

ORIGINAL

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

10-0735

In Re: :

Complaint against : Case No. 09-042

Stanley Jackson, Jr. : Findings of Fact,
Attorney Reg. No. 0077011 : Conclusions of Law and
: Recommendation of the
Respondent, : Board of Commissioners on
: Grievances and Discipline of
Disciplinary Counsel : the Supreme Court of Ohio
:
Relator. :

This matter was heard on January 25-26, 2010, in Cleveland, Ohio, before a panel consisting of members Lawrence R. Elleman, McKenzie K. Davis, and Janica A. Pierce Tucker, chair. None of the panel members resides in the appellate district from which the complaint arose or served as a member of the probable cause panel that reviewed the complaint. Respondent Stanley Jackson, Jr., was present at the hearing, represented by attorneys Richard S. Koblentz and Craig Morice. Attorneys Philip A. King, Assistant Disciplinary Counsel, and Jonathan E. Coughlan, Disciplinary Counsel, represented Relator.

CHARGES

Respondent was charged in an Amended Complaint filed on October 30, 2009, with violations of the following provisions of the Ohio Rules of Professional Conduct, Code of Professional Responsibility and the Rules for the Government of the Bar of Ohio:

Count One

FILED
APR 28 2010
CLERK OF COURT
SUPREME COURT OF OHIO

1. Prof. Cond. R. 1.5(a) [A lawyer shall not charge or collect an illegal or clearly excessive fee];
2. Prof. Cond. R. 1.16(e) [A lawyer shall promptly refund any unearned attorney's fees upon termination of representation];
3. Prof. Cond. R. 3.3(a)(1) [A lawyer shall not make a knowingly false statement to the tribunal];
4. Prof. Cond. R. 8.4(c) [A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation];
5. Prof. Cond. R. 8.4(e) [A lawyer shall not imply an ability to influence improperly a government official];
6. Prof. Cond. R. 8.4(h) [A lawyer shall not engage in conduct adversely reflecting on the lawyer's fitness to practice law].

Count Two

7. DR 1-102(A)(4) [A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation];
8. DR 1-102(A)(5) [A lawyer shall not engage in conduct that is prejudicial to the administration of justice];
9. DR 1-102(A)(6) [A lawyer shall not engage in conduct adversely reflecting on the lawyer's fitness to practice law];
10. DR 2-107(A)(2) [A lawyer shall not divide fees with lawyer not in the same firm without prior consent of the client and the terms of the fee division and identity of the lawyers sharing in the fee are disclosed in writing to the client];

11. DR 4-101(B)(1) [A lawyer shall not knowingly reveal a confidence or secret of his client];

12. DR 7-101(A)(3) [A lawyer shall not intentionally prejudice or damage his client during the course of the representation]; and

13. DR 9-102(B)(4) [A lawyer shall promptly pay or deliver the funds, securities, and other properties in the possession of the lawyer which the client is entitled to receive].

As it relates to Respondent's conduct that took place on or after February 1, 2007, the charges are as follows:

14. Prof. Cond. R. 1.15(d) [A lawyer shall promptly deliver to the client any funds that the client is entitled to receive and promptly render a full accounting regarding such funds];

15. Prof. Cond. R. 8.4(c) [A lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation];

16. Prof. Cond. R. 8.4(h) [A lawyer shall not engage in conduct adversely reflecting on the lawyer's fitness to practice law].

Count Three

17. Prof. Cond. R. 8.1(a) [A lawyer shall not knowingly make a false statement of material fact in connection with the disciplinary matter];

18. Gov. Bar R. V(4)(G) [A lawyer shall not fail to cooperate with the disciplinary investigation].

FINDINGS OF FACT REGARDING COUNT 1 – JASIEL ROBINSON

19. Respondent Stanley Jackson, Jr. was admitted to the practice of law in the state of Ohio on November 10, 2003.

20. Respondent engaged in the full-time practice of law in Cleveland, Ohio, as a solo practitioner.

21. In the course of his practice, Respondent shared space with other lawyers at 75 Public Square in Cleveland, Ohio.

22. Respondent has, over the years, engaged in many volunteer community activities, such as starting a scholarship program for minority students at his alma mater, Bowling Green.

