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

09-0465

In Re:	:	
Complaint against	:	**Case No. 08-042**
John T. Willard **Attorney Reg. No. 0002125**	:	**Findings of Fact, Conclusions of Law and Recommendation of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio**
Respondent	:	
Disciplinary Counsel	:	
Relator	:	

INTRODUCTION AND PROCEDURAL HISTORY

1. This matter came for hearing on December 12, 2008, in Columbus, Ohio, upon a Complaint filed by Ohio Disciplinary Counsel, Relator, against John Thaddeus Willard, Attorney Registration No. 0002125.

2. Mr. Willard was admitted to practice in Ohio on October 19, 1966. His current registration status is Active. He has no prior disciplinary infractions.

3. Members of the Hearing panel were Jean M. McQuillan, Esq., Rocky River, William J. Novak, Esq., Cleveland, and Lynn B. Jacobs, Esq., Toledo, Ohio, Panel Chair.

4. Relator was represented by Assistant Disciplinary Counsel, Carol A. Costa, Esq. Respondent was represented by Rick L. Weil, Esq. of Cincinnati, Ohio.

5. Prior to the hearing, the parties entered into Stipulations regarding all of the Factual Findings (December 5, 2008) as well as all of the Exhibits.

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SUPREME COURT OF OHIO

6. Of the six violations of the Ohio Rules of Professional Responsibility alleged, one was stipulated to by the parties: DR 6-101(A)(2): A lawyer shall not handle a legal matter without preparation adequate in the circumstances.

7. The remaining alleged disciplinary violations were argued at the Hearing.

8. The parties did not stipulate a sanction to be imposed. Each party argued its proposed sanction at the Hearing.

9. Witnesses testifying at the Hearing included: (1) for Relator: David Chandler and the Respondent (on cross examination); (2) for Respondent: the Respondent only.

FINDINGS OF FACT

10. Foreclosure Alternatives is a non-attorney owned company that solicits customers who are defendants in pending foreclosure proceedings. It claims to help customers save their property from foreclosure by intervening and negotiating successfully with the lender. None of its employees is, to the Respondent's knowledge, licensed to practice law in any jurisdiction. Tr. 48

11. After reviewing dockets in various courts to find such defendants, Foreclosure Alternatives sends a mailing advertising its services to these persons.

12. If such defendants respond to the advertisement, a non-attorney employee of the company calls them to make arrangements for a personal meeting.

13. Prior to such meeting, Foreclosure Alternatives mails potential customers a packet of information including a mediation agreement setting forth fees and instructions for that customer to deposit a sum of money in their savings account and provide deposit slips to the company each month to demonstrate their ability to pay the lender.

14. The packet also contained a limited power of attorney which would give an unnamed attorney authority to take legal action through the company on behalf of the customer. The client has no choice in the lawyer's selection, nor does the mediation agreement or the limited power of attorney identify any particular lawyer to be hired for the client's case, nor does it specify to the client the amount to be paid the lawyer. Tr. 51

15. These documents advise the customer that Foreclosure Alternatives is "here to make this dreadful process go away." It is the client's understanding that the company will negotiate and resolve all foreclosure issues in his best interests.

16. Sometime before summer of 2004, Respondent received a telephone call from Ron Trester, of Foreclosure Alternatives, asking him if he was interested in a limited representation of clients solicited by Foreclosure Alternatives against whose property a complaint of foreclosure had already been filed. Respondent had experience in this area and, in fact, had represented Trester in his own home foreclosure action years before. Tr. 63-64 Respondent subsequently entered into an oral agreement for a limited representation of the company's customers. He was to be paid a set fee of $150 per case by Foreclosure Alternatives, which was to be paid to him upon receiving each company referral. Tr. 48-49

17. The extent of his limited power of attorney involved filing responsive pleadings. The company retained all authority to negotiate a settlement of each case with the clients' creditors, including especially the lender.

18. Respondent testified that he handled approximately 28 cases referred by Foreclosure Alternatives. He was not sure of the exact number because he never kept a permanent file for each client. Rather, he disposed of each file after completing his work on the case. Tr. 52

19. Upon receiving a referral, Respondent would receive a file-stamped copy of the customer's foreclosure complaint along with the limited power of attorney, which had been signed by the client and submitted as part of the client's contract with Foreclosure Alternatives.

