ORIGINAL

09-2267

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

FILED
DEC 16 2009
CLERK OF COURT
SUPREME COURT OF OHIO

In Re:	:	
Complaint against	:	**Case No. 09-013**
David Jerome Robinson **Attorney Reg. No. 0059369**	:	**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	:	

1. This matter was heard September 21, 2009, in Columbus, Ohio, before a panel composed of Board members Lisa Lancione Fabbro, Sheffield Lake, Lynn Jacobs, Toledo and panel chair, Retired Judge Thomas F. Bryant, Findlay, Ohio.

2. None of the panel members resides in the appellate judicial district from which the complaint arose and none served on the probable cause panel that certified this matter to the Board.

3. Relator's formal complaint against respondent, David Robinson, alleges that respondent gave false and misleading testimony under oath and improperly destroyed documents during litigation, thus violating Prof. Cond. R. 3.4(a) [a lawyer shall not unlawfully destroy or conceal a document or other material having potential evidentiary value]; 8.4(c) [a lawyer shall not engage in conduct involving fraud, deceit, dishonesty, or misrepresentation]; 8.4(d) [a lawyer shall not engage in conduct that is prejudicial to the administration of justice]; and 8.4(h) [a

lawyer shall not engage in conduct that adversely reflects upon the lawyer's fitness to practice law].

4. Relator was represented by Assistant Disciplinary Counsel Robert R. Berger. Respondent was present, represented by his counsel, Kenneth R. Donchatz and Charles J. Kettlewell.

FINDINGS OF FACT

5. The parties and counsel have entered into 37 written stipulations of fact and have stipulated in writing to the receipt in evidence of 11 documentary exhibits. The panel adopts and incorporates the stipulations of fact in its findings of fact by attachment to this report and has considered all the stipulated exhibits listed in the stipulation document as well as all additional documents stipulated by counsel, and those offered and received at the formal hearing. In making its findings of fact, conclusions of law and its recommendation, the panel also has considered the testimony of respondent and other witnesses offered at the formal hearing.

6. Respondent's claimed ethical violations occurred during litigation connected with his termination from employment at one law firm and his immediate hiring by another.

7. The alleged violations do not arise from the substance of the employment of respondent or of the contractual dispute between respondent and his former employer, but instead are based on respondent's statements under oath, claimed by relator to be false and misleading, and his destruction of documents that in his sworn testimony he had denied possessing.

8. The events giving rise to the complaint against respondent transpired in a brief period during July, August and September 2007.

9. Respondent joined the Schottenstein, Zox & Dunn (SZD) law firm as a partner in September 2000 to develop the law firm's government affairs practice. The government affairs practice was conducted by an SZD subsidiary company originally called SZD Government Advocates LLC and later SZD Whiteboard, LLC. Respondent's employment agreement required that he keep all SZD business information confidential during his employment and after his separation from employment. In early 2007 respondent began to organize his own political campaign for his election to the Ohio General Assembly. He subsequently abandoned that effort after discussions with the SZD managing partner and others.

10. Later, in July 2007, the managing partner of SZD presented respondent with a revised employment agreement. Respondent did not like the terms of the new agreement.

11. Contemporaneously, respondent began investigating other employment opportunities and collecting large amounts of SZD confidential business information for use in his job search and at any new employment.

12. In late July and early August 2007, respondent requested from SZD staff and received copies of four years of SZD government affairs client billing records, copies of all SZD engagement letters for every current and former government affairs client for the past four years, copies of all of his power point presentations and a copy of the 77 page client and prospective client list.

13. After gathering these materials, respondent met with representatives of two different law firms to discuss potential employment opportunities. During these meetings, respondent provided these law firms with confidential information about SZD clients and billing.

14. On Friday, August 3 and Saturday, August 4, 2007, SZD attorneys and staff attended a law firm retreat in Pennsylvania. Respondent did not attend the retreat. Instead, on

both of these dates, respondent went in to the SZD offices, packed seven boxes of materials, removed them from the SZD offices and took them to his residence. Although he did not know it, respondent was videotaped by the SZD security system while he was removing the materials.

15. On August 14, 2007, respondent's employment was terminated by SZD and the next day he was hired by the Porter, Wright, Morris & Arthur law firm.