23. Respondent is subject to the Code of Professional Responsibility, the Ohio Rules of Professional Conduct and the Rules for the Government of the Bar of Ohio.

24. The stipulated facts regarding Count 1 are contained in paragraphs 2-28 of the stipulations which the panel unanimously adopts and incorporates into these Findings of Fact.

25. On December 23, 2007, Jasiel Robinson, a rap entertainer professional known as "Yung Joc," was detained while going through security at the Cleveland, Ohio Airport and was thereafter transferred to the Cleveland City Jail.

26. Robinson was taken into custody for allegedly carrying a handgun in his carry-on bag.

27. Robinson's entertainment attorney, Nova Perry, suggested that Mr. Robinson's wife contact Respondent.

28. Robinson's wife and Robinson's sister, Ebony Smith, contacted Respondent by phone and explained Robinson's situation. On the same day, Respondent met with Robinson at the jail.

29. During the meeting, Respondent told Robinson that his fee was \$30,000.

30. On December 24, 2007, a criminal complaint was filed in the Cleveland Municipal Court charging Robinson with carrying a concealed weapon, a fourth degree felony.

31. On the same morning, Respondent contacted Judge Patton through his bailiff and arranged for Robinson's release on a \$50,000 bond, and Robinson's arraignment was scheduled for December 26, 2007, in the Cleveland Municipal Court before Judge Ryan.

32. That same day, Robinson, after his release, returned to his home in Atlanta, Georgia.

33. On December 24, 2007, Respondent received two money wires from Robinson's wife in the amounts of \$15,000 and \$5,000 for attorney's fees.

34. On December 23, 2007, Respondent received \$5,000 from Robinson's business manager, Rico Brooks, for Robinson's representation, and as a result, Respondent received a total of \$25,000 in attorney's fees.

35. On December 26, 2007, Respondent appeared at Robinson's arraignment and advised Judge Ryan that Robinson was unable to attend due to family and financial obligations.

36. Judge Ryan ordered the forfeiture of Robinson's bond and issued an arrest warrant requiring his appearance in court.

37. After speaking to Respondent, Robinson immediately returned to Cleveland and appeared with Respondent before Judge Ryan that afternoon on December 26, 2007.

38. During this hearing, Judge Ryan reinstated the \$50,000 bond and set a preliminary hearing for January 25, 2008.

39. Robinson returned to Atlanta, Georgia, to await his January 25, 2008 hearing.

40. On January 7, 2008, while Robinson's criminal case was still pending, Robinson, through attorney Joshua Millican, sent a letter by fax and overnight mail to Respondent terminating his legal services.

41. Robinson's termination letter requested that Respondent return \$22,000 of the \$25,000 that Respondent received.

42. Respondent did not respond to the January 7, 2008 letter.

43. Robinson, again through Attorney Millican, made additional requests for a refund by letters dated January 11 and 18, 2008.

44. Respondent neither responded to Robinson's requests nor refunded any portion of his fee.

45. On January 16, 2008, after Respondent's termination, Robinson appeared in the Cuyahoga County Common Pleas Court with his new attorneys, William T. McGinty and Henry J. Hilow, and pled not guilty to the indictment charging him with carrying a concealed weapon.

46. Over the next year, Robinson's criminal case proceeded in the Cuyahoga County Common Pleas Court under Case No. 2007 CR 505353, and was terminated on February 10, 2009, when Robinson satisfied the conditions of the Cuyahoga County pre-trial diversion program.

47. In total, Respondent's representation of Robinson lasted only 16 days.

48. Respondent never provided a written fee agreement explaining his fee for the legal services provided to Robinson.

49. Respondent claimed that he earned a \$30,000 flat fee by completing the following services: (1) making sure that Robinson's bond wasn't excessive; (2) obtaining Robinson's release; (3) negotiating with the feds to make sure that Robinson didn't have a federal case; and (4) having the matter transferred to the city of Cleveland.

CONCLUSIONS OF LAW REGARDING COUNT 1

50. After the hearing, the parties submitted hearing briefs and presented legal arguments as it related to Respondent's conduct.

