

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

In Re: : 09-1267
Complaint against : Case No. 07-088
Robert K. Larson : Findings of Fact,
Attorney Reg. No.0042368 : Conclusion of Law and
Respondent : Recommendation of the
Board of Commissioners on
Grievances and Discipline of
the Supreme Court of Ohio
Cincinnati Bar Association
Relator

FILED
JUL 13 2009
CLERK OF COURT
SUPREME COURT OF OHIO

INTRODUCTION

This matter was heard on April 29, 2009, in Cincinnati, Ohio, before a panel consisting of members Joseph Wittenberg of Toledo, Alvin Bell, of Findlay, 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 Franklin Klaine, Jr. John Burlew appeared on behalf of Robert Larson, Jr., Respondent. Respondent presently resides in Cincinnati, Ohio.

PROCEDURAL HISTORY

On December 10, 2007, Relator filed a complaint for disciplinary action based on two separate counts. The first count alleged that Respondent failed to perform his duties as counsel in his client's divorce action and failed to return his unearned fee at his client's request. The second count alleged that Respondent misrepresented the status of his client's traffic case and failed to refund his unearned fee. Both counts also alleged Respondent's failure to cooperate in

the investigation of the foregoing grievances in violation of Gov. Bar R. V(4)(G). The complaint for disciplinary action charged Respondent with violations of the following Disciplinary Rules and Rules of Professional Conduct: DR 7-101, representing a Client Zealously; DR 9-102, Preserving Property of a Client; Rule 1.1 Competence; Rule 1.3 Diligence; Rule 1.4 Communication; Rule 1.15, Safekeeping Funds and Property; and Rule 8.4 Misconduct.

On January 25, 2008, Respondent answered the complaint. Respondent subsequently agreed to undergo a mental health evaluation with Dr. John Kennedy. Dr. Kennedy filed his report on October 23, 2008, finding that Respondent suffered from sleep apnea, stress from his work and family life, and symptoms of depression. Dr. Kennedy concluded, however, that Respondent's circumstances did not cause his misconduct. Specifically, Dr. Kennedy concluded that "[i]t is more likely that [Respondent's] behavior was a product of his personality and poor time management skills." (Ex.D, p.5)

On February 6, 2009, Relator filed a corrected amended complaint, which added a third count. The third count alleged that Respondent failed to represent and reasonably inform his client in the client's juvenile case and failed to return his unearned fee. It charged violations of DR 7-101(A)(1), (2), and (3); DR 9-102(B)(4); Ohio Rule of Professional Conduct 1.15(d); and Gov. Bar. R V(4)(G). On March 5, 2009, Respondent answered the corrected amended complaint and admitted all of the allegations and violations contained therein. A formal hearing was held on April 29, 2009 in Cincinnati, Ohio.

FINDINGS OF FACT

Respondent began a career as a solo practitioner in 1994 in Hamilton County, Cincinnati after completing several years of service as a Judge Advocate General. Respondent accepted a variety of cases, including criminal cases, mayor's court cases, juvenile cases, domestic relations

cases, and civil litigation cases. Respondent's practice also quickly expanded from Hamilton County. Although the majority of the cases that Respondent accepted were from Hamilton County and the adjoining area, Respondent also took cases from locations as distant as Dayton. The number and location of Respondent's clients generated substantial travel and other non-productive time and impaired his ability to maintain his files and to track the progress of his client's cases. Respondent admitted that he allowed himself to "get sloppy." (Tr.68)

Respondent testified that:

A: *** I wasn't getting back to the office until 5:00, 6:00 at night. My files were in no way the shape they should have been in, because I wasn't around to get correspondence done. By the time I returned phone calls or reached who I could reach, it would be 7:00, 8:00 at night, and I just didn't have the time to get done what I needed to get done. (Tr.52)

Respondent's grievances arose from his handling of the three following clients.

