

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

In Re: : 09-1230

Complaint against : Case No. 08-002

Christi Brown : Findings of Fact,
Attorney Reg. No. 0062696 : Conclusions of Law and

Respondent : Recommendation of the
Board of Commissioners on
Grievances and Discipline of
the Supreme Court of Ohio

Allen County Bar Association JUL 07 2009

Relator :
CLERK OF COURT
SUPREME COURT OF OHIO

This matter was heard on January 28, 2009, in Columbus, Ohio, before a panel consisting of members David Tschantz of Wooster, Walter Reynolds of Dayton, and Judge Beth Whitmore of Akron, Ohio, Panel Chair (collectively "the Panel"). None of the panel members resides in the appellate district from which this matter arose or served as members of the probable cause panel in this case. Relator was represented by Robert Fitzgerald. Alan Petrov appeared on behalf of Christi Brown, Respondent.

PROCEDURAL AND FACTUAL HISTORY

On February 1, 2008, Relator filed a complaint for disciplinary action based on three separate grievances filed against Brown with the Allen County Bar Association. The parties timely filed a consent to discipline agreement on April 28, 2008. That agreement was recommended by the Panel, but rejected by the Board. Notwithstanding rejection by the Board, the same consent agreement was erroneously presented to the Board at its next meeting and garnered the approval of the Board. The approved consent to discipline was filed with the

Supreme Court of Ohio on August 25, 2008 and assigned SCO No. 08-1689. Upon discovery of the error, the Panel Chair consulted with the Board Secretary and on August 27, 2008, the Board filed a request to withdraw the consent agreement. That request was granted on September 3, 2008, and the matter returned to the Board. A fourth grievance was subsequently filed on October 8, 2008, and an amended complaint was filed on December 16, 2008. All of the misconduct took place between 2005 and 2007 at times when Respondent was a sole practitioner. Respondent has stipulated to the facts and violations, as is more fully set forth in Joint Exhibit 1, and affirmed those stipulations by her testimony at the hearing.

The specific counts are set forth in this opinion, but generally include allegations that Brown failed to exercise reasonable diligence with matters her clients entrusted to her; failed to timely communicate with her clients; and failed to promptly provide an accounting or return funds to her clients as requested. At the hearing, Relator indicated it had dismissed Counts 2 and 3 of the amended complaint. Thus, the hearing addressed Counts 1 and 4 only. The amended complaint asserts violations of DR 6-101(A)(2), DR 6-101(A)(3) and DR 9-102(B); Rules of Professional Conduct 1.1 Competence, 1.3 Diligence, 1.4 Communication, and 1.15 Safekeeping Funds and Property for both Counts 1 and 4. This matter was heard by the Panel on January 28, 2009.

Brown obtained a degree in accounting from Wittenberg University in 1985 and was employed first by Peat Marwick and then by Nationwide Insurance. She worked as an auditor for Peat Marwick and in accounting for Nationwide. She advanced in Nationwide's investment product division to become a manager. Before and during college Brown worked in her father's law firm in Lima, Ohio. She graduated from law school in 1994, was admitted to the bar, and began her practice in her father's firm.

In 2000, Brown moved her practice (a small general practice, with some exposure to collection work) out of her father's firm to an address on Bellefontaine Avenue where she was affiliated with another attorney. When that attorney left, Brown hired an associate who remained with her until 2004. Brown employed secretarial staff and was responsible for training her staff and monitoring their conduct. After the departure of her associate in 2004, Brown was a sole practitioner with a busy practice to manage on her own.

The first grievance is based on misconduct that began in 2005 (Count 1, Davoudi collection matter). The fourth grievance arose out of misconduct that took place in April 2006 (Count 4, Collins collection matter). Each count involves repeated failures by Brown to perform work on her client's behalf after having received a fee for her services and repeated failures to respond to phone calls and letters from her client. Ultimately these grievances were resolved with no financial loss to her clients.

In her testimony, Brown acknowledged that before 2004, she was so busy that she was not returning phone calls or paying attention to matters. As a consequence she received a letter from the local bar association expressing its concerns. (Tr. 52) The record does not make clear what, if anything, was done to address those concerns in 2004. In any event, in January 2008 Brown agreed to an informal monitoring arrangement with an attorney with more than 20 years experience in the community. After one meeting, Brown never contacted him again. Brown's father, with 30 years experience, was available for help. Brown did not solicit his help.

At the time of the hearing, Brown was practicing law in association with another attorney. Brown testified that she felt having a colleague as a sounding board and to call upon for assistance was improving her financial position through office sharing, and that it also reduced her level of stress. (Tr. 64) Her present colleague has been very supportive of Brown

during the disciplinary proceedings. Brown's present colleague is anticipating retirement in the near future.

Respondent is married and has three sons. Her husband was present during the hearing and did not testify. He does not work outside the home and is involved in his sons' soccer activities as a coach and father. One of her sons had medical problems that demanded much of Respondent's time. These problems are now resolved.

As noted by Relator in its opening statement, Respondent's degree in accounting and employment with Peat Marwick and Nationwide, demonstrate that she understands the importance of attention to detail and, we note, the need for independent motivation and responsibility as well. However, though she admitted timely knowledge of the need to act for her clients and of the necessity to respond to their communications, Respondent offered no explanation for why she neglected their cases.

