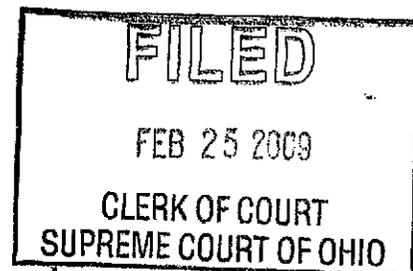


BEFORE THE BOARD OF COMMISSIONERS
ON
GRIEVANCES AND DISCIPLINE
OF
THE SUPREME COURT OF OHIO

09-0399

In Re: :
Complaint against : **Case No. 08-035**
Morris Herman Laatsch : **Findings of Fact,**
Attorney Reg. No. 0010279 : **Conclusions of Law and**
: **Recommendation of the**
Respondent : **Board of Commissioners on**
: **Grievances and Discipline of**
Disciplinary Counsel : **the Supreme Court of Ohio**
:
Relator :
:



INTRODUCTION

This matter was heard on the 12th day of December, 2008 at the Ohio Judicial Center. The hearing panel representing the Board of Commissioners consisted of Attorney Robert Housel of Cleveland, Attorney Joseph Wittenberg of Toledo and Attorney McKenzie Davis of Columbus, the Panel Chair. None of the panel members resides in the district from which the Complaint originated or served on the probable cause panel that certified the grievance.

Respondent was represented by Attorney Peter Cahoon. Relator was represented by Attorney Heather Hissom, Assistant Disciplinary Counsel.

BACKGROUND

On June 9, 2008, a Complaint was filed against the Respondent alleging he violated the Code of Professional Responsibility DR 1-102(A)(6) (a lawyer shall not engage in conduct that adversely reflects on his fitness to practice law); DR 5-103(B) (a lawyer shall not advance or

guarantee financial assistance to the client); DR 9-102(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); DR 9-102(B)(3)(maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to his clients regarding them).

On June 27, 2008, the Respondent filed an answer to the complaint.

On December 1, 2008, the parties signed and submitted Agreed Stipulations. Included in these Agreed Stipulations were stipulations of fact, violations, aggravation, mitigation and exhibits. A copy of the Stipulations is attached as Exhibit "A" without the exhibits. The violations stipulated were as follows: DR 1-102(A)(6) (a lawyer shall not engage in conduct that adversely reflects on fitness to practice law); DR 5-103(B) (a lawyer shall not advance or guarantee financial assistance to the client); DR 9-102(B)(3) (maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to his clients regarding them). The violation of DR 9-102(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) was included in the complaint, but not in the Agreed Stipulations. This discrepancy was pointed out to the parties at the hearing and Disciplinary Counsel subsequently dismissed the alleged violation. However, the parties were unable to agree upon an adequate sanction.

FINDINGS OF FACT

Respondent is a general practitioner with a focus on bankruptcy with no previous disciplinary record of any kind. This matter stems from Respondent's representation and relationship with Mike Brown. Mr. Brown's sister was a friend of Respondent's daughter. A

number of years prior to this matter, Mr. Brown and his sister were victims in an automobile – pedestrian accident. Respondent successfully represented the two in the personal injury matter that resulted from the accident. Throughout the years, Respondent counseled Mr. Brown in a number of small legal matters.

However, in 2004, Respondent represented Mr. Brown in a personal injury action against Taco Bell that gave rise to the matter at hand. Mr. Brown ate some food at Taco Bell that appeared to be defective in that the food contained chicken bones. Tr. 31. Mr. Brown again sought the legal assistance of the Respondent in suing Taco Bell for injuries sustained from consuming the food. At some juncture during the course of this matter, Mr. Brown requested that Respondent advance some money to him in anticipation of recovery of funds for the personal injury. Tr. 34. Mr. Brown was a single father. His home has recently been foreclosed and he had filed for bankruptcy. Respondent acquiesced and loaned him money. Tr. 34.

In total, Respondent advanced Mr. Brown \$5,400, approximately \$3,400 was advanced from his IOLTA account and approximately \$2,000 was advanced out of Respondent's personal account. There were 17 disbursements of up to \$300 each. Tr. 35. With each disbursement Respondent entered in the ledger that the loan amount was for Mr. Brown.