COUNT 1 – Lottie Bean

Bean hired Respondent to act as counsel in her divorce action in July 2006 and paid Respondent a flat fee of \$1,000. Respondent "aided" Bean in the filing of a petition for a civil protection order in September 2006. The petition included a request that Bean be granted exclusive use of her husband's Chevrolet Silverado. Mr. Bean was incarcerated at the time. After Mr. Bean was released from prison, he regained possession of the Silverado and pursued misdemeanor charges against Bean for unauthorized use of a vehicle.¹ Bean executed waivers of counsel at both of the hearings that she had in the municipal court regarding the misdemeanor

¹ The record is not clear what happened to Ms. Bean's request for a civil protection order and whether or not she was granted exclusive use of the Silverado.

charges against her. According to Respondent, he also represented Bean in her criminal case. Respondent initially testified before the panel that he appeared on Bean's behalf in the municipal court and had another attorney cover one of Bean's hearings on his behalf when he was unavailable. When questioned about the waivers of counsel that Bean had executed, however, Respondent indicated that he was not present at Bean's first hearing, was unavailable at her second hearing, and that the waivers must have been executed because of his absence. (Tr.73)

Respondent never filed a complaint for divorce on Bean's behalf. In January 2007, Bean sent Respondent a letter demanding that Respondent either take action or return her \$1,000 fee. When Respondent failed to refund Bean's fee, Bean filed a small claims action against him in the Hamilton County Municipal Court. During the proceedings, Respondent told Bean that all he needed to file her divorce complaint was her driver's license. Even after Bean gave Respondent her driver's license, her divorce complaint remained unfiled. Respondent sought several continuances in the small claims action but failed to appear at any hearing. A default judgment was entered against him in the amount of \$1,085. Respondent failed to contact Bean or pay the \$1,085 judgment. (Stip.¶ 12-13) In May, 2007, a deputy bailiff served a writ of execution upon Respondent and collected the \$1,085 judgment.

Subsequently, a grievance was filed against Respondent regarding the Bean matter. The grievance alleged that Respondent intentionally failed to seek the lawful objectives of his client, failed to carry out his contract of employment, prejudiced or damaged his client, and failed to refund his unearned fee at his client's request. DR 7-101(A)(1), (2), (3), DR 9-102 (B)(4); Prof. Cond. R. 1.15(d). In the investigation of the grievance against him, Respondent failed to respond to a letter dated May 8, 2007, requesting a written response to Bean's statement and the

allegations against him. A second letter, dated June 5, 2007, again requested a response and advised Respondent that a failure to cooperate in a grievance investigation could be deemed professional misconduct in and of itself. Respondent once again failed to respond. Consequently, Relator's complaint in Count One also alleges Respondent's failure to cooperate in a grievance investigation. Gov. Bar R. V(4)(G).

At the hearing, Relator introduced stipulations without objection and Respondent indicated that he admitted all of the allegations contained in the complaint. (Tr.19,40,102) Respondent testified that Bean completed her petition for a civil protection order and filed the petition herself. (Tr. 85-86) Respondent testified to the following regarding Bean's criminal case for the unauthorized use of a motor vehicle:

Q: Did you represent her in that?

A: I did. And now there may be a situation in municipal court, sometimes a designation doesn't go on, but, yes, I was there. In fact, I remember Mr. Levy covering one of the hearings for me when I was unable to be there.

Q: Well, the reason I raised that is because in the stipulation, it was clear that [Bean] had executed a waiver of counsel at the hearing on October the 10th. And then subsequently, on February the 13th, the case was continued to February 27th of 2000, and she again executed a waiver of counsel. That's what I was concerned about, because *** if you were there, she would not have executed a waiver of counsel.

A: I believe the first time she went to court, I wasn't present. I think she picked up the criminal charge on her own. On the February court date, I was unavailable. They had called the case. What we had attempted to do in that matter was to work out a resolution where the car was going to be returned. So, it was continued from the, I think it was the October or November hearing to the February hearing. The February hearing, I was, I believe, in another courtroom. They called the case, it hadn't been resolved. The judge said, we're just going to set it for trial, but because I wasn't here, I think the waiver was executed. I think what the record tells me is that two waivers were executed. I must have appeared after the first one and had my appearance of record, because they wouldn't have made her execute a second waiver. (Tr.72-73)

Respondent indicated that he refunded Bean's fee, but admitted that he did so only after this grievance was pending against him. (Tr.96)

Respondent responded to an inquiry about his failure to respond to written inquiries in the grievance investigation as follows:

Q: There's an allegation of a failure to cooperate with the bar association during their investigation, right?