16. On August 23, 2007, SZD filed a civil complaint against respondent alleging that he had violated a non-solicitation provision of his employment agreement and seeking preliminary and permanent injunctive relief.

17. As a part of this litigation, respondent's deposition was taken on August 27, 2007.

18. During this deposition, respondent was asked if he had removed any documents from the offices of SZD and if he currently possessed any SZD documents. Respondent's deposition testimony is set forth in the parties' written Stipulation 24. The panel finds much of that testimony concerning his removal and possession of SZD documents to be misleading and false.

19. On August 29, 2007, respondent testified during a court hearing on SZD's complaint. Respondent's in-court testimony is set forth in the parties' written Stipulation 25. The panel finds relevant parts of that testimony concerning his removal and possession of SZD documents to be misleading and false.

20. Immediately after respondent's courtroom testimony denying he possessed SZD confidential information, respondent went into the men's restroom and disposed of a confidential SZD document in a trash receptacle. This document was in his possession in court at the time of his testimony.

21. After the court hearing ended for the day, respondent went home and loaded several boxes of confidential SZD documents into his vehicle. While driving toward downtown Columbus, respondent stopped three times and disposed of these documents in random trash receptacles. These documents are the same items about which respondent testified in court earlier the same day implying that he did not possess them. The panel finds that court testimony to be misleading and false.

22. The prospective evidentiary value of these documents in the litigation was not only their content, which might be supplied by copies, but, rather, the fact that respondent possessed them and had or intended to furnish them to others contrary to contract. The unlawful or improper act committed by respondent was destroying documents to conceal the fact that he had them.

23. On September 6, 2007, the court ordered respondent to provide SZD with all of the firm's confidential information in his possession by September 7, 2007. On September 7, 2007, respondent gave SZD three boxes of documents and on September 10, 2007, respondent supplemented this response and gave SZD numerous additional documents. The documents produced by respondent, included materials respondent previously denied he had in his possession.

24. On September 11, 2007, respondent informed the court and SZD for the first time that he had destroyed SZD documents on August 29, 2007.

25. On September 20, 2007, respondent testified at a second court hearing where he admitted that his prior testimony at his deposition and in court about his possession of documents was not accurate. At this time his testimony contradicted his prior testimony about removal of boxes from SZD on August 3 and 4, 2007. Joint Exhibit 11, pages 4 through 45.

26. When entering a decision in the SZD case against respondent, the trial judge noted that he found respondent's conduct in the matter to be "troubling" and that respondent had removed "substantial amounts of material" from his office "under very suspicious circumstances." Joint Exhibit 12, page 27. The trial judge noted that respondent returned to the court or to SZD "documents which in fact he had and knew he had when he testified he had no such documents" and that he had "destroyed documents which he denied were in his possession." Exhibit 12, page 28.

CONCLUSIONS OF LAW

27. The panel finds the evidence to be clear and convincing that respondent made repeated false statements under oath at his August 27, 2007, deposition and during an August 29, 2007, court hearing thus violating Prof. Cond. R. 8.4(c) [a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation]; 8.4(d) [a lawyer shall not engage in conduct that is prejudicial to the administration of justice]; and 8.4(h) [a lawyer shall not engage in conduct that adversely reflects upon the lawyer's fitness to practice law].

28. The panel finds the evidence to be clear and convincing that on August 29, 2007, subsequent to his testimony on that same date that he did not possess such documents, respondent destroyed documents having potential evidentiary value thereby violating Prof. Cond. R. 3.4(a) [a lawyer shall not unlawfully destroy or conceal a document or other material having potential evidentiary value].

MITIGATION AND AGGRAVATION

29. Section 10 of the Rules Governing Procedure on Complaints and Hearings before the Board establishes guidelines for imposing appropriate sanctions for misconduct.

Matters in Aggravation

30. Among those guidelines considered by the panel in favor of recommending a more severe sanction are that Respondent's misconduct involved the following aggravating factors enumerated in the BCGD Proc. Reg. 10(B) (1): (b) dishonest or selfish motive; (c) a pattern of misconduct; (d) multiple offenses; and (g) refusal to acknowledge the wrongful nature of his conduct.

Matters in Mitigation

31. Of the BCGD Proc. Reg. 10(B) (2) mitigating factors, two are applicable to Respondent: (a) absence of a prior disciplinary record and (e) reputation.