Respondent's present practice is focused on family and juvenile law, including paternity, custody, divorce, dissolution, child support, and guardian ad litem work. (Tr. 59) She also does some estate planning and minor traffic matters, in addition to some civil and collections work.

Respondent's demeanor at the hearing was very emotional. The proceedings clearly took a toll and Respondent frequently required time to compose herself. She spoke tearfully of her regret and the loss of respect among her colleagues and in the community. She also spoke of colleagues who, hearing of her difficulties, spoke words of encouragement.

FINDINGS OF FACT

COUNT 1 – Ali M. Davoudi, D.C.

Ali M. Davoudi, D.C., engaged Respondent in May 2004 to assist him with a debt collection case stemming from his patient's unpaid chiropractic bills. Respondent initiated work

on the case, scheduled a debtor's examination, and ultimately established a payment plan whereby the debtor was to pay Respondent \$75.00 every other week starting in January 2005. (Tr. 66) Respondent's records revealed she received five payments from the debtor between February 2005 and February 2006 (two payments on February 17, 2005; one payment July 20, 2005; one payment December 7, 2005; and the last payment on February 2, 2006). During that same time, Respondent failed to issue Davoudi any portion of the funds obtained by her collection efforts, nor did she have any plan or practice for doing so in a timely manner.

Davoudi sent Respondent a letter on February 3, 2006, indicating he had left a phone message for her the previous month requesting a status of his case. He indicated he had not received a return call from Respondent or any correspondence on his case since January 2005. (Ex. 5) He requested she inform him of the status of his case and release to him his portion of any funds collected to date. Respondent admitted that she received the letter and his phone message, but did not respond to either.

Davoudi sent a second letter on March 31, 2006, with the same requests, also noting that he would file a grievance against her unless she responded. On April 14, 2006, Respondent informed Davoudi in writing of her collection efforts to date and issued him a check for \$183.93, his percentage of the portion of the funds she had collected at that point. She noted in her letter that she had not forwarded the funds because she did not think it was economical to issue him a check every time she received money from the debtor, based on the debtor's sporadic and irregular payments. She promised to send funds to Davoudi in the future, should she receive any more payments from the debtor, but the debtor never sent any additional payments. (Ex. 10) Respondent also indicated she would initiate garnishment proceedings. However, she did not do so, nor did she initiate any further communication with Davoudi.

Davoudi filed a grievance against Respondent on December 28, 2006, alleging that she failed to pursue his case, respond to his calls or letters, and refused to make an accounting of or relinquish the funds she collected on his behalf. Prof.Cond.R. 1.1, 1.3, and 1.15.

On May 31, 2007, Respondent realized she had made a mathematical error in calculating Davoudi's portion of the funds collected, so she sent him a letter noting the error and enclosing a check for \$37.50.

At the hearing, Respondent admitted she neglected Davoudi's case and offered the following explanation when questioned on direct examination:

Q. Looking at these matters retrospectively from today's vantage point, can you explain to the panel why you stopped working on Dr. Davoudi's matter and why you never started working on the Collins matter?

A. I think, on Dr. Davoudi, I thought that my secretary was doing some more follow-up than I guess what was really being done, but it's still my responsibility. It's still my follow-up that should have been done, and I should have taken responsibility for and I should have answered the phone calls and I should have answered the letters.

Q. Do you have any explanation as to why you didn't answer the letters and why you didn't return the phone calls?

A. I think I knew I was doing wrong and it was easier to do something else than it was to address these situations.

Q. By doing "something else," what do you mean?

A. Some other work, another file.

Q. Avoiding the problem?

A. Avoiding the problem.

Q. But for whatever reason [you] did not deal with it?

A. That's correct.

(Tr. 70-71)

COUNT 4 – J. Thomas Collins

In April 2006, an Iowa attorney, Jane Rosien, contacted Respondent about collecting on a judgment for one of her clients, J. Thomas Collins. Respondent accepted Collins's case and received the necessary documents from Collins's attorney to begin her collection efforts on April 28, 2006. (Tr. 43-44) On June 29, 2006, Rosien sent Respondent additional documentation and a \$200 retainer. Respondent testified she did not recall being aware at that point that she had received Collins's retainer, but admitted when she received further correspondence from him requesting a status on the case, she was aware he had sent a retainer to her. (Tr. 46)

On August 30, 2006, Rosien sent Respondent a letter requesting a status on Collins's case. At the hearing, Respondent testified she knew she had not done anything on the case, but that she did look at the file at that point. She further testified, however, that she did not respond to Collins's letter, nor did she do any work on his case. (Tr. 46-47)

On October 26, 2006, Rosien sent Respondent another letter indicating she "had written and called several times requesting a status report on this matter, but we have not heard anything from you." Rosien requested Respondent return Collins's documents to her if they had not been filed, along with the client's retainer, or to call and update her and Collins with a status on his case. (Tr. 48) Respondent admitted she did not return the documents or the retainer, nor did she respond to Rosien's letter.