A: Yes, sir.

Q: And the Bean case was one of them. What happened there?

A: It was at this time that I had multiple cases going on. I really have no excuse for it. I admit that I got the notice. I had every intention of responding to it. I didn't respond to it. Ultimately, by subpoena, I did show up, I did respond, I did provide the documents that were requested. (Tr.52-53)

COUNT 2 – Lisa Janson

Janson hired Respondent to represent her in her traffic case in Hanging Rock, Ohio Mayor's Court in January 2007 and paid Respondent a flat fee of \$300. Before retaining Respondent, Janson failed to appear in her case and received a notice from the Mayor's Court. The notice indicated that Janson had failed to appear, but not whether her license had been suspended or a warrant had been issued. Respondent told Janson that he could get the Mayor's Court to drop her failure to appear, drop one of her traffic citations, reduce her speeding citation, and prevent any points from being added to Janson's license. (Stip.¶ 21) In February 2007, however, the Bureau of Motor Vehicles ("BMV") notified Janson that her license had been suspended and would remain suspended until she paid a reinstatement fee. Respondent indicated to Janson that the notice must have been a mistake and advised her not to pay the restatement

fee. Janson had to find rides to and from work during the time that her license was suspended. Respondent advised Janson that if she could not get a ride from someone, she should drive safely. Respondent also assured Janson that he was in contact with someone from the Mayor's Court about her case. (Stip.¶ 24)

In March 2007, the BMV notified Janson that an arrest warrant had been issued. Respondent once again assured Janson that he was in contact with someone from the Mayor's Court about her case. In April 2007, Janson contacted the Mayor's Court herself and was advised to pay the reinstatement fee. Janson did so, and her license was reinstated approximately one week later. In May 2007, Janson sent Respondent a letter requesting a refund of the \$300 flat fee that she had paid him. (Stip.¶ 31) She also left telephone messages for Respondent. Respondent failed to respond to Janson's letter and never returned her messages.

Subsequently, a grievance was filed against Respondent regarding the Janson matter. The grievance alleged that Respondent failed to competently represent his client, to act with reasonable diligence and promptness, to keep his client reasonably informed, to refrain from misrepresenting the status of his client's matter, and to return his unearned fee at his client's request. DR 7-101(A)(1), (2), and (3); DR 9-102(B)(4); and Prof. Cond. R. 1.1, 1.3, 1.4(a)(3), 8.4(c), 1.15(d). In the investigation of the grievance against him, Respondent once again failed to respond to a letter dated July 18, 2007, requesting a written response from him with regard to the allegations against him. Respondent was also unprepared to provide a substantive response to the allegations at his deposition. Consequently, Relator's complaint in Count Two also alleges Respondent's failure to cooperate in a grievance investigation. Gov. Bar R.V(4)(G).

At the hearing, Relator introduced stipulations without objection and Respondent initially indicated that he admitted all of the allegations contained in the complaint. (Tr.19, 40,102). With

regard to the Janson matter, Respondent stipulated to the following: (1) that he falsely represented to Janson that he had spoken with someone at the Mayor's Court and that her license would not be suspended, her speeding citation would be reduced, and her remaining citation and failure to appear would be dropped (Ex.B; Stip.¶22); (2) that he told Janson to "drive safely" on a suspended license when she indicated that she could not keep relying on other people for rides (Ex.B; Stip.¶27); and (3) that he falsely represented to Janson that he had spoken with an individual named Brigham Anderson about her case in the Mayor's Court (Ex.B; Stip.¶28). During his testimony at the hearing, however, Respondent repeatedly gave evasive answers and never fully accepted responsibility for the allegations against him. When questioned about the stipulation that he had falsely told Janson that he had spoken with someone at the Mayor's Court and that her license would not be suspended and her charges would be reduced, Respondent testified as follows:

