 14 September 12, 2006 operating account check number 18609 for \$1,450 and check stub
- Exhibit 15 Respondent's handwritten request for check number 18715
- Exhibit 16 October 12, 2006 operating account check number 18715 for \$910 and check stub
- Exhibit 17 October 12, 2006 Weaver billing invoice
- Exhibit 18 Respondent's character letters
- Exhibit 19 Respondent's Martindale-Hubbell rating

- Exhibit 20 American Family Insurance Group \$23,500 check to Todd Brenner and Linda Weaver

- Exhibit 21 Statements from Mid-Ohio Emergency Services LLC; Brenner, Brown for medical records; Columbus Division of Fire; OSU Medical Center; Grant Medical Center

CONCLUSION

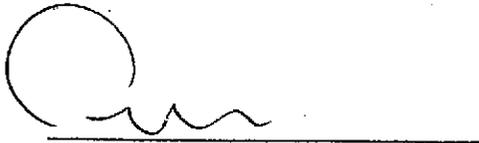
The above are stipulated to and entered into by agreement by the undersigned parties on this 10th day of July, 2008.



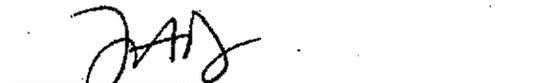
Jonathan E. Coughlan (0026424)
Disciplinary Counsel



Dianna M. Anelli (0062973)
Counsel for Respondent



Robert R. Berger (0064922)
Assistant Disciplinary Counsel



Todd Brenner (0051839)
Respondent

CONCLUSION

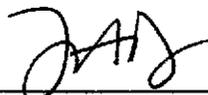
The above are stipulated to and entered into by agreement by the undersigned parties on this _____ day of July, 2008.

Jonathan E. Coughlan (0026424)
Disciplinary Counsel



Dianna M. Anelli (0062973)
Counsel for Respondent

Robert R. Berger (0064922)
Assistant Disciplinary Counsel



Todd Brenner (0051839)
Respondent

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1 with Todd's representation and not very pleased with
 2 Mr. Brown's description of Todd's actions.
 3 Thereafter, the Brenner Brown firm broke
 4 up. Mr. Brown left. When Todd left, many of his
 5 clients went with him, but he was successful in
 6 convincing one client to leave two files with the
 7 Brown firm, and the reason was because they were kind
 8 of at the end and it would be more expeditious and a
 9 better deal for the client just to leave them with
 10 the firm. So you know I should tell you, the client
 11 didn't want to. The client wanted Todd to take the
 12 file, but they ended up, Todd said just leave them
 13 with Phil Brown at this point, and they did.

14 Not long after that, Mr. Brown left the
 15 firm and asked to be able to take those files with
 16 him and the client said no, deliver them to Todd. So
 17 Todd ended up with those files. Mr. Brown was not
 18 very happy about that.

19 In the end, Mr. Brown reported the
 20 matter to disciplinary counsel, the theft of funds,
 21 even though he knew that that was not the case after
 22 talking to Judy. In the meantime, Todd started to
 23 build another practice from scratch. The practice
 24 that he had previously worked in he started with

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1 these gentlemen in 1995. He was, he will tell you,
 2 horribly depressed. Ultimately he sought both a
 3 physician and counselor to help him through that
 4 process. He was deeply saddened over the demise of
 5 his firm and horribly ashamed about mistakes he made
 6 to his partners.

7 This is the kind of case, sort of like
 8 when you get revenge, it's not as sweet as you think
 9 it is going to be. Anyway, today he is doing much
 10 better. He knows his actions were improper and
 11 deeply regrets them, and he's here to tell you about
 12 that today.

13 After the evidence is submitted, we
 14 think that you will agree that notwithstanding this
 15 hiccup in his career, Todd is a trustworthy person.