32. Respondent introduced the testimony of three character witnesses, all of whom testified to knowledge of respondent's excellent reputation in charitable and political communities. The panel also received two dozen or more character letters of the same tenor and commending respondent's character in general.

SANCTION

Recommendations

33. Relator recommends that respondent be suspended from the practice of law for twelve months, citing respondent's false testimony, destruction of documents to conceal his prior possession of them and noting the aggravating factors of a pattern of misconduct, multiple offenses, false statements made during the disciplinary investigation, and a selfish motive.

34. With respect to respondent's violation of Prof. Cond. R. 8.4(c), 8.4(d), and 8.4(h), relator points to the Supreme Court's repeated holdings that an actual suspension is appropriate when an attorney engages in a pattern of dishonesty.

35. Finding no Supreme Court of Ohio disciplinary opinions respecting a violation of Prof. Cond. R. 3.4(a), relator has cited one case each from the Supreme Court of Delaware and the Supreme Court of Florida imposing sanctions for violation of that rule. In re *Melvin*, 807 A.2d 550 (2002), the respondent was found to have violated Delaware Lawyers' Rules of Professional Conduct substantially equivalent to Ohio Prof. Cond. R. 3.4(a), 8.4(c), 8.4(d) and 8.4(h) by destroying or concealing his wife's journal and papers that might have been used against him in a criminal charge against him for violating a protection order forbidding him to have contact with his wife. He was convicted of two misdemeanors for the conduct. The Delaware Supreme Court imposed an 18 month suspension for the misconduct. In *The Florida Bar v. Forrester*, 818 So.2d 477 (2002), during respondent Forrester's client's examination upon deposition, opposing counsel produced an original document as an exhibit. When the opposing attorney's back was turned, Forrester's client handed Forrester the document which she took and concealed. When opposing counsel was searching for the document, Forrester made intentionally misleading statements to avoid revealing that she had the document. Forrester produced the document only when directly confronted and asked if she had the exhibit. Finding a violation of the Florida equivalent of Prof. Cond. R. 3.4(a), the Florida Supreme Court suspended Forrester for sixty days followed by one year of probation.

36. Respondent urges that the complaint against respondent be dismissed. Respondent's counsel suggests that respondent should not be found to have violated any of the Rules of Professional Conduct by his testimony stating his failure to recall events, dates and

circumstances. The panel finds such failure of recollection to be incredible and intentionally misleading given the circumstances and the short period of time within which they occurred.

37. Counsel urged that respondent should not be sanctioned for breach of the Rules of Professional Conduct because he was acting as a witness, not a lawyer when testifying and , although a lawyer, is not a litigator and is unfamiliar with court proceedings and procedures.

38. The panel notes that respondent was testifying not merely as a witness but as a party to the litigation and was represented by counsel. Furthermore, respondent has been a licensed attorney for fifteen years and for half that time was partner in a major law firm.

39. The panel is convinced that a lawyer who is licensed as an attorney at law and is thus subject to the Rules of Professional Conduct has accepted a public trust and if not bound by those rules in all his affairs, is certainly bound by them in his activities concerning courts and the proceedings ongoing in them to which he is a party.

40. Finally, respondent's counsel suggests that respondent has not violated Prof. Cond. R. 3.4(a) because he was not a lawyer litigating the case and thus not subject to the Rule and for the further reason that copies of the documents he destroyed were in the possession of opposing parties and thus their evidentiary value was not lost when he destroyed them.

41. The panel again notes, however, that respondent was a party to the action who destroyed evidence of the fact that he possessed the documents he had denied possessing in prior sworn testimony.

Panel Recommendation

42. Respondent Robinson has engaged in conduct involving dishonesty and misrepresentation, in conduct that is prejudicial to the administration of justice, in conduct that adversely reflects upon his fitness to practice law, and he has destroyed documents of potential evidentiary value.