A: *** I talked to one of the -- I came to realize, and I think I had said this earlier, that they don't have a prosecutor up there at all times. And I spoke to someone up there, it was one of the deputies that I was able to get ahold of, told them what I wanted to do, told them what my intention was. His position was, or what he had said was, I think we can work that out. Did I probably relay it inappropriately to Ms. Janson? The answer is yes. I can't specifically recall what I told her. I did tell her who the prosecutor was, I did tell her I talked to someone. I did tell her that it's taken care of, this is the route it's going on. It hadn't been effectively taken care of yet, and I didn't just make it up out of thin air. It was based on that conversation. (Tr.78-79)

When further pressed about whether he was actually admitting that he had made false representations to Janson, Respondent continued to be evasive and stated: "If that was her perception that I said that, I do recall having the conversation with her, and I very well could have said that to her, yes." (Tr.87-88) Additional questioning finally elicited the following from

Respondent:

Q: So at the time you made the representation to Ms. Janson that her license would not be suspended, you had no basis in fact for making that statement?

A: It was my expectation, but, no, it was nothing more than that.

Q: Did you, in fact, tell her that that was nothing but an expectation?

A: No.

Q: So you, in fact, told her that her license would not be suspended?

A: Correct.

Q: The same with regard to the [traffic citation for] the peeling of the tires?

A: Correct.

Q: And the failure to appear?

A: Correct.

Q: And the speeding?

A: Correct.

Q: Why did you tell her things had happened or would happen when you had no basis upon which to make that statement? What is going on?

A: Again, it was my expectation, it was based on my experience. It seemed like that's how it would work out based on the conversation I had with one of the deputies. I had anticipated it would work out that way. It simply just hadn't happened yet, and I should not have made that statement. (Tr. 89-90)

Finally, when questioned about the stipulation that he had told Janson to "drive safely" on a suspended license, Respondent testified as follows:

A: I think what [Janson] told me was, my license is suspended, I have to drive, what am I going to do. And I probably told her that we'll get it taken care of as soon as possible. She was at risk. If it was an emergency and she had to drive, drive safely. (Tr.99)

Respondent never affirmatively accepted responsibility for making false statements to Janson. Respondent continually qualified his responses by indicating that he either did not remember, that he "could have" made the statements, or that he "probably" told Janson something to that effect. Additionally, Respondent's answers seemed to imply that if Janson's case had worked out according to Respondent's "expectations," Respondent would not have committed a wrongdoing in telling Janson, among other things, that her license would not be suspended even though Respondent had no actual basis for that representation.

At the hearing, Respondent acknowledged that Hanging Rock is approximately three and a half hours away from his office in Hamilton County. Respondent testified that he believed he could contact the prosecuting attorney in Hanging Rock and resolve the matter over the phone. Specifically, Respondent testified as follows:

A: I had attempted to call out there on a few occasions. The problem was, the place basically shut down at 4:00. I wasn't getting back to the office until after 4:00. At one point, I did talk to one of the deputies. He's the one that advised me that the local prosecutor who would come over to handle cases when necessary was Brigham Anderson. I told him what I wanted to do. He said he would run it by the chief. I didn't follow up on it. I should have. And as a result, the matter never got resolved. But, when I took the case, I never envisioned I was going to be driving to Hanging Rock, Ohio. And perhaps I should have given that more consideration.

Q: During this period of time, were you staying in contact with [Ms. Janson] the way you should have?

A: Probably not as much as I should have. I did have some contact with her. I did provide her with the name of the prosecutor. I did tell her -- we did have some other conversations, but I know there were probably phone calls that went unreturned. (Tr.47-48)

COUNT 3 – Kenneth Jackson

Jackson hired Respondent to represent him in a Montgomery County Juvenile Court

proceeding and paid Respondent \$250. Respondent told Jackson that he would have his case continued, but never sought a continuance. When both Respondent and Jackson failed to appear at Jackson's October 29, 2007 court date, a bench warrant was issued for Jackson. Respondent never appeared on Jackson's behalf and never entered a designation of counsel on Jackson's behalf in the Montgomery County Juvenile Court. Subsequently, a grievance was filed against Respondent regarding the Jackson matter. The grievance alleged that Respondent failed to represent his client, to inform his client about the status of his case, and to return his unearned fee. Prof. Cond. R. 1.3, 1.4, 1.15(d). Respondent stipulated to the misconduct and ethical violations alleged in Count 3.