20. Each customer signing up with Foreclosure Alternatives was to pay the company a total of $850 for its services, if paid in one lump sum. Otherwise, the customer was to pay two payments, within 30 days , of $450 each. The customer was not informed of the amount of the fee, if any, that was to be paid to the attorney assigned to handle his case through the limited power of attorney. Nor did the company disclosure the name of the attorney assigned to the client's case at any time during the relationship with the company. Tr. 22-23

21. Respondent knew that the company's agents negotiated with lenders on their clients' behalf . When assigned a client by the company, Respondent's protocol was to file an answer to the complaint, a copy of which he would mail to the client along with a cover letter stating: "This is a response I filed on your behalf. I had a referral from Foreclosure Alternatives. If there are any other defenses you can think of, feel free to contact me." In most of the cases in which Respondent exercised the limited power of attorney, the client would learn his identity by reading this cover letter.

22. Respondent testified that, of the 28 cases he handled, only a few clients ever contacted him to discuss the particulars of their cases. Tr. 58

23. Although generally aware of the company's ongoing negotiations on behalf of his clients, Respondent was not specifically informed of the progress of each case. He testified that he never directly negotiated a case with the client's creditor. If Respondent received a motion for summary judgment from the lender, to which a client had no defense, he would notify the company that the motion had been filed. In such cases, Respondent would notify the client by

letter that "A motion for summary judgment was filed. I suggest that you consider a Chapter 13 bankruptcy or a bankruptcy." He never preceded this letter with any personal communication with the client.

24. On May 26, 2008, Wells Fargo Bank, the Chandlers' lender, filed a complaint for foreclosure on the family home they had owned since 1989.

25. The Chandlers were solicited by mail by Foreclosure Alternatives. Offering to help them prevent their home from being foreclosed, the company listed a telephone number which David Chandler called.

26. Prior to meeting with Lance Baker, a company representative and non-attorney, the Chandlers received a packet of information containing a cover letter, a mediation agreement and a limited power of attorney form. The cover letter stated: "We are here to make this dreadful process go away." It also advised the Chandlers to refer all calls from their lender, Wells Fargo, to Foreclosure Alternatives.

27. The letter requested the Chandlers to mail the company a copy of their complaint and summons and asked them to sign the enclosed power of attorney which would "give your attorney (unnamed) permission to file an answer on your behalf." David Chandler testified that he did not recall signing this document but the Respondent had provided a copy of the June 13, 2006 signed power of attorney to the Relator . (Exhibit 2)

28. During a person-to-person meeting with the company representative on June 13, 2006, David Chandler signed the mediation agreement permitting Foreclosure Alternatives "to act as the client's agent in assisting the client with certain problems relating to the mortgage delinquency and/or foreclosure situations." (Exhibit 5)

29. The mediation agreement also specified a fee of $850, if paid in full, or two payments of $450 each to be paid within 30 days.

30. The agreement also advised the Chandlers to put $1000 per month into a savings account and to send the deposit slips to Foreclosure Associates to enable the company to negotiate in good faith with the lender. The Chandlers complied with this request.

31. The Chandlers wrote a check for $450 to Foreclosure Associates on June 22, 2006, after which the company sent them a letter advising them that "the attorney has filed a pleading and answered the complaint in your foreclosure case." (Exhibit 8) The company failed to identify the attorney.

32. In fact, the company did not refer the Chandlers' file to Respondent until October 7, 2006. Respondent testified that he did not follow his usual protocol with the Chandlers, because he was not notified by the company until after a default judgment had been entered by the court (August 8, 2006), and after the court had ordered the house to be sold (August 24, 2006) . Respondent was first notified to represent the Chandlers on October 7, 2006, just weeks before the advertised sale on October 23, 2006. Tr. 69-70

33. Respondent testified that at this point he told the company it was too late to help the Chandlers. Nevertheless, he agreed to do "something" after being pressured by them. Tr. 67-68

34. Respondent testified that since time was of the essence, he opted not to "waste" any of it by contacting the Chandlers. Instead, he decided to file a motion to strike and, after a few days of failed attempts, finally contacted Wells Fargo, whose representative told him the sale was going forward on October 23, 2006.