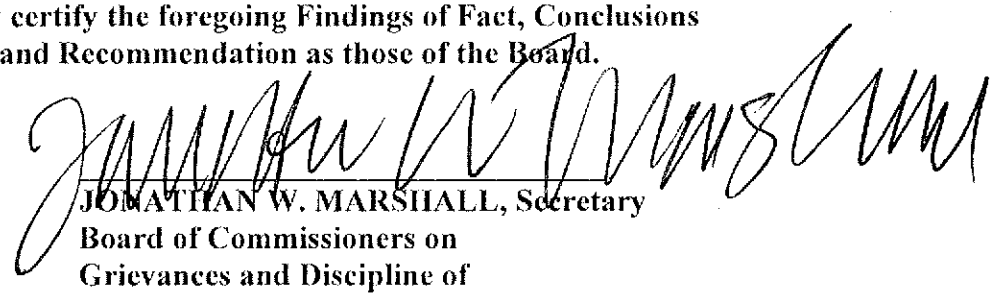
43. The panel believes the aggravating factors to be considered outweigh the mitigating factors pursuant to BCGD Proc. Reg. 10.

44. Considering the arguments of counsel and the authorities cited together with the professional rule violations found, the mitigating and aggravating factors relevant to sanctions, and the Supreme Court precedent for imposing an actual suspension for repeated acts of dishonesty, the panel recommends that the respondent be suspended from the practice of law for twelve months.

BOARD RECOMMENDATION

Pursuant to Gov. Bar Rule V(6)(L), the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio considered this matter on December 3, 2009. The Board adopted the Findings of Fact and Conclusions of Law of the Panel. The Board, however, based on his continuing course of misconduct and numerous false statements coupled with the other aggravating factors, recommends that Respondent, David Jerome Robinson, be suspended for two years. 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

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

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FILED
SEP - 3 2009
BOARD OF COMMISSIONERS
ON GRIEVANCES & DISCIPLINE

AGREED
STIPULATIONS
BOARD NO. 09-013

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

AGREED STIPULATIONS

Relator, Disciplinary Counsel, and respondent, David Jerome Robinson, do hereby stipulate to the admission of the following facts and exhibits.

STIPULATED FACTS

1. Respondent, David Jerome Robinson, was admitted to the practice of law in the State of Ohio on November 9, 1992. Respondent is subject to the Rules of Professional Conduct, the Code of Professional Responsibility and the Rules for the Government of the Bar of Ohio.

2. Respondent joined Schottenstein, Zox & Dunn Co. LPA ("SZD") as a partner in September 2000. Respondent was hired to develop the law firm's government affairs practice area.

JOINT EXHIBIT 13

3. In July of 2005, SZD formed a lobbying subsidiary known as SZD Government Advocates, LLC and Respondent signed an employment agreement with this entity on July 20, 2005. The employment agreement is attached as Exhibit 1.

4. During the summer of 2007, SZD Government Advocates, LLC changed its name to SZD Whiteboard, LLC.

5. From spring 2007 until early August 2007, respondent engaged in a series of discussions with his law firm, related to his career ambitions and his future with SZD.

6. Around this time, respondent was interested in seeking election to a seat in the Ohio Legislature. Respondent's discussions with the firm encompassed this interest as well as the impact of respondent seeking public office on his position with the law firm.

7. In mid-July 2007, respondent was advised by the managing partner at Schottenstein, Zox & Dunn, that in order to maintain his employment with Whiteboard, he must resign his partnership and stop practicing law.

8. At this same time, respondent began investigating employment opportunities with the Bricker & Eckler and Porter, Wright, Morris & Arthur law firms.

9. On July 26, 2007, respondent met again with the managing partner at Schottenstein, Zox & Dunn to discuss the firm's proposed new terms of employment.

10. On July 27, 2007, respondent faxed information to the Bricker & Eckler and Porter, Wright, Morris & Arthur law firms as a part of his employment search. The facsimile included a copy of respondent's current employment contract dated July 20, 2005 and a partially redacted copy of an engagement letter for one of Whiteboard's clients.

11. On July 30, 2007, respondent was provided with a copy of Schottenstein, Zox & Dunn's proposal for his new employment contract

12. On July 31, 2007, respondent requested that his secretary Debra Harper provide him with a copy of Whiteboard client billing reports for 2004 through 2007 for himself and Whiteboard co-worker John Oberle These reports were provided to respondent on August 1, 2007.

13. On August 1, 2007, respondent requested that his secretary provide him with a copy of his engagement letters for every current and former SZD and Whiteboard client between 2004 and 2007. These letters were provided to respondent on August 1, 2007.