16 Thank you.

17 CHAIRMAN HOUSEL: Thank you.

18 Mr. Berger, would you be kind enough to
 19 call your first witness, please.

20 MR. BERGER: Thank you. Relator
 21 calls respondent as on cross.

22 CHAIRMAN HOUSEL: Keep your voice up,
 23 sir.

24 - - -

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1 Thereupon,

2 TODD BRENNER
 3 Being first duly sworn,
 4 testifies as follows:

5 CROSS-EXAMINATION

6 By Mr. Berger:

7 Q Good morning.

8 A Good morning sir.

9 Q Could you state your name for the
 10 record, please.

11 A Todd Brenner.

12 Q And, Mr. Brenner, what is your business
 13 address?

14 A My business address is 555 Metro Place
 15 North, it's in Dublin, Ohio 43017.

16 Q And you were admitted to the practice of
 17 law in May of 1991?

18 A That's correct.

19 Q And you are currently a solo
 20 practitioner?

21 A That's correct.

22 Q And you signed the stipulations in this
 23 matter?

24 A I did.

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1 Q And before you in the black binder is a
 2 copy of those stipulations marked Joint Exhibit 1; is
 3 that correct?

4 A Yes.

5 Q And you signed these stipulations
 6 voluntarily and willingly?

7 A I did.

8 Q The Brenner, Brown, Golian & McCaffrey
 9 law firm was formed in 1995?

10 A Yes.

11 Q And you were a partner at this firm?

12 A That's correct.

13 Q And you acted as managing partner from
 14 1999 until you were terminated on October 18, 2006?

15 A That's right.

16 Q All right. Your termination occurred
 17 after it was discovered you deceitly used funds in
 18 the law firm's operating account to pay your own
 19 personal expenses?

20 A That's fair.

21 Q And you engaged in this deception to
 22 avoid explaining to your law partners that you were
 23 taking these additional payments?

24 A I would say that's a fair explanation.

1 Q And at the time that you did this, you
2 were resentful and you decided to make your own
3 rules?

4 A That may be an oversimplification; but
5 again, that's a fair explanation.

6 Q And you concealed these expenditures by
7 attributing your personal expenses to the
8 representation of two different clients?

9 A Again, that may be an
10 oversimplification; but it's a fair explanation.

11 Q And these funds that you used to pay
12 your personal bills came from your secret
13 compensation agreements you had entered into with
14 these two clients?

15 A If by secret you mean my partners didn't
16 know about them, that is correct.

17 Q All right. Let's talk briefly about
18 Count 1, which is the count involving Mary Stailey.

19 A Okay.

20 Q Mary Stailey hired you to represent her
21 in a personal injury matter in 2002.

22 A Yes.

23 Q And she was your stepfather's mother?

24 A She's my grandmother, yes.

1 that money was going to the Sullivan Centre. I made
2 it appear as if it were attributable to my
3 grandmother's case, that's correct.

4 Q You received a copy of the deposition to
5 review; isn't that correct?

6 A I did.

7 Q And along with that came an errata sheet
8 where you could make any corrections that you chose
9 to make?

10 A Yes.

11 Q And you didn't make any corrections to
12 your deposition testimony; isn't that correct?

13 A That's true. But I did not have my
14 wife's authorization to reveal that information to
15 you.

16 Q And did you provide that information to
17 me subsequent to your deposition?

18 A I did not.

19 Q The law firm's operating account checks
20 require two separate signatures?

21 A Yes.

22 Q And for the check that we were just
23 discussing made out to the Sullivan Centre, you
24 signed both your name and the name of law partner

1 Q And she negotiated -- I'm sorry, you
2 negotiated a settlement of her claim?

3 A That's correct.

4 Q And after that was done on November 11th
5 of 2003, you transferred funds from the Stailey
6 settlement being held in the IOLTA account to the
7 operating account?

8 A I believe that's true.

9 Q And you then directed the law firm
10 administrative staff to create an operating check for
11 \$4,379.70 made payable to the Sullivan Centre?

12 A That's right.

13 Q And you directed staff to attribute this
14 expense to the Stailey case?

15 A I believe that's true, yes.

16 Q And this directive was dishonest?

17 A Yes, it was.

18 Q And in fact, this expense was an expense
19 incurred by your wife for cosmetic surgery?

20 A I know that in my deposition testimony I
21 testified to that effect. I regret that testimony
22 because I did not have her authorization to reveal
23 that information. In fact, it may not have been
24 entirely correct. I did, however, conceal the fact