35. Respondent testified that in October, 2006, he was also suffering from severe medical (bladder) problems which may have affected his ability to work efficiently. Tr. 67-68

36. The Chandlers learned of the imminent sale of their home by foreclosure through a newspaper notice only two weeks prior to the sale. When they contacted Foreclosure Alternatives to ask why it had not "made this dreadful process go away," the company said there was nothing more it could do.

37. The Chandlers were not notified that a motion to strike had been belatedly filed on their behalf , nor did they ever receive a copy of the filing which , if received, would have identified Respondent, as the drafter on their behalf.

38. The Chandlers' house was sold back to the lender at foreclosure on October 23, 2006. Shortly thereafter, they were forced to vacate their family home of 18 years.

39. Respondent had no contact with the Chandlers at any time, from the time of the filing of the foreclosure complaint through the actual foreclosure sale of their house.

40. Respondent testified that his $150 fee came from Foreclosure Alternatives . He never received any money from the Chandlers, nor had he signed any written agreement to represent them.

41. The Chandlers first learned of Respondent's existence and of his (belated) involvement in their foreclosure proceedings on or about December 2, 2006 when they wrote him that they had recently learned from examining court documents that Respondent "purported to represent us in that foreclosure action. We deny that we retained you to represent us." (Exhibit 9)

42. At that time, the Chandlers requested the Respondent to forward their file to Ted. L. Wills, Esq. who subsequently filed this grievance against Respondent as well as a civil suit against both Respondent and Foreclosure Alternatives.

43. In April 2007, Relator received a grievance against Respondent, filed by Ted L. Wills, Esq., on behalf of David and Annette Chandler.

CONCLUSIONS OF LAW

44. In the grievance complaint, Relator alleged that Respondent's conduct violates the Code of Professional Responsibility as follows:

(a) DR 2-103(C) Request a person or organization to recommend or promote the use of the lawyer's services;

(b) DR 3-101(A) Aid a non-lawyer in the unauthorized practice of law;

(c) DR 3-102(A) Share legal fees with a non-lawyer;

(d) DR 3-103(A) Form a partnership with a non-lawyer;

(e) DR 6-101(A)(2) Handle a legal matter without preparation adequate in the circumstances;

(f) DR 7-101(A)(1) Intentionally fail to seek the lawful objectives of his client.

45. The Panel found, by clear and convincing evidence, the following violations of the disciplinary rules, as follows:

a. DR 2-103(C) A lawyer shall not request a person or organization to recommend or promote the use of the lawyer's services: Since Foreclosure Alternatives was not a bona fide attorney referral service ,and, in fact, had no attorneys even working for the company, Respondent's oral agreement with the company created a promotion of his services to clients needing legal representation in pending foreclosure suits.

b. DR 3-101(A) A lawyer shall not aid a non-lawyer in the unauthorized practice of law: David Chandler testified that his contract with Foreclosure Alternatives included representation in court by an attorney. The Chandlers were never informed of the identity of this lawyer, either by Respondent or the company, in spite of the fact that Respondent undertook the representation and filed a pleading on their behalf. The

Supreme Court has "held that by advising debtors of their legal rights and the terms and conditions of settlement in negotiations to avoid pending foreclosure proceedings, laypersons engage in the unauthorized practice of law." *Cincinnati Bar Assn. v. Mullaney,* 119 Ohio St.3d 412, 2008-Ohio-4541 at ¶ 20, citing *Cincinnati Bar Assn. v. Telford* (1999), 85 Ohio St. 3d 111.

c. DR 3-102(A) A lawyer shall not share legal fees with a non-lawyer: The Chandlers as well as all of the other clients referred to Respondent by Foreclosure Alternatives paid a set fee ($850 or $900) directly to the company, which in turn paid Respondent a set fee of $150 for limited legal representation in these foreclosure cases. The clients not only did not pay the Respondent's fee directly; Chandler testified that he didn't even know how much, if anything, the company paid Respondent. [As stated above, Chandler did not even know Respondent's name despite having signed a limited power of attorney allowing the company to assign an attorney to represent him]. DR 3-102(A) prohibits lawyers from sharing legal fees with non-lawyers. By accepting a portion of the compensation that the customers paid Foreclosure Alternatives for legal services, Respondent shared legal fees with nonlawyers.