14. On August 1, 2007, respondent requested that his secretary provide him with a copy of every power point presentation previously created for Whiteboard. These 24 presentations were provided to respondent on August 1, 2007.

15. On August 2, 2007, respondent met with a representative from Porter, Wright, Morris & Arthur to discuss potential employment opportunities and interviewed with a representative of Bricker & Eckler.

16. On August 3, 2007, respondent signed an agreement with Bricker & Eckler to facilitate his sharing of Whiteboard-related information with Bricker & Eckler on a confidential basis. After this agreement was signed, respondent provided Bricker & Eckler detailed information about his Whiteboard clients and his Whiteboard client billing reports for the years 2004 through 2007.

17. On Friday, August 3 and Saturday, August 4, 2007, Schottenstein, Zox & Dunn attorneys and staff went to Pennsylvania for a law firm retreat. Respondent did not attend this retreat, but instead went into the law office.

18. On Friday, August 3, 2007, respondent packed and removed one box of materials from his Schottenstein, Zox & Dunn office. On Saturday, August 4, 2007, respondent packed and removed six additional boxes of materials from his Schottenstein, Zox & Dunn office.

19. At this time, respondent was residing at a home at 130 Northridge Road in Columbus while another home at 106 Montrose Way in Columbus was under renovation.

20. On August 4, 2007, respondent took the boxes he removed from SZD and placed them at his future home at 106 Montrose Way and his current residence at 130 Northridge Road.

21. At the same time respondent was delivering these boxes to his current and future residences, he disposed of some of the materials that he had removed from his law office into a dumpster at his future home

22. On August 14, 2007, respondent was terminated from Schottenstein, Zox & Dunn and on August 15, 2007, respondent was hired by Porter, Wright, Morris & Arthur, LLP to chair the firm's Government Relations Practice Group.

23. On August 23, 2007, Schottenstein, Zox & Dunn filed a complaint against respondent in Franklin County Common Pleas Court. The complaint is attached as Exhibit 4.

24. As a part of this litigation, respondent's deposition was taken on August 27, 2007. During this deposition, respondent was asked if he had removed any documents that belonged to Whiteboard from the offices of Schottenstein, Zox & Dunn. Respondent provided the following answers:

Q. (by Attorney Rex Elliott) Did you take any information with you after you left Government Advocates that was generated during your employment with Government Advocates?

Mr. Siegel: I need to hear that back, please.

(Question read.)

A. (by respondent) I made sure not to take any client files or client information. I did not take any of the business plans or marketing information. I took – I actually had a copy previously printed out of my Microsoft Office contacts which are my personal contacts that I built over the last 15 years of professional life.

I had already had billing sheets that were given to me at the end of the year that I don't know why, I presumed it was law firm policy to give the lawyers back their billing sheets, I already had those. And, you know, the rest of it I don't – books, pictures, it was not that much --

Q. Okay.

A. – information.

Q. So other than let's set aside the Microsoft Office contacts that you just testified about, did you take any documents that related to Government Advocates?

A. Again, that question is so broad, the only way to answer it not that I know of.

Q. It can't be too broad, though, because it sounded to me from a prior answer that you don't recall taking anything that related to Government Advocates; is that fair?

A. You know, I, again, don't recall taking anything related to Government Advocates.

Q. So in your possession today either at your house, in your car, or in this law firm or somewhere else, do you have in your possession any documentation that relates to Government Advocates?

A. Again, not that I'm aware of.

Respondent's August 27, 2007 deposition at pages 166-168.

25. On August 29, 2007, respondent testified at a court hearing on SZD's complaint for injunctive relief. During respondent's testimony, he made the following statements:

Q. (by Attorney Rex Elliott) And I believe you told me in your deposition that you did not take with you any information relating to either the Schottenstein law firm or Government Advocates; is that fair?

A. (by respondent) I think again to the best of my knowledge, I did not take any business plans or marketing lists. You know, I at the end of every year I was given for whatever reason my billing sheets, which I had, so I had those. I couldn't give you a complete list of what I had or didn't have. But again to the best of my knowledge, I didn't take the business plans or other materials that I think would be sensitive to Schottenstein.

Q. Did you take information out of your office relating to either the law firm or Government Advocates after you began to have conversations with other law firms about joining their firms?