1 Joseph Golian?

2 A That's true.

3 Q And Exhibit 1 attached to the
4 stipulations is a copy of that check that we were
5 just discussing --

6 A Yes.

7 Q -- is that correct?

8 In December of 2003 the law firm
9 received the \$30,000 settlement check for Stailey?

10 A That sounds right.

11 Q And after expenses were made, the check
12 for \$25,000 was forwarded to Mary Stailey?

13 A Yes, I delivered it to her myself.

14 Q After this was done, you then prepared a
15 settlement recap statement in the case; isn't that
16 correct?

17 A A staff member probably prepared it, but
18 I'm sure I instructed her to prepare it.

19 Q And Exhibit 2 is a copy of that
20 settlement recap?

21 A I believe that's true.

22 Q And looks like it says December 4, 2003
23 Settlement Check Received at the top on the left; is
24 that correct?

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1 A Yes, sir.
 2 Q And that's your recollection?
 3 A It is.
 4 Q All right. This settlement recap
 5 falsely indicates that the Sullivan check was an
 6 expense of Stailey; isn't that correct?
 7 A Yes.
 8 Q And it's listed -- let's see, it's the
 9 fourth expense listed?
 10 A Yes.
 11 Q All right. Two expenses below that
 12 there is an expense listed for travel mileage. Do
 13 you see where I am referring to?
 14 A I do.
 15 Q Looks like an additional billing for
 16 \$411.12?
 17 A Yes.
 18 Q You acknowledge these travel expenses
 19 have nothing to do with the Stailey representation?
 20 A Yes.
 21 Q And, in fact, this was travel that was
 22 made to Youngstown and Louisville?
 23 A I believe that's the indication. The
 24 first time I ever noticed that this was on here was

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1 at my deposition. I don't recall exactly how it got
 2 there, but I believe that's correct.
 3 Q Let's go to Exhibit 6, page 2. This is
 4 another document generated by your law firm regarding
 5 the Stailey case?
 6 A Yes.
 7 Q You're looking at page 2?
 8 A On page 2?
 9 Q Yes.
 10 A Yes.
 11 Q And it's also dated December 4, 2003?
 12 A Yes.
 13 Q Which would lead us to believe it's
 14 generated around the same time as the settlement
 15 recap?
 16 A Sure.
 17 Q All the way at the bottom of the
 18 disbursement documents where it says, "Travel to/from
 19 Youngstown two times to meet with witness and travel
 20 to/from Louisville"?
 21 A I do.
 22 Q That's the travel that we were referring
 23 to that was listed on the settlement recap; isn't
 24 that correct?

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1 A Yes.
 2 Q And at this time you regularly traveled
 3 to these cities for other clients you were
 4 representing?
 5 A That's fair to say.
 6 Q On April 2nd of 2004, you wrote out an
 7 operating account check payable to SNY Financial
 8 Services?
 9 A Yes.
 10 Q And you further directed staff to
 11 attribute this payment to the Stailey case?
 12 A Yes.
 13 Q And this check was dishonest; is that
 14 correct?
 15 A Yes.
 16 Q And in fact this payment was unrelated
 17 to the Stailey matter and instead an expense related
 18 to your father's estate?
 19 A That's correct.
 20 Q And the law firm checks required two
 21 signatures I believe you indicated before?
 22 A Yes.
 23 Q And on this check that we're referring
 24 to made out to SNY Financial Services, you signed

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1 both your name and the name of your law partner
 2 Joseph Golian?
 3 A As was customary, yes.
 4 Q You were the only person at the law
 5 office that you're aware of that signed other
 6 people's name; isn't that correct?
 7 A That's true.
 8 Q Exhibit 3 attached to the stipulations,
 9 that's the check we're talking about for SNY
 10 Financial Services?
 11 A Yes.
 12 Q On April 14th of 2004, you requested
 13 that the law firm staff create another operating
 14 account check payable to the Albers & Albers Law
 15 Firm?
 16 A Yes.
 17 Q And you further directed the staff to
 18 attribute this expense to the Stailey estate -- I'm
 19 sorry, Stailey case?
 20 A Yes.
 21 Q And Exhibit 4, is that the record you
 22 gave to the administrative staff for the check to be
 23 created?
 24 A Yes.

1 Q That's your handwriting?
 2 A Most of it, yes.
 3 Q All right. And the tax I.D. number is
 4 the indication to the staff as to where the expense
 5 needs to be attributed; is that correct?
 6 A That must have been Albers & Albers' tax
 7 I.D. number, yes.
 8 Q All right. And your directive to
 9 attribute this to the Stailey case was dishonest;
 10 isn't that correct?
 11 A Yes.
 12 Q And in fact, this payment wasn't related
 13 to the Stailey matter, but instead a payment of
 14 attorney fees associated with your father's estate?
 15 A That's correct.
 16 Q Exhibit 5 is a copy of that check to
 17 Albers & Albers we were just discussing?
 18 A Yes.
 19 Q All right. As a result of these various
 20 checks that we have been talking about to have the
 21 staff create these checks and bill these expenses to
 22 the Stailey case, there were internal bookkeeping
 23 documents that were created at the law firm; isn't
 24 that correct?