On January 30, 2007, Rosien sent a third letter to Respondent outlining her attempts to contact Respondent as to a status on Collins's case. The letter recites three dates that phone messages were left for Respondent, and outlines the written correspondences she sent as well.

Rosien requested the return of Collins's retainer and his documents. Respondent admits she "ignored those [phone] messages and did not respond[,]” nor did she return the requested retainer or documents until December 10, 2008, after Collins filed his grievance.

On August 22, 2008, Collins filed a grievance against Respondent alleging client neglect and failure to return client funds. Prof. Cond. R. 1.3 and 1.15.

When asked on direct examination to explain her neglect in the Collins matter Respondent referred to her explanation regarding the Davoudi misconduct:

Q. With regard to the Collins matter, what --- looking retrospectively, what is the explanation?

A. I believe the explanation is the same [as in Davoudi]. When the money first came in, I was not aware of it. I believe when I got the second letter, I was like, oh, what do I do now? I haven't filed that. I need to file it and didn't do it.

Q. You did something else?

A. Yes. (Tr. 71)

As noted earlier, Respondent testified that in January 2008 the Allen County Bar Association provided her with the name of another attorney with whom she could establish an "informal, voluntary" mentoring arrangement. She met with the mentor attorney, Dale Vandemark, once that month. Though he offered to serve as a mentor and a resource to Respondent should she have any questions or problems in the future, she never contacted him after their initial meeting. Additionally, Respondent testified she never reached out to her father, a retired attorney, or any of the attorneys at the firm where she had worked before going into solo practice.

Respondent testified that, until 2004, she had shared office space with an attorney;

however, from 2004 until recently, she was the only attorney in her office. (Tr. 30-31) She felt that contributed to a more hectic and stressful professional atmosphere because she lacked a colleague to confide in or to discuss legal matters with her. She has since relocated her office and is sharing space with an experienced attorney who is acting as a mentor to her. Respondent believes that having another attorney in her office will aid in easing not only the financial burden of solo practice, but also the isolation she felt in the past.

Additionally, Respondent testified she has already implemented office procedures to help manage her workflow, including establishing a paper based tickler system to aid her and her administrative staff in keeping current on her client's needs:

- Q. Please explain to the panel what your--what you are doing to impose some discipline on yourself.
- A. It's kind of a work in progress, I think, with the move to--with the move to Marie's office. Certainly we've reorganized our files, have identified the files that we need to work on. We've also done like a paper list of the files that we have and what we need to do and what we need to work on at this point in time.--I hope to somehow come up with a system, and I've been working with my secretaries on this because also I'm going to want them to be involved in it. ... One of my secretaries has created an Excel spreadsheet that hopefully will work as far as that tickler system and trying to get a handle on that. (Tr. 72-73)

In addition to the tickler system, Respondent testified that she is keeping her Fridays appointment-free so she can meet with her staff to go over cases that are identified through the tickler system and perform the necessary work. When questioned by the panel, Respondent admitted that she has never completed any courses dealing with office management or time management. (Tr. 97) Respondent uses a Palm Pilot primarily for her calendar, but acknowledges that she needs to use it also as a task manager. She has no electronic case management software in her office, and, based upon her testimony in the Collins matter she is

not aware, and was not kept aware, of incoming communications from clients. For example in the Collins case, Respondent's staff apparently received the retainer and the documents necessary to initiate collection, but Respondent remained ignorant of the retainer and therefore failed to initiate action.

CONCLUSIONS OF LAW

Based upon the exhibits, stipulations, and the record of the hearing, the Panel finds by clear and convincing evidence that Respondent has committed the following violations of the Code of Professional Responsibility before February 1, 2007, and the Ohio Rules of Professional Conduct after February 1, 2007, in regard to both counts:

DR 6-101(A)(3) neglect of an entrusted legal matter and Prof. Cond. R. 1.3 reasonable diligence and promptness;

DR 9-102(B)(1) prompt notification of a client of the receipt of his funds, securities, or other properties and Prof. Cond. R. 1.15(d) safekeeping of funds and property * * * where "[u]pon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client or a third person, confirmed in writing, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or person is entitled to receive. Upon request by the client or third person, the lawyer shall promptly render a full accounting regarding such funds or other property."¹

¹ In the parties "Stipulated Violations" to Count One and Count Four, they have misquoted the language of Prof. Cond. R. 1.15. Instead, they have language quoted from Comment 5 to Prof. Cond. R. 1.1. Thus, we have included the relevant language from Prof. Cond. R. 1.15(d) that correspond to Respondent's conduct in these cases.