A. You know, I don't recall. I mean I had still hoped, quite frankly, hoped until August 14 that I would still be at Schottenstein, Zox & Dunn. This is obviously not an easy transition to go through. And I don't have any idea if I had taken things out. I know on a regular basis I may – I take work home. I work at home on the weekends and review things typically that I don't have time to kind of get away from the chaos of the office. But I couldn't speak as to what I took out of the office or didn't take out of the office.

Transcript of August 29, 2007 court hearing at pages 69-70.

* * * *

Q. (by Attorney Rex Elliott) Okay. So you at least up to the 14th intended to remain at the law firm and at SZD Whiteboard, and you had not begun the process of clearing out your office?

A. (by respondent) You know, I had – again I regularly clean my office and clear out my office. I can't say – I mean, you know, I know that I especially over the summer months when it's slower may come in to clear out, you know, clear out the space and throw away information. So I can't say for sure if that was the only day I cleaned my office or cleared it out or removed things from my office.

Q. Well, do you recall cleaning out your office or clearing out your office at any time before August 14 and after you began speaking with Porter, Wright, Morris and Arthur and Bricker and Eckler about job opportunities?

A. You know, I might have. I just don't recall the specific date.

Transcript of August 29, 2007 court hearing at pages 72-73.

* * * *

Q. (by Attorney Rex Elliott) Okay. Is that August 14 the first time that you actually gathered your personal items and cleared them out of your office?

A. (by respondent) You know, again I would clear out my office on a regular basis. I remember at some point in the summer going through different files and different

information. Quite frankly, I think I probably ended up throwing more information away, I had a bunch of stuff that was there, for whatever reason, I had when I was at the State House that was eight years old, you know. So I can't – I not sure exactly what to say.

Q. Do you recall when you did that?

A. I don't recall.

Q. Was it in the month of August?

A. It was in the summer. I don't recall.

Q. Do you know whether it was after you began with your conversations with Porter, Wright, Morris and Arthur and Bricker and Eckler?

A. I don't recall.

Transcript of August 29, 2007 court hearing at pages 74-75.

* * * *

Q. (by Attorney Rex Elliott) All right. Is it your testimony that you came into the office then on Friday, August 3?

A. (by respondent) I don't recall.

Q. Okay. So I take it by your answer, you don't recall whether or not you came in first thing in the morning or whether it was sometime later in the day?

A. I don't recall if I came into the office at all on August 3rd. I don't know what the day was like.

Q. Do you recall what you did while you were in the office on August 3rd?

A. I don't recall.

Q. Okay. Do you recall whether or not you came into the office on August 4, Saturday, while the firm was on retreat?

A. You know, I may have. I, you know, I know I during the summer I come in on a couple Saturdays. And that may have been one of the days, but I don't have any specific recollection of that.

Q. Okay. Do you recall coming into the office while the firm was on a retreat and cleaning out your office?

A. You know, again as I think I mentioned earlier, I know that at some point during the summer, I had cleaned out a bunch of material from my office. I don't' recall on a specific day.

Q. Okay. And the only reason I asked you that was this is during the time that the firm and subsidiaries are gone. People are out of the office. Do you recall coming in that Friday when people were out of the office to clean out your office?

A. I don't – I just can't recall the specific day.

Transcript of August 29, 2007 court hearing at pages 88-89.

26. During respondent's court testimony on August 29, 2007, respondent also made several statements regarding whether or not he possessed confidential business information from the law firm offices:

Q. (by Attorney Rex Elliott) . . . But you would agree that the company's e-mail list of customers and prospective customers is confidential information to SZD Whiteboard?

A. (by respondent) I would. And that's why I didn't take it.

Transcript of August 29, 2007 court hearing at page 76.

* * * *

Q. (by Attorney Rex Elliott) Now when you got copies of all these engagement letters, did you leave them all in your office when you left on August 14?

A. (by respondent) I know that I do not possess the engagement letters. I know I never intended to use the engagement letters, you know in any way to the use of confidential information.

Again to the best of my knowledge, I believe they're in my office, but I can't attest to that because again I had two hours to clear out my stuff, and I did not have adequate

time to do any sort of inventory as to what was in my office and what was not. So all I can really testify to is that I to the best of my knowledge don't possess these engagement letters.

Q. Well, we do know that you took one, at least one engagement letter out of the firm, and you provided it to Mr. Trafford, correct?