1 the travel to Youngstown and Louisville?
 2 A Yes.
 3 Q If you skip page 7 and go to page 8,
 4 this is a law firm billing document and it's dated at
 5 the top April 26, 2004, see what I'm referring to?
 6 A I do.
 7 Q And under disbursements on this document
 8 it lists the travel, the SNY Financial Services and
 9 Albers & Albers expenditures --
 10 A Yes.
 11 Q -- as expenditures for Stailey?
 12 A Yes.
 13 Q And finally, if you look at page 9,
 14 there's another firm document dated April 26, 2004.
 15 See where I am referring to?
 16 A I do.
 17 Q Again, it lists the travel, the SNY
 18 Financial Services an Albers & Albers checks as being
 19 Stailey expenses?
 20 A Yes.
 21 Q All right. After you were terminated on
 22 October 18th -- I'm sorry, prior to your termination
 23 on October 18, 2006, you disposed of the Stailey file
 24 to conceal your misconduct?

1 A That's fair to say.
 2 Q All right. And these documents showed
 3 that these personal expenses of yours were actually
 4 the expenses of Stailey?
 5 A That's correct.
 6 Q All right. Turn to Exhibit 6, I think
 7 we already looked at page 2, and we noted that, if
 8 you turn to page 2 of Exhibit 6, this is one of those
 9 documents and it indicates the Sullivan Centre
 10 expense and travel were from the Stailey case?
 11 A Yes.
 12 Q All right. If you turn to page 5, which
 13 is a billing notice dated February 16, 2004.
 14 A Yes.
 15 Q See where I am referring to?
 16 A I do.
 17 Q All the way at the bottom again the
 18 disbursements, the Sullivan Centre is listed again?
 19 A Yes.
 20 Q And then if you turn one more page, page
 21 6, there is a document dated April 14, 2004.
 22 A Yes.
 23 Q And at the bottom of the disbursements
 24 in the lower left-hand corner is, again, mention of

1 A No, I don't believe I did.
 2 Q All right. You agree that after you
 3 left the firm, the Stailey file could not be located?
 4 A That's my understanding.
 5 Q Let's talk about Count 2, which is the
 6 Weaver matter.
 7 A Okay.
 8 Q In October of 2004 Linda Weaver and Judy
 9 Huff were involved in an automobile accident?
 10 A Yes.
 11 Q And Weaver and Huff both sustained
 12 injuries that required medical treatment?
 13 A Yes.
 14 Q And Weaver and Huff both hired you in
 15 October of '04 to represent them in their personal
 16 injury claim?
 17 A Yes.
 18 Q And you entered into one-third
 19 contingency fee agreements with both Weaver and Huff?
 20 A That's correct.
 21 Q And if you take a look at stipulated
 22 Exhibit 7, that is the contingency fee agreement that
 23 you entered into with Weaver?
 24 A Yes. That's my signature, but a member

1 of my firm signed that agreement.
 2 Q And you negotiated a settlement for
 3 Weaver for \$23,500?
 4 A That's right.
 5 Q And your office received the settlement
 6 check in August of 2005?
 7 A That sounds right.
 8 Q And based upon the one-third contingency
 9 fee agreement, your law firm collected a fee of
 10 \$7,833.33?
 11 A Yes.
 12 Q And on or about August 25th of 2005, you
 13 caused a reconciliation statement to be prepared for
 14 the Weaver matter?
 15 A Yes.
 16 Q And Exhibit 8 is a copy of that
 17 reconciliation statement?
 18 A Yes.
 19 Q And this statement lists the dollar
 20 amounts for the settlement of payment. There at the
 21 top it says \$23,500?
 22 A Yes.
 23 Q It also lists the attorney fees there
 24 that we just discussed were \$7,800?