Respondent was able to settle the matter against Taco Bell for \$5,500. Tr. 33. Respondent believed it was a fair settlement. Mr. Brown had medical treatment and medical specials of approximately \$2,200. Respondent did not have a medical expert to testify on behalf of Mr. Brown's alleged injuries. Respondent disbursed the remaining \$100 to Mr. Brown and never charged him attorney's fees. Tr. 50.

CONCLUSIONS OF LAW

The panel finds that the evidence, admissions and stipulations are clear and convincing evidence that Respondent violated the following disciplinary rules:

- DR 1-102(A)(6) (a lawyer shall not engage in conduct that adversely reflects on his fitness to practice law);
- DR 5-103(B) (a lawyer shall not advance or guarantee financial assistance to the client);
- DR 9-102(B)(3)(a lawyer shall maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to his clients regarding them).

AGGRAVATION

The panel concluded that there were no aggravating factors present in this matter.

MITIGATION

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

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

Although the parties did not stipulate to BCGD Proc. Reg. 10(B)(2)(e) Character or Reputation, Respondent provided eight letters from attorneys, including a judge, attesting to his honest and good character as a lawyer and father.

RECOMMENDED SANCTION

Relator recommended a sanction of a 12 month suspension with 6 months stayed. Respondent recommended a public reprimand or a 6 month suspension with all 6 months stayed.

Relator, in requesting an actual suspension, pointed to *Disciplinary Counsel v. Freeman*, 119 Ohio St.3d 330, 2008-Ohio-3836. In *Freeman*, the court rejected the board's recommended sanction of a 12 months suspension with 12 months stayed and instead adopted a sanction of 12 months with 6 months stayed. In *Freeman*, the lawyer admitted that from 2004 through 2006 he used his client trust accounts as personal checking accounts to pay personal bills and as law office operating accounts to pay office bills. The lawyer stated "that he had commingled client and lawyer funds in those accounts, that he had overdrawn the trust accounts 14 times during this period, and that he had failed to maintain an appropriate accounting of client funds deposited into the accounts." Id at ¶ 3. In addition, the lawyer showed significant disregard for the disciplinary process by ignoring and failing to respond to numerous correspondence by the Relator. Finally, the lawyer in *Freeman* was diagnosed with "adjustment disorder with mixed anxiety and depressed mood." Id at ¶ 15. The lawyer's doctor concluded that respondent's "recovery is incomplete and that he is not yet capable of providing legal services to clients beyond routine legal matters." Id at ¶ 22. The Court held that "imposing an actual suspension upon respondent will serve the dual purpose of protecting the public and providing respondent with additional time to complete his treatment and recovery." Id at ¶ 22.

However, the facts in *Freeman* and the matter at hand differ significantly. The Respondent in this matter cooperated fully with the Disciplinary Counsel's investigation and does not suffer from any mental disorder. He had one overdraft in his IOLTA account (which triggered this investigation). Respondent had acted as a father-figure for Mr. Brown for a number of years. He wanted to assist Mr. Brown get through a tough period in his life. Based on the evidence and hearing, the Panel believed the Respondent allowed his feelings toward Mr. Brown and Mr. Brown's condition get the best of him. The Panel was satisfied that the loans

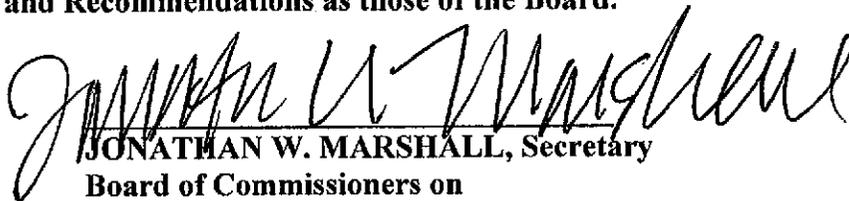
given to Mr. Brown had no bearing on the settlement result. Given the facts and evidence surrounding the Taco Bell matter, Respondent was fortunate to procure the settlement he received. Furthermore, the Panel does not believe the Respondent poses a threat to the public nor does Respondent require additional time for treatment and recovery.

The Panel is convinced the Respondent's conduct was an isolated incident in an otherwise unblemished career. Therefore, the Panel recommends that Respondent be suspended from the practice of law for 6 months, with the entire 6 months stayed conditioned only on the Respondent's good behavior.