51. The panel concludes that Relator has failed to prove by clear and convincing evidence, and therefore, dismisses the charges in Count 1 that Respondent's conduct violated Prof. Cond. R. 3.3(a)1); 8.4(c); 8.4(e), and 8.4(h).

52. The parties stipulated and the panel adopts the parties' stipulation that Respondent violated Prof. Cond. R. 1.5(a) (charging or collecting a clearly excessive fee) and Prof. Cond. R. 1.16(e) (failing to promptly refund unearned attorney's fees).

FINDING OF FACTS REGARDING COUNT 2 – ALGERNON TOOLE

53. The stipulated facts regarding Count 2 are contained in paragraphs 29-59 of the stipulation which the panel unanimously adopts and incorporates into these Findings of Fact.

54. On September 15, 2004, Algernon Toole was stopped by the Willoughby Hills police for a suspected traffic violation.

55. During the traffic stop, the police officer seized cash and other personal property from Toole's person and the car that he was driving.

56. In mid-October 2004, Toole hired Respondent to recover the seized funds from the Willoughby Hills Police Department.

57. At engagement, Toole agreed to pay Respondent a \$750 flat fee and 30% of any funds recovered.

58. On or about October 25, 2004, at Respondent's request, Attorney Donald Butler agreed to act as co-counsel in Toole's case for a portion of the attorney fees.

59. Respondent and Attorney Butler were never members of the same firm.

60. Toole did not consent to Attorney Butler's role as counsel or to a fee division between Respondent and Attorney Butler.

61. Toole received nothing in writing concerning Attorney Butler's responsibilities in the case or his fees.

62. Respondent disclosed Toole's confidential information to Attorney Butler regarding Toole's case.

63. On October 31, 2004, Toole executed a Special and Limited Power of Attorney authorizing Respondent alone to seek the return of \$55,000 seized by the Willoughby Hills Police Department. The Special and Limited Power of Attorney was prepared by Respondent.

64. Although Toole was later told that Attorney Butler was assisting with the deposition of the police officer who initiated the traffic stop, Toole received nothing in writing concerning Attorney Butler's responsibilities in the case or his fees.

65. On March 24, 2005, the municipal court denied Toole's motion to release the seized property and Respondent informed Toole of the court's decision.

66. In a letter dated March 28, 2005, Toole advised Attorney Butler that Toole no longer wanted Attorney Butler's assistance in the case.

67. In response, on March 30, 2005, Attorney Butler advised Toole and Attorney Thomas Lobe, counsel for the Willoughby Hills Police Department, that Toole owed Attorney Butler \$5,000 in attorney's fees and that he had a lien against any money Toole received in the case.

68. Shortly after the municipal court's decision, Toole informed Respondent that he wanted to appeal, and Respondent filed a notice of appeal in the Eleventh District Court of Appeals.

69. About this time, at Respondent's request, Attorney Rita Johnson agreed to act as co-counsel in Toole's appeal for a portion of the attorney fees.

70. Respondent and Attorney Johnson were never members of the same firm.

71. Respondent did not disclose to Toole that Attorney Johnson was acting as lead counsel in the appellate court nor the terms of any fee divisions with Attorney Johnson.

72. Respondent disclosed Toole's confidential information to Attorney Johnson and continued to do so for the remainder of the representation.

73. On June 28, 2005, Respondent and Attorney Johnson filed an appellate brief on Toole's behalf.

74. On May 30, 2006, the court of appeals denied Toole's appeal and affirmed the municipal court's decision.

75. On September 14, 2005, while Toole's appeal was still pending, Respondent and Attorney Johnson filed a civil rights lawsuit on Toole's behalf alleging racial discrimination in the U. S. District Court for the Northern District of Ohio under Case No. 1:05CV2178 against the City of Willoughby Hills, its Mayor, its Police Chief, its police department, Officer Maegele, and Sergeant Jackson.

76. Toole did not give permission for Respondent to file the civil rights lawsuit and did not know that such a case was filed on his behalf.

77. Following the dismissal of Toole's Eleventh District appeal, Respondent settled the civil rights lawsuit for \$2,500.