At the hearing, Respondent was questioned extensively about his plans for changing the nature of his practice given the foregoing problems. Respondent indicated that he believed the problems he experienced stemmed from the number and types of cases he accepted and the location of his clients. (Tr. 52) Respondent testified as follows:

A: Quite frankly, with better communication, I wouldn't be here today in any of these cases. It's all completely my fault. I didn't stay in touch with my clients as I should. They're my files, not documented as I should, and I think that is a huge part of what got me into the trouble I'm in here for today. (Tr.69)

Respondent further testified that:

A: *** [A]ll I can tell you it was poor organization, poor management, and having too big of a case load spread out over too many counties where I wasn't in the office as much as I needed to be to pay attention to my cases. (Tr.84)

However, neither the volume of cases nor the excessive travel time, has any logical relationship to Respondent's misrepresentations to Bean and Janson. When specifically asked what bearing the business of his practice had upon his making false representations, Respondent

evaded the question and attempted to explain what he meant by his representations instead. (Tr.78-79). Moreover, even if Respondent's busy workload greatly contributed to the issues at hand, his responses during the hearing continually suggested that he had not made and would not be making any concrete changes to stop the same problems from arising again. Throughout the hearing, Respondent gave the following answers:

A: I think I'm pretty much going to eliminate any domestic relations representation. *** And I'm definitely going to try to limit where I'm going to go and how much I'm going to be out of the office. (Tr.52)

A: *** As I indicated, I'm trying to cut back on the number of cases I have. *** I'm limiting the number of counties I go to, I'm trying to limit the number of cases that I'm bringing in. I'm also trying to stay in the office more than I had in the past.

Q: What about the domestic relations practice?

A: I have a couple of things that are winding down, and I think I'm probably going to step out of that in the future. (Tr.59-60)

Q: How would you conclude the differences or the errors in the way you were practicing, and what have you done to try to adjust that?

A: As I've indicated, I've tried to limit the areas I'm practicing in, I've tried to limit my number of cases. (Tr.66)

Q: And what assurances, if any, could you give the panel, or ultimately the court, that you understand the responsibilities of a practicing attorney, and how are you going to adhere to those standards?

A: Again, what I'm going to attempt to do is continue to work with Mr. Levy.² I'm going to try to limit what I'm doing. I'm going to try to spend more time in the office. (Tr. 68-69)

Q: *** I've seen that you've changed directions in your answer to me. Are

² Mr Levy is an attorney in an office sharing relationship with Respondent at the time of the hearing.

you dropping all domestic work?

A: I have dropped some domestic work. *** I envision probably in the next six months, I won't be taking domestic relations work. (Tr. 70-71)

CONCLUSIONS OF LAW
RULE VIOLATIONS

Respondent violated DR 7-101(A)(1), (2), and (3): [A lawyer shall not intentionally *** fail to seek the lawful objectives of his client[,] *** [f]ail to carry out a contract of employment[, or] [p]rejudice or damage his client.]. (Ex.B; Stip. ¶17(A)).

Respondent violated DR 9-102(B)(4): [A lawyer shall *** [p]romptly pay or deliver to the client as requested by a client the funds *** in the possession of the lawyer which the client is entitled to receive.]. (Ex.B; Stip. ¶17(B)).

Respondent violated Prof. Cond. Rule 1.1: [A lawyer shall provide competent representation to a client.]. (Ex.B; Stip. ¶34(A)).

Respondent committed two separate violations of Prof. Cond. Rule 1.3: [A lawyer shall act with reasonable diligence and promptness in representing a client.]. (Ex.B; Stip. ¶34(B), ¶43(A)).

Respondent committed two separate violations of Prof. Cond. Rule 1.4(a)(3): [A lawyer shall *** keep the client reasonably informed about the status of the matter.]. (Ex.B; Stip. ¶34(C), 43(B)).