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 February 13, 2009. The Board adopted the Findings of Fact, Conclusions of Law and Recommendation of the Panel and recommends that the Respondent, Morris Herman Laatsch, be suspended from the practice of law in the State of Ohio for a period of six months with the entire six months stayed. The Board further recommends that the cost of these proceedings be taxed to the Respondent in any disciplinary order entered, so that execution may issue.

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


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**

Morris Herman Laatsch
520 South Main Street, Suite 500
Akron, OH 44311

Attorney Registration No.: (0010279)

Respondent

**AGREED
STIPULATIONS
BOARD NO. 08-035**

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

Relator

AGREED STIPULATIONS

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

STIPULATED FACTS

1. Respondent, Morris Laatsch, was admitted to the practice of law in the State of Ohio on May 10, 1975. Respondent is subject to the Code of Professional Responsibility and the Rules for the Government of the Bar of Ohio.
2. Beginning in August 2004, respondent represented a client named Mike Brown in a personal injury case against Taco Bell. A lawsuit was filed in August 2006.

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**BOARD OF COMMISSIONERS
ON GRIEVANCES & DISCIPLINE**

3. Respondent had represented Mr. Brown several times in the past 15 years, including in a separate personal injury lawsuit and a bankruptcy.
4. Mr. Brown had difficulty maintaining employment and often asked respondent for money to pay living expenses. Because of Mr. Brown's difficult financial situation, respondent began to loan him money.
5. Respondent loaned Mr. Brown approximately \$5,400 for bills and personal expenses between August 2004 and May 2007, when the lawsuit settled.
6. Of the \$5,400 respondent loaned his client, \$3,400 came from his lawyer's trust account (IOLTA) and represented client funds. The remainder of the money was from respondent's personal funds.
7. In May 2007, the lawsuit settled and respondent recovered the entire \$5,400 that he had loaned to Mr. Brown.
8. Respondent repaid the money to his IOLTA from the settlement.
9. Between August 2004 and May 2007, Respondent maintained a positive balance in his IOLTA.

STIPULATED VIOLATIONS

Relator and Respondent stipulate to the following violations of the Code of Professional Responsibility:

1. DR 1-102(A)(6) [a lawyer shall not engage in conduct that adversely reflects on fitness to practice law];
2. DR 5-103(B) [a lawyer shall not advance or guarantee financial assistance to the client];
3. DR 9-102(B)(3) [A lawyer shall: (3) Maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to his client regarding them].

STIPULATED SANCTION

The parties are unable to reach a stipulated sanction in this matter. Instead the parties leave the determination as to appropriate sanction to the wisdom and discretion of the panel.

STIPULATED AGGRAVATION AND MITIGATION

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

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

STIPULATED EXHIBITS

1. Response from Morris H. Laatsch regarding Mike Brown
2. Client ledger for Mike Brown
3. Personal Injury Disbursement and Release, Mike Brown

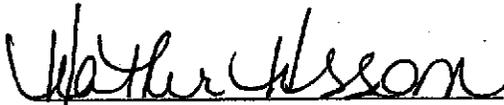
CONCLUSION

The above are stipulated to and entered into by agreement by the undersigned parties on this 1st day of December, 2008.



Jonathan E. Coughlan (0026424)
Disciplinary Counsel

Peter T. Cahoon (0007343)
Counsel for Respondent



Heather L. Hissom (0068151)
Assistant Disciplinary Counsel

Morris Laatsch (0068151)
Respondent

CONCLUSION

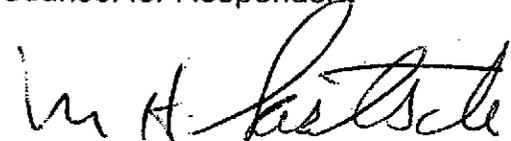
The above are stipulated to and entered into by agreement by the undersigned parties on this ____ day of December, 2008.

Jonathan E. Coughlan (0026424)
Disciplinary Counsel

Heather L. Hissom (0068151)
Assistant Disciplinary Counsel



Peter T. Cahoon (0007343)
Counsel for Respondent



Morris Laatsch (0068151)
Respondent