d. DR 3-103(A) A lawyer shall not form a partnership with a non-lawyer: In *Cincinnati Bar Assn. v. Mullaney*, a seasoned attorney, John S. Brookings, was found in violation of this rule because he "partnered with Foreclosure Solutions in representing debtors facing foreclosure." Id. at ¶ 22. In fact, the *Mullaney* case is analogous to this one, in that the company, Foreclosure Solutions, was a non-attorney business that also purported to help customers threatened with foreclosure and which also routinely obtained a limited power of attorney to hire an attorney of its choosing , for a flat fee. Moreover, the attorneys'

work consisted of similar boilerplate pleadings designed to delay giving Foreclosure Solutions time to negotiate deals. The client had no choice in the selection of the attorney and the company always negotiated directly with the customer, bypassing the attorney. By partnering with Foreclosure Alternatives similar to the Respondents in *Mullaney*, the panel found a violation of DR 3-103(A) here .

e. DR 7-101(A)(1) A lawyer shall not intentionally fail to seek the lawful objectives of his clients. Based on the testimony and evidence presented at Hearing, the Panel could not conclude, by clear and convincing evidence, that Respondent violated this rule. We therefore dismiss the violation of DR 7-101(A)(1).

f. DR 6-101(A)(2): A lawyer shall not handle a legal matter without preparation adequate in the circumstances: The parties stipulated to this violation. However, the testimony showed that there were no options for the Chandlers when Respondent was contacted and we have no evidence that in any other case there was anything else a "better prepared" attorney could have done. Lacking clear and convincing evidence, the Panel therefore dismisses this allegation, despite the fact that the parties stipulated to it.

AGGRAVATION AND MITIGATION

46. The guidelines governing Aggravation and Mitigation in attorney disciplinary cases are found in BCGD Proc. Reg. 10(B)(1) and (2), which list those discretionary factors which may be considered either in recommending a more or less severe sanction.

47. The parties have stipulated that Respondent has no prior disciplinary record and that Respondent has displayed a cooperative attitude during the disciplinary process.

48. The Panel also finds that the Respondent lacks a dishonest or selfish motive.

49. The Panel also accepts three letters attesting to the Respondent's character and reputation submitted to the Panel at the hearing.

50. By way of Aggravation, the parties have not submitted any stipulations and the Panel finds the following to be proved by clear and convincing evidence:

a. "vulnerability and resulting harm to victims of the misconduct." BCGD Proc. Reg. 10(B)(1)(h). The Chandlers were lay people who depended totally on an attorney who remained nameless to them throughout their relationship with Foreclosure Alternatives, [Tr. 93] despite having signed a limited power of attorney agreement. (Exhibit 2) Being laypeople, they assumed "an attorney" was looking out for their best interests. Because the Chandler property was entered by default judgment of the court on August 8, 2006 and Respondent was not notified by Foreclosure Alternatives until October 7, 2006, it would have been impossible for him to follow his usual protocol in responding to a foreclosure complaint.

However, despite the exigency of the matter, Respondent failed to contact his client of the delayed filing. The Chandlers actually read of their impending foreclosure in the newspaper notice which appeared just two weeks prior to the sale. Respondent testified that he "immediately" drafted a motion to strike on their behalf, which he filed on October 11, 2006. He finally did contact the attorney for the lender to delay the sale. It was too late. The home the Chandlers had owned and occupied for 18 years was foreclosed and sold back to the lender on October 23, 2006. Respondent failed to send a copy of his motion with a cover letter to the Chandlers, his clients. Respondent admitted to the Panel that he should have communicated with the Chandlers since they didn't even know that he ever existed as their legal representative. Tr. 92

51. The Panel finds that this aggravating factor outweighs the mitigating factors since Respondent's initial agreement with the company created many problems for him as an attorney with clients whom he had agreed to represent.