MITIGATION AND AGGRAVATION

The parties did not stipulate to any mitigation. The Panel notes, however, that Respondent has no prior disciplinary record and was not driven by dishonest or selfish motives. Respondent made restitution to both clients, though she did so only after Davoudi's second written request and Collins filing a grievance. BCGD Proc. Reg. 10(B)(2)(a), (b), (c). Further, the Panel notes that Respondent was a cooperative participant in this disciplinary proceeding and appears sincerely remorseful for her conduct. BCGD Proc. Reg. 10(B)(2)(d). Relator proffered testimony at the hearing that the judgments for both clients remain intact and are collectable, so her clients were not harmed by her conduct. Additionally, Respondent testified that she is now sharing office space with an experience attorney who is serving as a mentor to her, she has reduced her workload, and she implemented a tickler system with her administrative staff to help her identify cases that require her attention. BCGD Proc. Reg. 10(B)(2)(h)

The parties did not stipulate to any aggravating factors in this case. The Panel notes, however, that Respondent was the subject of four grievances before the Allen County Bar Association, and while two of those were dismissed, the remaining two include multiple offenses and evidence a disturbing pattern of client neglect, a lack of diligence in timely responding to client issues, and the untimely return of client funds. BCGD Proc. Reg. 10(B)(1)(c) and (d). Furthermore, Respondent failed to return either client's funds until there was a threat, or the actual filing, of a grievance.

By her own admission, Respondent began having difficulties in her practice as early as 2004, yet when the bar association also brought this to her attention at that time, she apparently did nothing to get matters in hand. She did not search out appropriate CLE courses, nor turn to others for assistance. Granted, she had a busy practice and a household to manage, including for

a period of time, a son with medical problems who required hospitalization. Instead, for whatever reasons, she let matters slide. Thus her professional difficulties compounded and the various grievances were filed. The panel cannot help but believe there is more to this story. How a person trained in the details of accounting and who had a successful career as an accountant before turning to the law, fails to have adequate management controls in place puzzles the panel. Of further concern is the fact that when offered an experienced mentor in 2004, she failed to respond positively. To say, as does Respondent, that when confronted with an acknowledged error, she copes by moving on to do something else signifies a deeper problem.

RECOMMENDED SANCTION

Relator filed a hearing brief in which Respondent stipulated to the sanction of a public reprimand. Relator directed the Panel to *Cleveland Bar Assn. v. Freeman* (2002), 95 Ohio St.3d 117, among other cases, for consideration in determining Respondent's sanction based on her pattern of client neglect. In that case, Freeman faced a two-count complaint representing grievances from two different clients, both of whom alleged he failed to respond or communicate with them in a timely manner, in violation of DR 6-101(A)(2) (handling a legal matter without adequate preparation) and DR 6-101(A)(3)(neglect of a legal matter). In the first count, Freeman was representing a client in a Chapter 7 bankruptcy proceeding where he successfully had her debts discharged, with the exception of her government-guaranteed student loan. Based on a recent change in the bankruptcy laws, there were three similar student loan cases pending before the same judge presiding over his client's case, so Freeman elected to wait to file an adversary proceeding attempting to discharge the debt until those cases were decided. Approximately one year later, after the pending student loan cases were decided, Freeman determined his client would not prevail on her claim. However, he failed to ever notify her of his decision until after

she filed a grievance against him.

The second grievance lodged against Freeman stemmed from his representation of a husband and wife in a Chapter 13 bankruptcy proceeding. The parties discussed filing an adversary proceeding against the couple's mortgage lender over a long-standing dispute related to insurance proceeds. Freeman filed the adversary proceeding, but concluded he could not support the claims he had set forth in the complaint, despite his client's insistence otherwise. Freeman failed to adequately or fully communicate his need for additional documentation to support the complaint to his clients. Additionally, once the bankruptcy court dismissed the proceeding, he failed to timely inform his clients of the dismissal. The parties stipulated that Freeman violated DR 6-101(A)(2) because he handled a legal matter without adequate preparation and that he failed to fully cooperate with the investigation of the second grievance complaint, in violation of Gov.Bar.R. V(4)(G). The parties agreed to the stipulated sentence of a public reprimand. The Board adopted the panel's recommendation, as did the Supreme Court.

The Panel, however, finds the case *Dayton Bar Assn. v. Sebree*, 96 Ohio St.3d 50, 2002-Ohio-2987, more representative of the case at bar. In that case, Sebree agreed to represent a client in a breach of contract action related to home improvements. For months after accepting the case, he failed to respond to numerous phone calls from his client and failed to update her on the status of her case. Months later, Sebree contacted the client to obtain additional funds to file the action, which he eventually did, but then took over four months to perfect service upon the defendant. Sebree's client filed a grievance while he was trying to perfect service. The Relator investigating the grievance recommended the client seek new counsel as a counterclaim had been filed and Sebree was not actively engaged in the case.

A second grievance was filed against Sebree by a client he was representing in a

collection matter. Sebree failed to respond to the client's numerous requests for a status on her case and further, took no action to prosecute her claim, nor could he locate the client's file when requested. Sebree admitted he "had overscheduled himself, was busy, and was not taking new clients *** [and] he did not return [the client's] inquiries because he did not realize that she was an existing client." *Sebree*, at ¶3. Sebree ultimately located the client's file and refunded her retainer and filing fees.

In determining an appropriate sanction, the parties agreed that Sebree's conduct was "indicative of an overall pattern that suggests [he] needs assistance, guidance and counseling in regard to his time and practice management skills." *Sebree*, at ¶6. The hearing panel and the Board adopted the recommendation of the parties who agreed Sebree be suspended from practice for six months, stayed upon his attendance at a seminar on office- and time-management skills for lawyers. Additionally, Sebree agreed to have his office practices and management skills monitored and reviewed by a representative of relator for a minimum of one year or longer, if necessary, and to act on any recommendations made by relator's monitor during that period. The Supreme Court likewise adopted the recommended sanction of a six month suspension, conditionally stayed upon the terms outlined by the parties.