78. The \$2,500 settlement check was made payable to Respondent, Attorney Butler, Attorney Johnson, and Toole.

79. After receipt of the settlement check in October 2006, Respondent signed Toole's name on the back of the \$2,500 settlement check with a power of attorney authority without Toole's knowledge.

80. On October 4, 2006, Respondent deposited the \$2,500 settlement check into his IOLTA account and simultaneously withdrew \$2,500 in cash.

81. Respondent says that he then distributed the entire \$2,500 proceeds to Attorney Butler as a partial payment for his attorney's fees in connection with the municipal court case.

82. Respondent did not distribute any of the \$2,500 settlement award to Toole.

83. Respondent never sent Toole a closing statement regarding the distribution of the \$2,500 settlement proceeds from the federal civil rights lawsuit.

84. On October 17, 2006, Respondent filed a stipulation to dismiss Toole's civil rights case, and on December 8, 2006, the court granted the dismissal with prejudice.

85. Respondent never sought Toole's permission to stipulate to the dismissal of Toole's civil rights case with prejudice.

86. Respondent never informed Toole of the following: (1) that Respondent had filed the civil rights case on Toole's behalf; (2) that Respondent had settled the civil rights case on Toole's behalf for \$2,500; (3) that Respondent had distributed the entire \$2,500 settlement to Attorney Butler; and (4) that the civil rights case had been dismissed with prejudice.

87. Respondent claims that he did not maintain Toole's files. Rather, Respondent claims that Attorney Butler and Attorney Johnson maintained Toole's files regarding his cases. To date, Mr. Toole has not received his file.

CONCLUSIONS OF LAW REGARDING COUNT 2

88. The Panel concludes that Relator has failed to prove by clear and convincing evidence and dismisses the charges in Count 2 that Respondent's conduct violated DR 1-102(A)(4), DR 1-102(A)(5) and DR 4-101(B)(1).

89. Likewise, the Panel concludes that Relator failed to prove by clear and convincing evidence and dismisses the charges in Count 2 that Respondent's conduct violated Prof. Cond. R. 8.4(c).

90. Based upon the evidence presented and the Stipulations, Respondent's conduct violated DR 2-107(A)(2), by failing to acquire the consent of Toole when agreeing to divide attorney fees with Donald Butler and Rita Johnson for their representation and assistance with Toole's case. Further, Respondent failed to provide Toole in writing the terms of the fee division and identity of the lawyers.

91. Respondent's conduct violated DR 1-102(A)(6) and Prof. Cond. R. 8.4(h), a lawyer shall not engage in conduct adversely reflecting on the lawyer's fitness to practice law.

92. Respondent's conduct violated DR 7-101(A)(3), by failing to acquire Toole's permission to dismiss the federal case with prejudice and to accept a settlement of his case.

93. Respondent's conduct violated DR 9-102(B)(4) and Prof. Cond. R. 1.15(d) by failing to pay or deliver Toole's portion of the fees received from settlement of the federal lawsuit. Respondent failed to inform Toole that the case settled. Respondent never provided Toole with any accounting of the funds Respondent received.

FINDINGS OF FACT REGARDING COUNT 3
FALSE STATEMENTS IN DISCIPLINARY MATTER

94. The stipulated facts regarding Count 3 are contained in paragraph 60 of the stipulation which the panel unanimously adopts and incorporates into these Findings of Fact.

95. During the course of Relator's investigation of these matters, Respondent made inconsistent statements of material fact.

- a. At his February 12, 2009 deposition, concerning his December 23, 2007 contact with the FBI at the airport on Robinson's behalf, Respondent testified that he "ended up getting to the airport, talking to the FBI, convinced them not to charge [Robinson]." However, at his October 8, 2009 deposition, Respondent testified that "[he] turned around before [he] actually reached the airport" because "before [he] could get to the airport, they [the FBI] had released [Robinson] and started taking him to Cleveland."
- b. During the hearing, Respondent testified that he went to the airport and then states he did not. (Tr. 33, 37)
- c. At his February 12, 2009 deposition, Respondent indicated that either Attorney Butler or Attorney Johnson signed Toole's name on the back of the \$2,500 settlement check. However, in his September 25, 2009 response to Relator's interrogatories, Respondent admitted that he had signed Toole's name on the back of the \$2,500 settlement check.
- d. During the hearing, Respondent testified that only he signed the settlement check, even though the check is made out to himself, Donald Butler, Rita Johnson, and Mr. Toole. (Tr. 83)
- e. Concerning the distribution of the \$2,500 settlement proceeds in the Toole federal case:

- (1) In his September 23, 2009 response to Relator's interrogatories, Respondent stated that he had "no direct knowledge as to how and to whom the \$2,500 settlement funds were distributed."
- (2) However, in this December 8, 2008 written response to Relator's inquiry regarding the distribution of the \$2,500, Respondent stated that Toole "authorized the payment to Attorney Butler for the settled amount [\$2,500]." And at his October 8, 2009 deposition, Respondent testified that he cashed the \$2,500 settlement check and presented the entire amount to Attorney Butler at Attorney Butler's office in the presence of Attorney Johnson.
- (3) During the hearing, Respondent testified he gave the entire amount to Attorney Butler.

96. Of the \$2,500 that was received in the Toole settlement, Attorney Butler only received \$600 in cash. (Tr. 284)

CONCLUSIONS OF LAW REGARDING COUNT 3

97. Respondent's conduct in presenting false and inconsistent statements in a disciplinary matter violates Prof. Cond. R. 8.1(a) and Gov. Bar R. V (4)(G).

RECOMMENDED SANCTION

98. The panel reviewed the guidelines for imposing lawyer sanctions and made the following findings:

99. Aggravating factors set forth in BCGD Proc. Reg. 10(B)(1):
 - a. multiple offenses.

b. submission of false and inconsistent statements during the disciplinary process.

100. Mitigating factors set forth in BCGD Proc. Reg. 10(B)(2):

- a. Respondent has no prior disciplinary record.
- b. Respondent has a good reputation within the community.
- c. Respondent has entered into a payment plan for re-payment of the excessive fee to Robinson.

101. Relator requests that Respondent be suspended from the practice of law for a period of two (2) years with six (6) months stayed which would equate to an actual suspension of 18 months contingent upon Respondent paying full restitution to Robinson.

102. Respondent requests a two-year suspension with the suspension stayed and a period of probation, and suggests Respondent engage in law practice management classes and a mentoring program.

103. In its decision in *Cleveland Bar Assn. v. Mishler*, 118 Ohio St.3d 109, 2008-Ohio-1810, the Court issued a two-year suspension of the respondent's license to practice, the second year of which was stayed provided respondent complied with the conditions of his rehabilitation and his client's restitution and ordered a one-year probation period upon reinstatement.

104. In *Mishler*, the respondent's conduct included accepting a settlement offer without his client's knowledge, obtaining settlement proceeds with forged client endorsements, charging excessive fees, and failing to account for client funds.

105. In the instant case as to Count 1, the Panel finds that Respondent charged an excessive fee for the representation of Robinson, and that Respondent failed to promptly refund the unearned attorney fees that he received from Robinson.

106. As to Count 2, the panel finds that Respondent failed to acquire the consent of Toole when agreeing to divide attorney fees with other attorneys, failed to provide in writing the terms of the fee division and the identity of the lawyers, failed to acquire Toole's consent in settling his lawsuit, failed to account for client funds in terms of the disbursement of the \$2,500 received in settlement of Toole's case, and failed to acquire Toole's permission to dismiss the federal case with prejudice.

107. As to Count 3, the panel finds that Respondent provided false and inconsistent statements both in his deposition taken regarding this disciplinary matter and during the hearing.

108. Respondent has entered into a payment arrangement with Robinson to return a portion of the fees he charged to Robinson.