RECOMMENDED SANCTION

52. The parties did not stipulate to a recommended sanction.

53. At the hearing, Relator requested a one -year suspension, with six months stayed.

54. Respondent asked for a six- month suspension, all stayed.

55. The Panel finds that *Cincinnati Bar Assn. v. Mullaney,* supra, is almost identical to the present case. In *Mullaney*, the Court sanctioned the "experienced lawyer," Brookings (admitted to the Ohio bar in 1991) to a stayed one-year suspension. With the exception of the number of clients affected (2,000 in *Mullaney*, versus "only" 28 here), the facts of the two cases are analogous. In that case, three attorneys were sanctioned for involvement with a non-attorney foreclosure business which had advertised to foreclosure defendants a "way out." A pattern of misconduct existed in *Mullaney*, resulting in great harm to vulnerable clients who ultimately lost their homes anyway. Here, although the Chandlers' home for 18 years was taken from them, clear and convincing evidence was lacking to prove that their house could have been saved by the timely intervention of Respondent. On the other hand, there was adequate evidence that they were precluded from the opportunity to interact in a meaningful relationship with an attorney provided through their execution of a limited power of attorney to represent them in their foreclosure crisis. Whether or not such communication could have prevented hardship to the Chandlers was not proved by clear and convincing evidence.

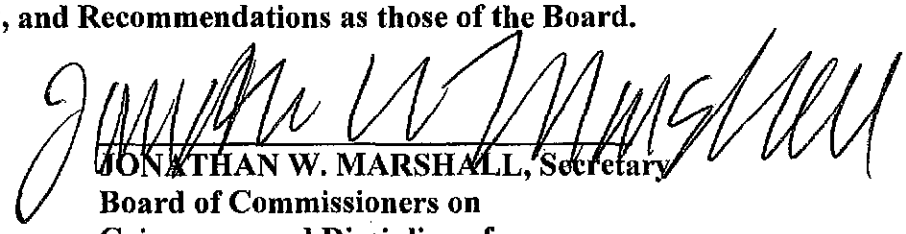
56. In consideration of all relevant factors, including duties violated and sanctions imposed in similar cases such as *Stark Cty. Bar Assn. v. Buttacavoli*, 96 O.S.3d 424, 2002-Ohio-4743

(this was a 6 month, stayed suspension), this Panel recommends that the sanction imposed on the experienced attorney in *Mullaney*, is dispositive in the present case. The Panel recommends that Respondent be suspended from the practice of law in Ohio for a period of one year, all 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 February 13, 2009. The Board adopted the Findings of Fact, Conclusions of Law and Recommendation of the Panel and recommends that the Respondent, John T. Willard, be suspended from the practice of law for a period of one year with the entire one year 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

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BOARD OF COMMISSIONERS
ON GRIEVANCES & DISCIPLINE

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

John Thaddeus Willard
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Attorney Registration No. 0002125

BOARD NO. 08-042

DISCIPLINARY COUNSEL
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AGREED STIPULATIONS

AGREED STIPULATIONS

Relator, Disciplinary Counsel, and respondent, John Thaddeus Willard, do hereby stipulate to the admission of the following facts and exhibits, and to violations of the Code of Professional Responsibility.

STIPULATED FACTS

1. Respondent, John Thaddeus Willard, was admitted to the practice of law in the state of Ohio on October 19, 1966, and is thus subject to the Code of Professional Responsibility, The Ohio Rules of Professional Conduct, and The Supreme Court Rules for the Government of the Bar of Ohio.

2. Beginning in the summer of 2004 until early 2007, respondent received referrals from a company called Foreclosure Alternatives to represent clients in pending foreclosure proceedings.

3. Foreclosure Alternatives is a company that solicits customers who are defendants in pending foreclosure proceedings and claims that it can help the customers resolve a foreclosure proceeding by intervening and negotiating with the lender.

4. Foreclosure Alternatives reviewed the dockets in various courts to determine the names of individuals who were defendants in foreclosure actions.

5. Upon obtaining the names of the defendants in foreclosure actions, Foreclosure Alternatives would send them a mailing advertising its services.

6. If a potential customer contacted Foreclosure Alternatives, a non-attorney representative of the company would make arrangements to meet with the individual(s).