Except for the length of the sanction, we consider the *Sebree* case more representative of the problems afflicting Respondent in this case. Like Sebree, Respondent is facing multiple grievances which stemmed from a pattern of neglect, rather than an isolated incident. She testified to having a busy and active practice. She further admits that she knew she had neglected the clients and their matters in the cases underlying this disciplinary action, but stated "it was easier to do something else than it was to address these situations." Respondent's local bar association offered her the assistance of a mentor, yet she failed to take advantage of that

resource at any time. Additionally, while we respect Respondent's contention that her affiliation with another practitioner will likely assist her in her daily struggles of solo practice and provide her with guidance, we, too, note that the practitioner is "hoping to retire" and will be exiting the field of private practice. Thus, it is unclear to us what long term network Respondent has in place should she undoubtedly face similar stresses of practice in the future. Respondent expressed with sincerity her desire to continue to serve as a solo practitioner, so in light of the Panel's concerns, we reject the recommended sanction for a public reprimand. Instead we find that Respondent should be suspended from the practice of law in Ohio for one year, all stayed, on the following conditions:

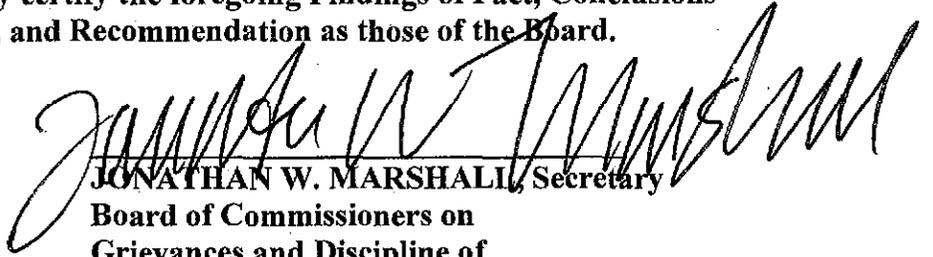
1. Respondent complete 12 hours of law-office management CLE. Such instruction should cover office organization, time/task management, and basic software aids for case management.
2. Respondent submit to a stress management assessment by OLAP and enter into any follow up contract deemed necessary by OLAP.
3. Respondent participate in a two year mentoring program similar to the one previously offered by the Allen County Bar Association.
4. Respondent commit no further misconduct.

BOARD RECOMMENDATION

Pursuant to Gov. Bar Rule V(6)(L), the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio considered this matter on June 12, 2009. The Board adopted the Findings of Fact, Conclusions of Law and Recommendation of the Panel and recommends that Respondent, Christi Brown, be suspended from the practice of law for one year with the entire year stayed upon the conditions contained in the panel report. The Board further

recommends that the cost of these proceedings be taxed to Respondent in any disciplinary order entered, so that execution may issue.

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



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

FILED

JAN 05 2009

BOARD OF COMMISSIONERS
ON GRIEVANCES & DISCIPLINE

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

IN RE: COMPLAINT AGAINST:

CASE NO: 08-002

CHRISTI L. BROWN (#0062696)
850 Bellefontaine Avenue
Lima, Ohio 45801

Respondent

v.

THE ALLEN COUNTY BAR
ASSOCIATION CERTIFIED
GRIEVANCE COMMITTEE

Relator

AGREED STIPULATIONS AND
RECOMMENDED SANCTION

STIPULATIONS

Respondent, Christi L. Brown, and Relator, The Allen County Bar Association Certified Grievance Committee, hereby agree and stipulate to the following facts, exhibits, violations, and recommended sanction.

STIPULATED FACTS

1. Respondent, Christi L. Brown, was admitted to the practice of law in the State of Ohio on May 10, 1994. At all times herein, Respondent, was subject to the Code of Professional Responsibility and/or the Ohio Rules of Professional conduct for the Government of the Bar of Ohio.

COUNT ONE

2. In early 2004, Dr. Ali M. Davoudi, doing business as Davoudi Chiropractic Inc., initiated a lawsuit in the Small Claims Division of the Lima Municipal Court for the collection of outstanding fees due in the amount of \$1,229.09. The judgment was obtained without the involvement of Respondent Christi L. Brown ("Ms. Brown") or any other attorney. The judgment was rendered in favor of Dr. Davoudi against Cindy L. Meyers and was journalized on April 22, 2004.

3. On or about May 14, 2004, Dr. Ali M. Davoudi hired Ms. Brown to collect the judgment against Cindy L. Meyers.

4. Ms. Brown promptly undertook to schedule a debtor's examination in aid of execution, filing the request for an exam on July 14, 2004, and notified Dr. Davoudi of the exam by correspondence. The exam did not proceed. On or about September 20, 2004, Ms. Brown advised in a letter that she had set a debtor's examination for October 20, 2004. The examination did not proceed, however, until February 2005, because of conflicts in Ms. Brown's own schedule and for various other reasons.