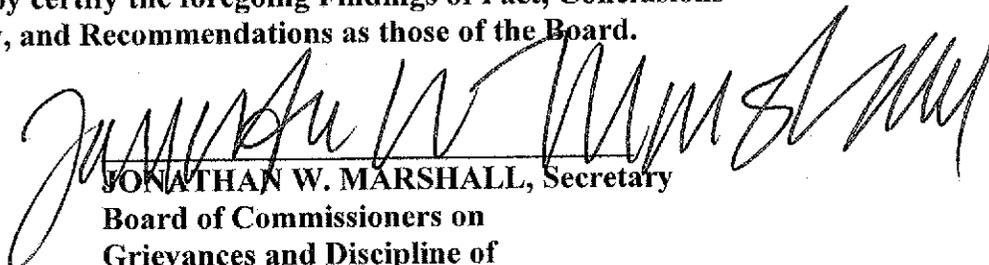
109. Based upon the panel's Findings of Fact and Conclusions of Law and the aggravating and mitigating factors established by the evidence, the panel recommends Respondent receive a two-year suspension of his license to practice, the second year of which will be stayed provided Respondent complies with the payment plan entered into between Robinson and him and Respondent further receives CLE education as to the management of a law office.

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 April 9, 2010. The Board adopted the Findings of Fact of the Panel. The Board adopted the Conclusions of Law of the Panel with the exception that it found a violation of DR 1-102(A)(4) in Count Two based on Respondent's conduct set forth in paragraphs 79 and 85. It recommends, based on his dishonest and selfish conduct, including his inconsistent and false statements during the disciplinary

investigation and hearing, that Respondent, Stanley Jackson, Jr., be suspended for a period of two years from the practice of law in the State of Ohio. 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 Recommendations as those of the Board.


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

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

Stanley Jackson, Esq. :
The Law Office of Stanley Jackson, Jr. :
75 Public Square, Suite 1414 :
Cleveland, OH 44113 :
Atty. Reg. No.: 0077011 :

Respondent, :

**AGREED
STIPULATIONS AND
CONTESTED MATERIAL
BOARD NO. 09-042**

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

Relator. :

Relator, Disciplinary Counsel, and respondent, Stanley Jackson, do hereby stipulate to the admission of certain facts, violations, mitigating factors, and exhibits. The parties also identify certain facts and violations that are contested.

STIPULATED FACTS

1. Respondent, Stanley Jackson, was admitted to the practice of law in the State of Ohio on November 10, 2003. Respondent is subject to the Code of Professional Responsibility, the Rules of Professional Conduct and the Rules for the Government of the Bar of Ohio.



COUNT 1 – JASIEL ROBINSON

2. On Sunday, December 23, 2007, Jasiel Robinson, a rap entertainer professionally known as “Yung Joc,” was detained while going through security at the Cleveland, Ohio Airport and was thereafter transferred to the Cleveland City Jail.
3. Robinson was taken into custody for allegedly carrying a handgun in his carry-on bag.
4. While in custody, Robinson contacted his then business manager, Rico Brooks, who in turn contacted Robinson’s wife, Alexandria Robinson, in Atlanta, Georgia and explained Robinson’s situation.
5. After Brooks’s call, Robinson’s wife contacted Robinson’s entertainment attorney, Nova Perry, who suggested that Robinson’s wife contact respondent, a Cleveland attorney.
6. Robinson’s wife and Robinson’s sister, Ebony Smith, immediately contacted respondent by phone and explained Robinson’s situation.
7. Later that Sunday morning, respondent met with Robinson at the jail.
8. During this meeting, respondent told Robinson that his fee was \$30,000.
9. Robinson spent the night in jail.
10. The next day, Monday, December 24, 2007, a criminal complaint was filed in the Cleveland Municipal Court charging Robinson with Carrying a Concealed Weapon, a 4th degree felony.
11. That morning, respondent contacted Judge Patton, through his bailiff, and arranged for Robinson’s release on a \$50,000 bond, and Robinson’s arraignment was scheduled for December 26, 2007, in the Cleveland Municipal Court before Judge Ryan.
12. Later that Monday, Robinson returned home to Atlanta, Georgia.