1 Q All right. And at this meeting you
 2 presented Weaver with two scenarios to address her
 3 outstanding medical bills?
 4 A That's fair to say.
 5 Q And on the one hand you told her you
 6 would give her the remaining \$15,666.67 in settlement
 7 funds to satisfy her \$16,675.70 in medical bills and
 8 then she could just handle taking care of the bills
 9 herself?
 10 A Yes.
 11 Q In the alternative, you offered to
 12 negotiate with the providers to reduce the amount of
 13 bills owed and handle final payments for her?
 14 A Yes.
 15 Q And under the second scenario, you
 16 agreed to be personally responsible for insuring that
 17 all her bills were paid?
 18 A That's correct.
 19 Q And in return for being personally
 20 responsible, you asked that she allot you \$9,666.67
 21 to satisfy those bills?
 22 A I'm sorry, can you reask that?
 23 Q Sure. In return for you being
 24 responsible for paying the bills, you requested that

1 A Correct.
 2 Q It also list medical expenses for the
 3 four places that bills needed to be paid on her
 4 behalf?
 5 A That's right.
 6 Q However, the expense that you listed for
 7 Grant Hospital is not the actual amount that was owed
 8 to Grant Hospital; isn't that correct?
 9 A The number that's in the right column
 10 was not the total lien amount that Grant had, that's
 11 correct. But I didn't prepare that. I'm sure Gina
 12 Schmidt prepared this at my request.
 13 Q And it lists for Grant \$5,830.77.
 14 A Yes.
 15 Q And in fact the bill was actually
 16 \$12,839.80; isn't that correct?
 17 A Yes. The \$5,830 was what we were hoping
 18 to reduce it to or thereabouts.
 19 Q On August 25, 2005, you met with Weaver
 20 to discuss disbursement of settlement funds?
 21 A What date?
 22 Q August 25, 2005.
 23 A I think it was the 26th. One of those
 24 two days, yes.

1 she allow you to take \$9,666.67 for that purpose?
 2 A That's what we agreed to, yes.
 3 Q And that's the amount total of the
 4 expenditures on Exhibit 8?
 5 A Yes.
 6 Q All right. And you were going to take
 7 that amount in order to satisfy the 16 and some odd
 8 dollars in outstanding medical bills?
 9 A That's correct.
 10 Q Also as a part of this agreement, you
 11 were then going to be allowed to keep any funds that
 12 were left over?
 13 A That's right.
 14 Q And at the time you knew that there were
 15 going to be some funds left over?
 16 A No, I didn't. I hoped and expected
 17 there would be funds left over, that's true. I
 18 didn't know it for sure.
 19 Q You expected that there would be funds
 20 left over?
 21 A I hoped there would be funds left over.
 22 Q You knew it was a good risk, this
 23 agreement you were entering into?
 24 A Yeah. I felt so after my conversation

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1 with the lawyer for Grant and OSU, yes.

2 Q Those conversations occurred prior to
3 entering into this agreement with Weaver?

4 A That's correct. I had no idea they
5 would be reduced to what they were.

6 Q However, you didn't protect Weaver's
7 interest fully in this agreement that you entered
8 into with her?

9 MS. ANELLI: Objection.

10 CHAIRMAN HOUSEL: Reason for your
11 objection.

12 MS. ANELLI: He's asking for a
13 legal conclusion and one that applies to the ethical
14 codes.

15 CHAIRMAN HOUSEL: Overruled. You can
16 answer the question.

17 THE WITNESS: Can you restate that?
18 By Mr. Berger:

19 Q Sure. However, you didn't protect
20 Weaver's interest in this agreement that you entered
21 into with her?

22 A I believe I did.

23 Q You didn't put your personal obligation
24 to pay her bills in writing, did you?

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1 A I did not.

2 Q You didn't put in writing the fact that
3 you were going to be the recipient of any surplus
4 funds, did you?

5 A That's correct.

6 Q And you did this because you wanted to
7 conceal this arrangement from your law firm; isn't
8 that correct?

9 A That may have been one reason, yes.

10 Q You didn't advise Weaver of your
11 potential conflict of interest in making this
12 arrangement to take these extra funds, did you?

13 A I didn't advise her of the potential
14 conflict of interest.

15 Q You didn't advise her that she might
16 want to discuss this arrangement with another person
17 or an attorney, did you?

18 A That's correct.

19 Q And you agree that Weaver was not a
20 sophisticated client?

21 A That's fair to say.

22 Q I'm sorry?

23 A That's fair to say. Sorry.

24 Q After your presentation of these two

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1 options, Weaver agreed to allow you to settle her
2 medical bills and receive a check for \$6,000 as her
3 share of the settlement?