7. Prior to a meeting, Foreclosure Alternatives would send the potential customers a packet of information including a cover letter, a mediation agreement setting forth Foreclosure Alternatives' fees, and instructions that the customer was to deposit a sum of money into a savings account and provide the deposit slip to Foreclosure Alternatives each month in order to demonstrate a good faith ability to pay the lender.

8. The packet of information also contained a limited power of attorney which gave an attorney (no name was mentioned) authority to take legal action on behalf of the customer.

9. The documents which were sent to potential customers by Foreclosure Alternatives advised that it would negotiate with any lenders and that "if your mortgage company calls you, please kindly refer the calls to Foreclosure Alternatives." . . . "We are here to make this dreadful process go away."

10. Respondent handled at least 28 cases which were referred by Foreclosure Alternatives between the summer of 2004 and January or February of 2007.

11. Respondent's first involvement in a particular foreclosure case began with a fax or a phone call from Foreclosure Alternatives. Respondent only became involved with a client after the initial contact by Foreclosure Alternatives.

12. Foreclosure Alternatives would fax respondent a copy of a customer's foreclosure complaint along with a limited power of attorney.

13. Respondent would then either file an answer or a motion to strike.

14. When respondent filed an answer, he would send a copy to the client, along with a letter stating "This is a response I filed on your behalf. I had a referral from Foreclosure Alternatives. If there are any other defenses you can think of, feel free to call me."

15. Respondent only discussed three or four cases with the actual clients out of all of the cases he was referred by Foreclosure Alternatives.

16. Respondent has no idea what communications occurred between any of the clients and Foreclosure Alternatives.

17. Respondent rarely became involved with negotiating with a client's creditor and that task was left to representatives of Foreclosure Alternatives.

18. If respondent received a motion for summary judgment to which a client had no defense, he would notify Foreclosure Alternatives that the motion had been filed.

19. Respondent would then send a letter to the client stating "A motion for summary judgment was filed. I suggest that you consider a Chapter 13 bankruptcy or a bankruptcy."

20. All communications regarding a summary judgment motion were communicated to the clients by letter.

21. Respondent had no contracts or any type of written agreement between himself and any client referred by Foreclosure Alternatives, and received a fee of $150 per case, not from the client, but from Foreclosure Alternatives.

22. In April, 2007, relator received a grievance against respondent filed by Attorney Ted L. Wills, who represents David and Annette Chandler.

23. The Chandlers were defendants in a foreclosure proceeding which was filed by Wells Fargo on May 26, 2006 in the Warren County Court of Common Pleas.

24. The Chandlers were contacted by Foreclosure Alternatives through a mailing in which Foreclosure Alternatives offered to assist them in resolving their pending foreclosure.

25. When the Chandlers received Foreclosure Alternatives' mailing, they called the number listed, and made arrangements to meet with a representative of Foreclosure Alternatives.

26. Prior to the meeting, Foreclosure Alternatives representative Lance Baker (a non-attorney) sent the Chandlers a packet of information which included a cover letter, a mediation agreement, and an authorization form.

27. The cover letter advised the Chandlers that if "your mortgage company calls you, please kindly refer the calls to Foreclosure Alternatives."

28. The cover letter stated "we are here to make this dreadful process go away."

29. The cover letter requested the Chandlers to send Foreclosure Alternatives copies of their summons/complaint and mortgage statement, and referred to a limited power

of attorney which needed to be signed which gave "the attorney permission to file your answer on your behalf." (The Chandlers do not recall signing the limited power of attorney, but respondent provided realtor with a copy signed by Mr. Chandler).

30. The mediation agreement set forth the fee Foreclosure Alternatives required for its services. The fee was the sum of $850 if paid in full, or an initial payment of $450 with a 30-day post-dated check of $450 for a total of $900.

31. On June 13, 2006, Mr. Chandler met with a representative of Foreclosure Alternatives.

32. Mr. Chandler signed the mediation agreement which provided that the Chandlers employed Foreclosure Alternatives "to act as the client's agent in assisting the client with certain problems relating to the mortgage delinquency and/or foreclosure situations."