Respondent committed three separate violations of Prof. Cond. Rule 1.15(d): [A lawyer shall promptly deliver to the client *** any funds *** that the client *** is entitled to receive.]. (Ex.B; Stip. ¶17(C), 34(E), 43(C)).

Respondent violated Prof. Cond. Rule 8.4(c): [It is professional misconduct for a lawyer

to *** engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.].
(Ex.B;Stip.¶34(D)).

Respondent committed two separate violations of Gov. Bar R. V(4)(G): [Failure to cooperate with Relator's investigation.] (Ex.B; Stip. ¶18, 35).

Based on the evidence presented at the hearing and the stipulations of the parties the Panel finds that the stipulated violations are supported by clear and convincing evidence. The Panel adopts the stipulated violations in their entirety.

MITIGATION

Respondent has no prior disciplinary record, BCGD Proc. Reg. 10(B)(2)(a), but stipulated that sanctions were imposed upon him three different times for his failure to certify that he had completed his continuing legal education requirements. (Ex.B; Stip. ¶2). As character evidence, Respondent presented a letter from Retired Judge John P. O'Connor and the testimony of Judge Steven Martin and Judge William Mallory, Jr. Neither Judge Martin nor Judge Mallory was informed about the nature of the violations alleged in the Complaint. In his letter, Retired Judge O'Connor wrote the following: "I am aware of the fact that as [Respondent's] practice expanded numerically and geographically, as a solo practitioner he became somewhat dilatory. He is now aware of the importance of punctuality. I am confident that this will be incorporated in his daily practice." (Ex.E, p. 2). Judge Martin testified that Respondent "is sometimes late getting there in terms of if something is set at 9:00, he gets there at 10:30, but when he gets there, he does a good job." (Tr.32). Judge Mallory testified that Respondent "always called" if he was going to be late and "seems to have his cases prepared when he appears before me." (Tr.64). Both Judge Martin and Judge Mallory testified that Respondent had always been truthful with them to the best of their knowledge (Tr.33,64).

Additionally, Respondent testified and Dr. Kennedy's report confirmed that Respondent suffered from a loss of energy and focus due to a debilitating sleep disorder. (Tr. 58; Ex. D, p.3). Respondent treated his sleep apnea with a CPAP breathing device and now has more energy and ability to focus. (Tr. 58).³ Moreover, Respondent indicated that he obtained new scheduling software, started using Microsoft Outlook and a Palm Pilot, and had begun interviewing for a possible intern to help in his practice. (Tr. 59).

AGGRAVATION

The parties did not stipulate to any aggravating factors in this case. All three of Respondent's clients, however, suffered harm as a result of his misconduct. BCGD Proc. Reg. 10(B)(1)(h). In particular, Janson had her license suspended and both Janson and Jackson had warrants issued for their arrest due to Respondent's failure to take action in their cases. Respondent also failed to cooperate in the disciplinary process until compelled by subpoena. BCGD Proc. Reg. 10(B)(1)(e). Moreover, the Panel finds that Respondent's repeated failures to respond, both to his clients and to the Grievance Committee Members investigating his grievances, demonstrate a pattern of misconduct. BCGD Proc. Reg. 10(B)(1)(c). Finally, the Panel is not convinced that Respondent fully accepts responsibility for his misconduct. His evasive answers show a troubling disconnect between what Respondent does and how he perceives his conduct.

RECOMMENDED SANCTION

Relator did not offer any case law in support of its recommendation, but recommended that Respondent be given a one-year suspension all stayed with the condition of monitored probation pursuant to Gov. Bar RuleV(9). The Panel, however, finds that a two-year suspension,

However, Respondent also testified that he stopped using the CPAP after about six months.

with six months stayed upon certain conditions, is a more appropriate sanction in this case. In determining the appropriate sanction, the Panel considered the factual findings and mitigating and aggravating factors found above.