4 A That's true, and Judy was part of that
5 decision.

6 Q And you and Weaver signed the
7 reconciliation statement that is Exhibit 8?

8 A Yes.

9 Q On August 21 of 2006, you requested the
10 law firm staff to create an operating account check
11 made out payable to Dr. Laury DiMichaelangelo?

12 A Yes.

13 Q And you further directed the staff to
14 attribute this expense to the Weaver case?

15 A That's correct.

16 Q And that directive was dishonest?

17 A Yes.

18 Q And Exhibit 9 attached to the
19 stipulations, that's the written request for the
20 check that you gave to the law firm staff?

21 A That's correct.

22 Q And that 1694 number written in the
23 upper left-hand corner, that's the code for the
24 Weaver case; is that correct?

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1 A It's not my writing, but I assume that's
2 correct.

3 Q And Exhibit 10 is the check that you
4 requested be prepared made payable to Dr.
5 DiMichaelangelo?

6 A Yes, sir.

7 Q But this expense wasn't related to your
8 representation of Weaver?

9 A That is correct.

10 Q And instead, it was an expense incurred
11 by you for dental work at North Columbus Dental
12 Group?

13 A That's true.

14 Q On September 1 of 2006 you requested law
15 firm staff to create an operating account check
16 payable to Finstad and Spacial Surveying Corporation?

17 A Yes. I'm looking at the check. Finstad
18 Corp., yes, that's true.

19 Q And you also directed staff to attribute
20 this to the Weaver case?

21 A Yes.

22 CHAIRMAN HOUSEL: Is this a witness?

23 MS. ANELLI: Yes, it is.

24 CHAIRMAN HOUSEL: Ma'am, you'll have to

1 wait outside. I'm sorry. Thank you.
 2 Thank you, Ms. Anelli. Go ahead.
 3 By Mr. Berger:
 4 Q I believe we were talking about the
 5 check you requested made payable to the Finstad
 6 organization.
 7 A Yes.
 8 Q And you directed staff to attribute that
 9 to the Weaver case?
 10 A That's correct.
 11 Q And this check was dishonest?
 12 A That's correct.
 13 MS. ANELLI: Objection, your
 14 Honor.
 15 CHAIRMAN HOUSEL: Basis.
 16 MS. ANELLI: It seems like we're
 17 going through the stipulations. We've already
 18 stipulated to all of this.
 19 CHAIRMAN HOUSEL: That's true, Ms.
 20 Anelli. There's also some case law that seems to
 21 suggest that he's allowed to do that. And factually,
 22 even though it's stipulated, he has to prove by clear
 23 and convincing evidence. I think he is allowed to do
 24 so. I am going to overrule your objection. I

1 Q And this check was dishonest?
 2 A That's correct.
 3 Q And Exhibit 13 is a copy of the written
 4 record that you gave to the staff to create the
 5 check?
 6 A That seems to be the case.
 7 Q And Exhibit 14 is a copy of the
 8 resulting check?
 9 A Yes.
 10 Q This expense wasn't related to your
 11 representation of Weaver though; isn't that correct?
 12 A That's correct.
 13 Q And instead it was an expense of yours
 14 related to eye surgery?
 15 A Yes.
 16 Q On October 12th of 2006, you requested
 17 law firm staff to prepare a check payable to Dr. Mark
 18 Preston?
 19 A Yes.
 20 Q And you also requested the staff to
 21 attribute this expense to the Weaver case?
 22 A That's correct.
 23 Q And this check was dishonest?
 24 A That's right.

1 understand your point. I think he's entitled to do
 2 what he is doing.
 3 MS. ANELLI: Okay. Thank you,
 4 Your Honor.
 5 CHAIRMAN HOUSEL: Sure.
 6 By Mr. Berger:
 7 Q Exhibit 11 is a copy of the handwritten
 8 document that you gave to staff to request the
 9 Finstad check?
 10 A Yes.
 11 Q And Exhibit 12 is a copy of the
 12 resulting check?
 13 A Yes.
 14 Q This check is not related to the Weaver
 15 representation, though, and was instead to pay a
 16 personal expense related to a real estate survey?
 17 A That's my recollection, yes.
 18 Q All right. On September 12 of 2006 you
 19 requested law firm staff to create an operating
 20 account check payable to Dr. Alice Epitropoulos?
 21 A That is correct.
 22 Q And you directed staff to attribute this
 23 to the Weaver case?
 24 A I did.