5. On or about January 10, 2005, Ms. Brown negotiated a settlement, confirmed in writing, with Ms. Meyers, who agreed to pay \$75.00 every other week in lieu of garnishment or attachment proceedings. Ms. Brown sent a correspondence to Dr. Davoudi updating him on the status of the matter and Ms. Meyers' agreement to pay \$75.00 every other week. Ms. Brown contacted Dr. Ali M. Davoudi's office manager and informed her that she had begun to collect the funds on August 5, 2005.

6. Ms. Meyers kept her agreement for a short time period, but stopped making payments sometime in 2005 and never resumed making them. Ms. Brown contacted the bank when one of Ms.

Meyers' checks failed to clear. A 15-day demand letter was prepared and mailed to Ms. Meyers. Thereafter, Ms. Brown did not take any further steps to resume the proceedings in aid of execution or garnishment. At that time, Ms. Brown personally did not update the client on the progress of the further collection and failed to respond to Dr. Ali M. Davoudi's letters requesting a status and/or update on the funds collected by the Respondent from Ms. Meyers. Ms. Brown believed her staff was informing Mr. Davoudi of the status.

7. On February 3, 2006, Dr. Ali M. Davoudi wrote a personal letter to Respondent regarding the status of collections. He further inquired as to the amount of money that had been collected and requested that Ms. Brown contact him. Ms. Brown did not respond to the February 3, 2006 correspondence.

8. Dr. Davoudi followed up with a March 31, 2006 letter to the Respondent stating that if he did not receive a response, he would file a grievance with the state and/or local bar association.

9. On April 14, 2006, Ms. Brown responded to Dr. Davoudi's March 31, 2006 correspondence enclosing an accounting and payment of funds collected as of that date.

10. On December 20, 2006, Dr. Ali M. Davoudi filed a grievance with the Allen County Bar Association against Ms. Brown.

11. Thereafter, Ms. Brown realized that her distribution had been computed incorrectly. Ms. Brown had thought she had collected \$325.00 from Ms. Meyers, but had collected \$375.00.

12. On May 31, 2007, Ms. Brown sent a letter to Dr. Davoudi enclosing an additional \$37.50 and responded to his inquiry regarding the status of the collection of the judgment.

13. The judgment against Ms. Meyers is still intact, and continues to earn interest and can still be enforced and executed upon. No rights were jeopardized or lost by Dr. Davoudi.

STIPULATED VIOLATIONS (COUNT ONE)

Relator and Respondent hereby agree and stipulate that Respondent violated the following disciplinary rules:

14. Disciplinary Rule 6-101(A)(3):

"Neglect a legal matter entrusted to him."

15. Disciplinary Rule 9-102(B)(1) and 9-102(B)(4):

"Promptly pay or deliver to the client as requested by a client the funds, securities, or other properties in the possession of the lawyer which the client is entitled to receive."

16. These above violations correspond with Sections 1.3 and 1.15 of the Ohio Rules of Professional Conduct, which became effective February 1, 2007. Specifically:

17. Section 1.3 of the Ohio Rules of Professional Conduct:

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

18. Section 1.15 of the Ohio Rules of Professional Conduct:

Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation. The required attention and preparation are determined in part by what is at stake, major litigation and complex transactions ordinarily require more extensive treatment than matter of lesser complexity and consequence. An agreement between the lawyer and the client regarding the scope of the representation may limit the matters for which the lawyer is responsible. See Rule 1.2(c). The lawyer should consult with the client about the degree thoroughness and the level of preparation required, as well as the estimated costs involved under the circumstances.

COUNT II

19. On or about August 25, 2007, Kyle Perrine filed a complaint and grievance with the Allen County Bar Association arising out of Ms. Brown's representation of Mr. Perrine in a dissolution proceeding.

20. The matter was investigated and Ms. Brown's deposition taken, and it was determined by Relator that Ms. Brown did not violate any disciplinary rules or breach any ethical duties. This count is voluntarily dismissed by Relator.

COUNT III

21. On or about December 1, 2007, Melissa Gandy filed a complaint and grievance with the Allen County Bar Association arising out of Ms. Brown's representation of Ms. Gandy regarding legal issues relating to a land contract.

22. The matter was investigated and Ms. Brown's deposition taken and it was determined by Relator that Ms. Brown did not violate any disciplinary rules or breach any ethical duties. This count is voluntarily dismissed by Relator.

COUNT IV

23. On or about April 11, 2005, Collins Oak Park Chapel and Funeral Services, Inc. ("Collins Oak Park Chapel") obtained judgment against Larry Beard in the amount of \$4,717.25, plus costs and attorney fees. Ms. Brown was not involved in obtaining the judgment.

24. In April 2006, an attorney practicing law in Winterset, Iowa, Jane Rosien, referred the matter to Ms. Brown for collection. Mr. Beard, the judgment creditor, resided in Lima, Ohio. Documents were faxed to Ms. Brown at that time.

25. After reviewing the matter, Ms. Brown agreed to provide legal representation to Collins Oak Park Chapel. On or about June 29, 2006, Ms. Rosien forwarded the original certificate of transcript with judgment entry and check in the amount of \$200.00 as a deposit against anticipated costs. Ms. Brown properly deposited the check into her IOLTA account.