33. The mediation agreement advised the Chandlers to put $1,000 per month into a savings account and send deposit slips to Foreclosure Alternatives, as the deposit slips would assist Foreclosure Alternatives with the negotiation process with the lender.

34. The mediation agreement stated that when Foreclosure Alternatives "has negotiated a settlement with the lender, client agrees to deliver to the lender the agreed upon amount from their escrow account."

35. On June 19, 2006, Foreclosure Alternatives sent the Chandlers another letter thanking them for their business and stated that "we will be in contact with your lender letting them know our plan of action and requesting a reinstatement account."

36. On or about June 22, 2006, the Chandlers sent their first payment for Foreclosure Alternatives' fee in the amount of $450, and then sent another check dated September 14, 2006 for an additional $450.

37. On August 3, 2006, after the Chandlers sent in their initial fee payment, Foreclosure Alternatives sent them another letter, which stated that the "attorney has filed plea and answered the complaint in your foreclosure case."

38. The letter stated that "now we need to begin negotiations with your lender."

39. Foreclosure Alternatives never advised the Chandlers the name of the attorney who would be handling their foreclosure case.

40. No answer was ever filed on behalf of the Chandlers.

41. On August 8, 2006, Wells Fargo filed a motion for default judgment against the Chandlers.

42. On August 8, 2006, the court granted Wells Fargo's motion for default judgment.

43. On or about August 24, 2006, the Warren County Court of Common Pleas ordered a sheriff's sale of the Chandlers' home.

44. On October 11, 2006, two months after the court entered the default judgment, respondent filed a motion to strike the Wells Fargo complaint.

45. Respondent's motion to strike was based on the claim that Wells Fargo was not the real party in interest in the foreclosure action.

46. The motion to strike filed by respondent in the Chandler case was a boilerplate motion that respondent filed in numerous other foreclosure actions.

47. As of October 2006, the Chandlers had never met with, spoken to, or received advice from respondent.

48. As of October 2006, Foreclosure Alternatives never mentioned the name of any particular attorney who would assist the Chandlers.

49. The Chandlers' home was sold through a sheriff's sale on October 23, 2006.

50. The Chandlers never paid respondent any fee, or signed any written contract for representation with him.

51. Respondent received the fee of $150 for his services through a check from Foreclosure Alternatives.

52. The parties stipulate that respondent's conduct was a violation of DR 6-101(A)(2)(A lawyer shall not handle a legal matter without preparation adequate in the circumstances). Respondent does not stipulate to any other violations alleged in the formal complaint.

MITIGATION

53. Respondent has no prior disciplinary record.

54. Respondent has displayed a cooperative attitude during the proceedings.

STIPULATED EXHIBITS

The parties stipulate as to the authenticity and admissibility of exhibits 1 through 16.

1. Respondent's deposition
2. Limited Power of Attorney
3. Respondent's response to grievance
4. Foreclosure Alternatives Cover Letter and Packet
5. Mediation Agreement
6. Foreclosure Alternatives, 6/19/06, Letter
7. Checks: 6/22/06 and 9/14/06

8. Foreclosure Alternatives, 8/3/06, Letter

9. Chandler, 12/2/06, Letter

10. *Wells Fargo v. Chandler*, Docket Sheet

11. *Wells Fargo v. Chandler*, Complaint for Foreclosure

12. *Wells Fargo v. Chandler*, Motion for Default Judgment

13. *Wells Fargo v. Chandler*, Order for Sale

14. *Wells Fargo v. Chandler*, The Western Star, Affidavit of Publication

15. *Wells Fargo v. Chandler*, Motion to Strike

16. *Wells Fargo v. Chandler*, Notice of Sale

CONCLUSION

The above are stipulated to and entered into by agreement by the undersigned parties on this 5th day of December, 2008.

Jonathan E. Coughlan (by LB 0040142)
Jonathan E. Coughlan (0026424)
Disciplinary Counsel

Per telephone approval on 12-4-08

Rick L. Weil (0069431)
Counsel for Respondent

Carol A. Costa (0046556)
Assistant Disciplinary Counsel
Counsel for Relator

Per telephone approval on 12-4-08

John Thaddeus Willard (0002125)
Respondent