13. Also that Monday, respondent received two money wires from Robinson's wife in the amounts of \$15,000 and \$5,000 for attorney's fees.
14. The day before, respondent had received \$5,000 from Brooks for Robinson's representation, and as a result, respondent received a total of \$25,000 in attorney's fees.
15. On Wednesday morning, December 26, 2007, respondent appeared at Robinson's arraignment and advised Judge Ryan that Robinson was unable to attend due to family and financial obligations.
16. Judge Ryan ordered the forfeiture of Robinson's bond and issued an arrest warrant requiring his appearance in court.
17. After speaking to respondent, Robinson immediately returned to Cleveland and appeared with respondent before Judge Ryan that afternoon, December 26, 2007.
18. During the second hearing that afternoon, Judge Ryan reinstated the \$50,000 bond and set a preliminary hearing for January 25, 2008.
19. That evening, Robinson returned to Atlanta, Georgia to await his January 25, 2008 hearing.
20. On January 7, 2008, while Robinson's criminal case was still pending, Robinson, through Attorney Joshua Millican, sent a letter by fax and overnight mail to respondent terminating his legal services.
21. Robinson's termination letter requested that respondent refund \$22,000 of the \$25,000 that respondent received.
22. Respondent did not respond to the January 7, 2008 letter.
23. Robinson, again through Attorney Millican, made additional requests for a refund by letters dated January 11 and 18, 2008.

24. Respondent neither responded to Robinson's requests nor refunded any portion of his fee.
25. On January 16, 2008, after Jackson's termination, Robinson appeared in the Cuyahoga County Common Pleas Court with his new attorneys, William T. McGinty and Henry J. Hilow, and pled not guilty to the indictment charging him with Carrying a Concealed Weapon.
26. Over the next year, Robinson's criminal case proceeded in the Cuyahoga County Common Pleas Court under Case No. 2007CR505353 and was terminated on February 10, 2009, when Robinson satisfied the conditions of the Cuyahoga County pretrial diversion program.
27. In total, respondent's representation of Robinson lasted only sixteen days.
28. Respondent claimed that he earned the \$30,000 flat fee by completing the following services: 1) making sure that Robinson's "bond wasn't excessive," 2) obtaining Robinson's release, 3) "negotiating with the feds to make sure that [Robinson didn't] have a federal case," and 4) having the matter transferred to the City of Cleveland.

COUNT 2 – ALGERNON TOOLE

29. On September 15, 2004, Algernon Toole was stopped by the Willoughby Hills police for a suspected traffic violation.
30. During the traffic stop, the police officer seized cash and other personal property from Toole's person and the car that he was driving.
31. In mid October 2004, Toole hired respondent to recover the seized funds from the Willoughby Hills police.
32. At engagement, Toole agreed to pay respondent a \$750 flat fee and 30% of any funds recovered.

33. On or about October 25, 2004, at respondent's request, Attorney Donald Butler agreed to act as co-counsel in Toole's case for a portion of the attorney's fees.
34. Respondent and Attorney Butler were never members of the same firm.
35. Respondent disclosed Toole's confidential information to Attorney Butler regarding Toole's case.
36. On October 31, 2004, Toole executed a "Special and Limited Power of Attorney" authorizing respondent alone to seek the return of \$55,000 seized by the Willoughby Hills Police Department. The "Special and Limited Power of Attorney" was prepared by respondent.
37. On November 1, 2004, respondent and Attorney Butler filed a motion for expedited release of seized property on Toole's behalf in the Willoughby Municipal Court.
38. Although Toole was later told that Attorney Butler was assisting with the deposition of the police officer who initiated the traffic stop, Toole received nothing in writing concerning Attorney Butler's responsibilities in the case or his fees.
39. On March 24, 2004, the municipal court denied Toole's motion to release seized property and respondent informed Toole of the court's decision.
40. In a letter dated March 28, 2005, Toole advised Attorney Butler that Toole no longer wanted Attorney Butler's assistance in his case.
41. In response, on March 30, 2005, Attorney Butler advised Toole and Attorney Thomas Lobe, counsel for the Willoughby Hills police department, that Toole owed Attorney Butler \$5,000 in attorney's fees and that he had a lien against any money Toole received in the case.