26. By correspondence dated August 30, 2006, October 26, 2006 and January 30, 2007, Ms. Rosien and/or her staff, requested an update regarding the matter. The October 26, 2006 and

January 30, 2007 correspondences also requested Ms. Brown return the certificate of transcript and retainer. Ms. Brown failed to respond to these letters.

27. Ms. Rosien contacted Ms. Brown several times by phone regarding an update in this matter. Ms. Brown did not return the phone calls.

28. Ms. Brown admits to failing to undertake any activity in connection with the matter.

29. Thereafter, On August 22, 2008, Mr. Collins filed a grievance against the respondent with the Office of Disciplinary Counsel. The grievance was subsequently referred to the Allen County Bar Association.

30. On or about December 10, 2008, Ms. Brown returned the \$200.00 deposit and the client's original to Robert B. Fitzgerald, counsel for Relator, for return to Mr. Collins.

31. The judgment against Mr. Beard is still intact, and continues to earn interest and can still be enforced and executed upon. No rights were jeopardized or lost by Collins Oak Park Chapel.

STIPULATED VIOLATIONS (COUNT IV)

Relator and Respondent hereby agree and stipulate that Respondent violated the following disciplinary rules:

32. Disciplinary Rule 6-101(A)(3):

"Neglect a legal matter entrusted to him."

33. Disciplinary Rule 9-102(B)(1) and 9-102(B)(4):

"Promptly pay or deliver to the client as requested by a client the funds, securities, or other properties in the possession of the lawyer which the client is entitled to receive."

34. These above violations correspond with Sections 1.3 and 1.15 of the Ohio Rules of Professional Conduct, which became effective February 1, 2007. Specifically:

35. Section 1.3 of the Ohio Rules of Professional Conduct:

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

36. Section 1.15 of the Ohio Rules of Professional Conduct:

Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation. The required attention and preparation are determined in part by what is at stake, major litigation and complex transactions ordinarily require more extensive treatment than matter of lesser complexity and consequence. An agreement between the lawyer and the client regarding the scope of the representation may limit the matters for which the lawyer is responsible. See Rule 1.2(c). The lawyer should consult with the client about the degree thoroughness and the level of preparation required, as well as the estimated costs involved under the circumstances.

STIPULATED SANCTION

Earlier in her legal career, Respondent was employed at a law firm and later shared office space with other attorneys. From 2006 through 2008, however, the years in which the Davoudi and Collins matters described above were neglected, Respondent was practicing as a sole practitioner, shared space with no other attorney, and was without the support of any other attorney. Effective January 1, 2009, Respondent has relocated her office and is now sharing space with another attorney. Respondent and Relator believe that this space sharing arrangement will provide Respondent with assistance and additional resources, minimizes the concern that other client matters will be neglected in the future, and confirms that Respondent has remorse for the neglect of the Davoudi and Collins matters.

Respondent and Relator hereby agree and stipulate to a recommended sanction of a public reprimand.

In support of the recommended sanction, the parties have relied upon the Ohio Supreme Court decisions in similar cases involving facts where there was inadequate communication with

clients on a timely matter; where neglect of legal matters entrusted to a lawyer occurred and where attorneys failed to adequately prepare.

The Ohio Supreme Court in *Cuyahoga County Bar Association v. Leneghan* (2008), 117 Ohio St.3d 103; 2008 Ohio LEXIS 379, held:

"in determining the appropriate sanction to impose for attorney misconduct. We consider the duties violated, the actual or potential cause, the attorney's mental state, the existence of aggravating or mitigating circumstances, and sanctions imposed in similar cases." *Stark County Bar Association v. Ake*, 111 Ohio St.3d 266, 2006 Ohio 5704, 855 N.E.2d 1206, Page 44.
Leneghan at page 105.

In *Leneghan*, the court also noted that the inquiry regarding an appropriate sanction is not limited to the factors specified in the rule, but may take into account "all other factors" in determining what sanctions to impose. BCGD Procedural.Regulation.10(B). *Leneghan* at page 105.

In *Leneghan*, supra., the court accepted the Board's recommendation and found that Respondent violated Disciplinary Rule 6-101(A)(3) and imposed a public reprimand and assessed the court cost. See also *Mahoning County Bar Association v. Sheftel*, 94 Ohio St.3d, 2002-Ohio 326.

In *Cleveland Bar Association v. Freeman*, 95 Ohio St.3d 117, 2002-Ohio-1944, the Ohio Supreme Court adopted the stipulated findings of fact and conclusions of law and imposed a sanction of public reprimand where the Respondent acknowledged and stipulated that he violated the Ohio Code of Professional Responsibility Discipline Rule 6-101(A)(3), by neglecting a legal matter. The Respondent in *Freeman* failed to adequately communicate with his clients on a timely matter as to certain legal matters. Additionally, the Respondent in *Freeman* stipulated that he had violated the Ohio Code of Professional Responsibility Disciplinary Rule 6-101(A)(2) by failing to adequately prepare in order to handle the client's legal matters.