1 Q And Exhibit 15 is a copy of the note
 2 that you gave to law firm staff requesting that --
 3 A That appears to be the case.
 4 Q And Exhibit 16 is a copy of the
 5 resulting check?
 6 A Yes.
 7 Q But, in fact, this expense wasn't
 8 related to your representation of Weaver, but instead
 9 related to some medical procedure that you were
 10 planning to have completed?
 11 A That's correct.
 12 Q On October 12 of 2006, a billing invoice
 13 was produced that was addressed to Weaver and printed
 14 on law firm stationery?
 15 A What are you referring to, I'm sorry?
 16 Q Exhibit 17.
 17 A Yes.
 18 Q And the invoice indicates the expenses
 19 that we were just discussing for Dr. DiMichaelangelo,
 20 Finstad, Dr. Epitropoulos, and Dr. Preston?
 21 A That's correct.
 22 Q And it indicates those were expenses of
 23 Weaver when in fact they were not?
 24 A That's correct.

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1 Q On October 13 of 2006, you met with
2 Weaver to report back to her on the status of your
3 efforts to settle her medical bills?
4 A I'm sorry, what date?
5 Q On October 13, 2006.
6 A Yes, I believe that's the date.
7 Q And at this point in time you had
8 settled Weaver's medical bills that originally
9 totaled \$16,675.70 for a total of \$2,113.80?
10 A I believe that's the case, yes.
11 Q And at this point you had also spent
12 \$4,790 of the settlement proceeds for your own
13 personal expenses?
14 A I attributed expenses in that amount,
15 yes.
16 Q And as a result, Weaver paid your law
17 firm the contingency fee of \$7,833.33 and then paid
18 an additional \$4,790 to you?
19 A In essence, I guess you could say that.
20 Q So in total, Weaver paid you and your
21 law firm 53.5 percent of the settlement proceeds?
22 A I haven't done the math, but I trust
23 yours.
24 Q On October 13th of 2006, same date, you

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1 disposed of the Weaver and Huff file materials in an
2 office trash dumpster?
3 A I threw out records and some
4 correspondence, that's correct, with their
5 permission.
6 Q And these materials included some
7 medical records related to Weaver and Huff?
8 A Yes.
9 Q And you did this to conceal your
10 conduct?
11 A No, I did not.
12 Q You'll agree that in other instances
13 your firm held on to client files for years and
14 years?
15 A Yes.
16 Q In this matter, you stipulated to
17 violations of DR 1-101(A)(4) and DR 1-102(A)(6) with
18 regard to counts 1 and 2?
19 A Yes.
20 Q There were also violations that you did
21 not stipulate to?
22 A That's correct.
23 Q Today you've admitted that you engaged
24 in misconduct?

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1 A I did.
2 Q And when you were engaging in this
3 conduct, you knew that your actions were wrong?
4 A At the time I believe some were more
5 wrong than others. I think that's a fair statement.
6 Q Nonetheless, you tried to stop your
7 former law firm from reporting your misconduct to the
8 Office of Disciplinary Counsel; isn't that correct?
9 A I don't know that I tried to stop them.
10 I certainly hoped they wouldn't.
11 Q Isn't it true that you hired an attorney
12 who sent a letter to your former law firm advising
13 them that reporting you would violate attorney-client
14 privilege?
15 MS. ANELLI: Objection on the
16 basis of attorney-client privilege.
17 CHAIRMAN HOUSEL: I'm sorry, on the
18 basis of what?
19 MS. ANELLI: Attorney-client
20 privilege.
21 CHAIRMAN HOUSEL: What's the
22 attorney-client privilege?
23 MS. ANELLI: Well --
24 CHAIRMAN HOUSEL: The lawyer sends the

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1 letter. I think Mr. Berger can question about the
2 letter.
3 MS. ANELLI: Right, but I think he
4 was asking about consultation.
5 CHAIRMAN HOUSEL: I didn't hear it that
6 way.
7 MS. BERGER: I can repeat the
8 question again if you would like.
9 MS. ANELLI: If you would.
10 By Mr. Berger:
11 Q You hired an attorney who sent a letter
12 to your former law firm advising the firm that
13 reporting you would violate attorney-client
14 privilege?
15 A I believe that's one of the things she
16 mentioned in the letter, yes.
17 Q Thank you. That is the last of my
18 questions.
19 CHAIRMAN HOUSEL: As a result of
20 cross-examination, I think the panel can ask some
21 questions. I think we can do it now if we want or
22 wait until you put him back on. I will ask the panel
23 members. What would you like?
24 MS. EMERICK: I'll wait.