A. That's correct. I took a redacted version of the engagement letter – again I'm not sure of the date – and forwarded it to the folks at Porter Wright so that they could try and gain some sort of understanding as to what the world of Government Advocates was.

Transcript of August 29, 2007 court hearing at pages 83-84.

27. After Respondent's testimony on the morning of August 29, 2007, the court recessed for lunch and respondent went to the courthouse cafeteria with his legal counsel. Respondent took a three ring binder he had prepared as his personal trial notebook with him to the cafeteria.

28. Later, when leaving the cafeteria, respondent went into the men's restroom and removed a Schottenstein, Zox & Dunn report for respondent's billable hours for 2004-2007 from his trial notebook. Respondent then tore this report up and disposed of it in the restroom trash receptacle.

29. After the August 29, 2007 court hearing ended for the day, respondent went to his current and future residences and began examining the boxes of materials he had removed from the law firm on August 3 and 4, 2007. At the same time, respondent searched his current residence for other work-related documents.

30. Respondent then placed several boxes of work-related materials from SZD into his vehicle and began driving toward downtown Columbus. Along this drive respondent stopped at a convenience store on Indianola Avenue, on High Street near The Ohio State University and a gas station at Fifth Avenue and Olentangy River Road. At each of these stops, respondent tore up and disposed of documents which he had previously removed from his former law firm.

31. During these three stops, respondent disposed of a Whiteboard business plan, a marketing list for a Schottenstein, Zox and Dunn China affiliate, a Whiteboard marketing brochure and respondent's 2005 and proposed 2007 employment agreements. Respondent disposed of these documents into random trash receptacles.

32. On September 6, 2007, the court granted an agreed temporary restraining order in favor of Schottenstein, Zox & Dunn. As a part of its decision, the court ordered respondent to provide Schottenstein, Zox & Dunn with all of the firm's confidential information in respondent's possession by September 7, 2007.

33. On September 7, 2007, respondent gave Schottenstein, Zox & Dunn three boxes of documents that he had in his possession. These documents included respondent's timesheets for 2000 through 2006; paperwork related to economic development; powerpoint presentations; and various documents related to training, lobbying and client strategy.

34. On September 11, 2007, respondent self-reported to the court and SZD that he had destroyed documents on August 29, 2007 at the courthouse during a break and after the court hearing.

35. On September 14, 2007, respondent provided the court with a list of the documents that he had destroyed on August 4 and 29, 2007.

36. On September 20, 2007, respondent testified at the second hearing on Schottenstein, Zox & Dunn's complaint for injunctive relief. A transcript of Respondent's testimony is attached at Exhibit 11.

37. On October 30, 2007, the court issued a decision on SZD Whiteboard's motion for injunctive relief. The court's decision is attached as Exhibit 12.

STIPULATED EXHIBITS

Exhibit 1	Respondent's 2005 employment agreement
Exhibit 2	Billing records provided to respondent
Exhibit 3	List of power point presentations provided to respondent
Exhibit 4	Complaint in *SZD Whiteboard v. Robinson*, Case No. 07 CVH 11314
Exhibit 5	Court case docket for *SZD Whiteboard v. Robinson*, Case No. 07 CVH 11314
Exhibit 6	Transcript of respondent's August 27, 2007 deposition

Exhibit 7	Excerpt of transcript of August 29, 2007 hearing in *SZD Whiteboard v. Robinson*, Case No. 07 CVH 11314
Exhibit 8	September 6, 2007 judgment entry
Exhibit 9	September 10, 2007 letter from respondent's counsel to counsel for SZD Whiteboard
Exhibit 10	September 14, 2007 letter from respondent's counsel to counsel for SZD Whiteboard
Exhibit 11	Transcript of September 20, 2007 hearing in *SZD Whiteboard v. Robinson*, Case No. 07 CVH 11314
Exhibit 12	October 30, 2007 judgment entry

CONCLUSION

The above are stipulated to and entered into by agreement by the undersigned parties on this 2 day of September, 2009.

Jonathan E. Coughlan (0026424)
Disciplinary Counsel

David Robinson
Respondent

Robert R. Berger (0064922)
Assistant Disciplinary Counsel

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Kenneth R. Donchatz (0062221)
Counsel for Respondent