In *Disciplinary Counsel v. Ita*, 117 Ohio St. 3d 477, 2008-Ohio-1508, the Court noted that the Respondent acknowledged that he had violated Disciplinary Rule 1-102(A)(5), and Disciplinary Rule 6-101(A)(2) when he had filed an unauthorized claim for damages on behalf of his client's wife and then dismissed his client's wife's claim with prejudice without the wife's consent.

In issuing the public reprimand, the court in *Ita* found that there was no enmity on the part of the Respondent, just carelessness.

In *Medina County Bar Association v. Piszczek*, 115 Ohio St.3d 228, 2007-Ohio-4946, the Respondent, failed to keep track of the deposit withdrawals from his IOLTA account. The Court in *Piszczek* held that a public reprimand was the appropriate sanction because there were no aggravating factors under the Supreme Court's Guidelines for imposing sanctions. BCGD Proc. Reg 10(B)(1).

Further, in *Mahoning County Bar Association v. Dann* (2004), 101 Ohio St.3d 266, 2004-Ohio-716, the Relator and the Respondent entered into a consent to discipline wherein Respondent acknowledged that he violated Ohio Code of Professional Responsibility Disciplinary Rule 6.101(A)(2) by failing to handle a legal matter without adequate preparation.

In *Dann*, the Respondent represented a client subject to a qualified domestic relations order that provided that his client's ex-wife was to receive pension benefits payable in monthly installments. The client paid the Respondent monies to see whether an arrangement could be made wherein the client would pay the monthly installment personally, in lump sum, instead of through a withholding order from his retirement benefits. The Respondent in *Dann* accepted the \$250.00 and deposited a proposed settlement amount of \$3,000 into his law firm's trust account.

Respondent thereafter attempted to contact the ex-wife in writing. He then filed a Motion to terminate spousal support rather than to arrange for a lump sum satisfaction of the QDRO. When

the Respondent in *Dann* did reach the ex-wife, she made arrangements to come in to his office to sign papers to terminate the QDRO. However, when she arrived at the office, no papers were ready for her signature. Later the Respondent in *Dann* advised his client that his ex-wife had signed the requisite agreement. In *Dann*, the Respondent compounded the confusion and problem by waiting until a hearing on the spousal support motion to explain to the client and ex-wife what was actually going on.

In *Dann*, the Ohio Supreme Court noted that Respondent had no prior disciplinary record; had not committed misconduct out of self interest; had refunded all of his client's money, including his fee. The panel thus found, and the court adopted, that the Respondent violated Disciplinary Rule 6-101(A)(2). As a result, the Supreme Court issued a public reprimand as well as assessing the court costs to the Respondent.

Based on the foregoing case law and because Ms. Brown's lack of diligence caused no prejudice to her clients' rights, and because no dishonesty, misrepresentation, self-dealing or other aggravating conduct was involved, and because Ms. Brown has had no prior disciplinary action and has paid or returned all funds owed to or advanced by her clients, both Relator and Respondent recommend the sanction of a public reprimand.

STIPULATED EXHIBITS

1. Grievance dated December 27, 2006 filed by Dr. Ali M. Davoudi.
2. Letter from Respondent, Christi Brown, dated September 20, 2004 to Davoudi Chiropractic Inc.
3. Notice of Failure of Service from Lima Municipal Court regarding the case of *Davoudi Chiropractic Inc., et al. v. Cindy Meyers*.

4. Assignment notice from Lima Municipal Court case regarding *Davoudi Chiropractic Inc. v. Ms. Cindy L. Meyers* dated March 23, 2004.
5. Letter from Davoudi Chiropractic Inc. dated February 3, 2006, to Christi L. Brown.
6. Letter from Davoudi Chiropractic Inc. dated March 31, 2006, to Christi L. Brown.
7. Correspondence from Christi L. Brown to Dr. Davoudi dated June 25, 2004.
8. January 10, 2005 correspondence from Christi L. Brown to Ms. Meyers confirming settlement of debt.
9. Correspondence from Christi L. Brown dated January 10, 2005 to Dr. Davoudi.
10. April 14, 2006 letter from Respondent, Christi L. Brown to Dr. Davoudi.
11. May 31, 2007 correspondence from Christi L. Brown to Dr. Davoudi enclosing \$37.50.
12. The Allen County written Grievance report dated June 6, 2007.
13. Grievance dated August 22, 2008 of Collins Oak Park Chapel and Funeral Services, Inc.
14. April 28, 2006 facsimile from Jane E. Rosien to Christi L. Brown.
15. June 29, 2006 correspondence from Jane E. Rosien to Christi L. Brown.
16. August 30, 2006 correspondence from Jane E. Rosien to Christi L. Brown.
17. October 26, 2006 correspondence from Jane E. Rosien to Christi L. Brown.
18. January 30, 2007 correspondence from Jane E. Rosien to Christi L. Brown.
19. December 9, 2008 copy of \$200.00 retainer check from Christi L. Brown to Collins Oak Park Chapel and Funeral Services, Inc.

CONCLUSION

The above are stipulated to and entered into by agreement by the undersigned parties this

5 day of January, 2009.

s/Robert B. Fitzgerald (per telephone
consent)

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