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1 CHAIRMAN HOUSEL: You want to wait?
 2 MR. SINK: I'll wait.
 3 CHAIRMAN HOUSEL: We will all wait.
 4 That will make it easier.
 5 MR. BERGER: I would just request
 6 that Joint Exhibit 1, a copy of the stipulations with
 7 the original signatures, be moved into evidence.
 8 CHAIRMAN HOUSEL: Any objections, Ms.
 9 Anelli?
 10 MS. ANELLI: I have no objections.
 11 CHAIRMAN HOUSEL: It will be received.
 12 Mr. Berger, do you have any other
 13 witnesses?
 14 MR. BERGER: No.
 15 CHAIRMAN HOUSEL: Any other evidence?
 16 MR. BERGER: No.
 17 CHAIRMAN HOUSEL: Rest your case at
 18 this point?
 19 MR. BERGER: Yes.
 20 CHAIRMAN HOUSEL: Thank you, sir.
 21 Ms. Anelli, would you like to begin your
 22 case?
 23 MS. ANELLI: I would. But I would
 24 like to begin with a different witness other than Mr.

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1 Brenner.
 2 CHAIRMAN HOUSEL: Whatever you prefer,
 3 ma'am, that's fine.
 4 MS. ANELLI: Respondent calls Josh
 5 Stailey.
 6 ---
 7 Thereupon,
 8 JOSH W. STAILEY
 9 Being first duly sworn,
 10 testifies as follows:
 11 DIRECT EXAMINATION
 12 By Ms. Anelli:
 13 Q I know you will be able to hear me
 14 because my voice is very booming.
 15 Mr. Stailey, would you please state your
 16 full name for the record.
 17 A Josh William Stailey.
 18 Q And where do you reside?
 19 A 5520 Riverside Drive in Dublin.
 20 Q Who do you live there with?
 21 A My wife, Colinda Stailey,
 22 Q And are you and Colinda Stailey related
 23 to Todd?
 24 A She is his mother, I am his stepfather.

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1 Q How long have you known Todd?
 2 A Twenty-some years, 22, 23 years.
 3 Q And please tell the panel how you and
 4 your wife view your children.
 5 A They're our children. It's that simple.
 6 We make no distinction between those that she brought
 7 to the marriage and those that I did.
 8 Q I'm having a little bit of trouble
 9 hearing you. Maybe you can take the microphone and
 10 pull it closer to you.
 11 A That I can do.
 12 Q There we go. Much better.
 13 Are you related to Mary Stailey?
 14 A She's my mother.
 15 Q And I'm very sorry to have to ask you
 16 this, is Mary Stailey still with us?
 17 A No. She died December 18th after a
 18 series of strokes.
 19 Q I'm very sorry.
 20 What was Mary's attitude toward yours
 21 and Colinda's children?
 22 A Much the same as ours. She has -- I
 23 have two brothers, each of who have two children, as
 24 I did, and she just sort of added them to the roster.

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1 She treated them pretty much the same in terms of how
 2 she, you know, how she felt about them and everything
 3 else. She did the same kind of Christmas and
 4 birthday as she did with the other grandchildren.
 5 Q How did she introduce Todd to others?
 6 A As my grandson.
 7 Q And how did Todd introduce Mary to
 8 others?
 9 A As his grandmother.
 10 Q Were you Mary's caretaker?
 11 A Not in the legal sense, no, but she
 12 lived in the same property for 59 years and she
 13 wanted to stay there. So my brothers and I made an
 14 arrangement where I was able to take over the
 15 property and build a separate residence there so she
 16 could stay in her home.
 17 Q So you and Colinda live on the same
 18 property with -- lived on the same property with
 19 Mary?
 20 A Actually we were technically connected
 21 because of zoning. So it was legally an addition to
 22 her house when we built it.
 23 Q Did you exercise power of attorney over
 24 Mary's financial matters?