The Panel finds that Respondent's conduct mirrors much of the conduct in the case of *Butler Cty. Bar Assn. v. Portman*, 121 Ohio St.3d 518, 2009-Ohio-1705, in which the Ohio Supreme Court accepted the recommended sanction of an indefinite suspension for the respondent. Portman had four separate grievances filed against him involving the following misconduct: (1) failing to communicate with clients; (2) failing to work on clients' cases; (3) misrepresenting that he had filed something on his clients' behalf when he had not; (4) failing to refund his clients' fees when asked; and (5) misrepresenting that he had not been paid and attempting to obtain appointed counsel fees when in fact he had been paid. *Id.* Portman also allowed his malpractice insurance to lapse without informing his clients and failed to cooperate in his disciplinary investigation. *Id.* at ¶10-12, 23. Much like Portman, Respondent failed to communicate with his clients, failed to work on their cases, made misrepresentations to them, failed to return their unearned fees, and failed to cooperate in his disciplinary investigation. Respondent, however, only had three separate grievances, never represented that he had not been paid, and did not have an issue with his malpractice insurance.

In *Cleveland Bar Assn. v. Kraus*, 116 Ohio St.3d 302, 2007-Ohio-6458, the Supreme Court of Ohio accepted the recommended sanction of a two-year suspension, with the second year stayed upon the conditions of probation, substance abuse treatment, abidance with an OLAP contract, community service, and restitution. Kraus had six separate grievances filed against him involving the following misconduct: (1) misrepresenting that he witnessed a signature when he had not; (2) failing to promptly pay a client her settlement; (3) failing to appear on behalf of

clients on multiple instances, which on at least one occasion resulted in an arrest warrant being issued for the client; (4) failing to advise clients; and (5) failing to refund his clients' fees when asked. *Id.* The Panel finds Respondent's acts of misconduct similar to Krause's acts of misconduct. Although Respondent only had three grievances filed against him and had fewer violations than Kraus, Respondent was not suffering from any substance abuse issues at the time of his misconduct and also failed to cooperate in his disciplinary investigation.

In *Cleveland Bar Assn. v. Jimerson*, 113 Ohio St.3d 452, 2007-Ohio-2339, the Supreme Court accepted a recommendation of a two year suspension with the last six months stayed where respondent abandoned his client's case and failed to cooperate in his disciplinary investigation.

It is clear to the Panel that, if sanctioned in accordance with the Relator's recommendation, Respondent's pattern of failing to respond and to communicate with his clients will persist and remain unaddressed. The Panel acknowledges that Respondent accepted responsibility for much of his misconduct and has expressed a strong desire to continue to practice law. The Panel remains troubled, however, by Respondent's dishonesty on more than one occasion, his evasive responses, the extensiveness of his misconduct, and his inability to firmly establish what steps he is taking to prevent similar issues in the future. Therefore, we recommend that Respondent be suspended from the practice of law in Ohio for two years all stayed on the following conditions:

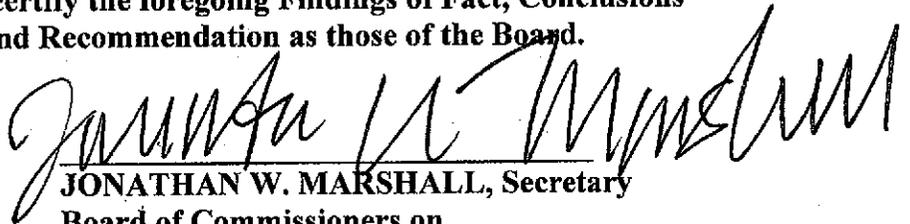
1. Respondent complete 12 hours of law-office management CLE, which shall include time management and handling client communications;
2. Respondent commit no further misconduct during the two year period;
3. Respondent sign a 4 year term contract with the Ohio Lawyers' Assistance

Program (OLAP) and follow any treatment recommended by OLAP.

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 and Conclusions of Law of the Panel. However, it recommends, based on his acts of dishonesty and harm done to clients, that the Respondent, Robert K. Larson, be suspended for two years, with eighteen months stayed on conditions 1 and 2 contained in the above panel report in the State of Ohio. The Board further recommends that the cost of these proceedings be taxed to the Respondent in any disciplinary order entered, so that execution may issue.

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



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