42. Shortly after the municipal court's decision, Toole informed respondent that he wanted to appeal and respondent filed a notice of appeal in the Eleventh District Court of Appeals.
43. About this time, at respondent's request, Attorney Rita Johnson agreed to act as co-counsel in Toole's appeal for a portion of the attorney's fees.
44. Respondent and Attorney Johnson were never members of the same firm.
45. Thereafter, respondent disclosed Toole's confidential information to Attorney Johnson and continued to do so for the remainder of the representation.
46. On June 28, 2005, respondent and Attorney Johnson filed an appellate brief on Toole's behalf.
47. On May 30, 2006, the court of appeals overruled Toole's appeal and affirmed the municipal court's decision.
48. On September 14, 2005, while Toole's appeal was still pending, respondent and Attorney Johnson filed a civil rights lawsuit on Toole's behalf alleging racial discrimination in the USDC for the Northern District of Ohio under case no. 1:05CV2178 against the City of Willoughby Hills, its Mayor, its Police Chief, its police department, Officer Maegele and Sergeant Jackson.
49. Following the dismissal of Toole's Eleven District appeal, respondent settled the civil rights lawsuit for \$2,500.
50. The \$2,500 settlement check was made payable to respondent, Attorney Butler, Attorney Johnson, and Toole.
51. After the receipt of the settlement check in October of 2006, respondent signed Toole's name on the back of the \$2,500 settlement check without Toole's knowledge.

52. On October 4, 2006, respondent deposited the \$2,500 settlement check into his IOLTA account and simultaneously withdrew \$2,500 in cash.
53. Respondent alleges that he then distributed the entire \$2,500 proceeds to Attorney Butler as a partial payment for his attorney's fees in connection with the municipal court case.
54. Respondent did not distribute any of \$2,500 settlement award to Toole.
55. Respondent never sent Toole a closing statement regarding the distribution of the \$2,500 settlement proceeds from the federal civil rights lawsuit.
56. On October 17, 2006, respondent filed a stipulation to dismiss Toole's civil rights case with prejudice, and on December 8, 2006, the court granted the dismissal with prejudice.
57. Respondent never sought Toole's permission to stipulate to the dismissal of Toole's civil rights case with prejudice.
58. Respondent never informed Toole of the following: 1) that respondent had settled the civil rights case on Toole's behalf for \$2,500, 2) that respondent had distributed the entire \$2,500 settlement to Attorney Butler, and 3) that the civil rights case had been dismissed with prejudice.
59. Respondent claims that he did not maintain Toole's files. Rather, respondent claims that Attorney Butler and Attorney Johnson maintained Toole's files regarding his cases.

COUNT 3 – FALSE STATEMENTS IN DISCIPLINARY MATTER

60. During the course of relator's investigation of these matters, respondent made the following statements of material facts.
 - a. At his February 12, 2009 deposition, concerning his December 23, 2007 contact with the FBI at the airport on Robinson's behalf, respondent testified that he "ended up getting to the airport, talking to the FBI, convinced them not to charge

[Robinson].” However, at his October 8, 2009 deposition, respondent testified that “[he] turned around before [he] actually reached the airport” because “before [he] could get to the airport, they [the FBI] had released [Robinson] and started taking him to Cleveland.”

- b. At his February 12, 2009 deposition, respondent indicated that either Attorney Butler or Attorney Johnson signed Toole’s name on the back of the \$2,500 settlement check. However, in his September 25, 2009 response to relator’s interrogatories, respondent admitted that he had signed Toole’s name on the back of the \$2,500 settlement check.
- c. Concerning the distribution of the \$2,500 settlement proceeds in the Toole federal case:
 - 1) In his September 25, 2009 response to relator’s interrogatories, respondent stated that he had “no direct knowledge as to how and to whom the \$2,500 settlement funds were distributed.”
 - 2) However, in his December 8, 2008 written response to relator’s inquiry regarding the distribution of the \$2,500, respondent stated that Toole “authorized the payment to Attorney Butler for the settled amount [\$2,500].” And at his October 8, 2009 deposition, respondent testified that he cashed the \$2,500 settlement check and presented the entire amount to Attorney Butler at Attorney Butler’s office in the presence of Attorney Johnson.

CONTESTED FACTS

COUNT 1 – JASIEL ROBINSON

61. During this initial conversation with Robinson's wife and his sister on Sunday, December 23, 2007, respondent made the following misrepresentations:
 - a. he would have Robinson out of jail within the next few hours,
 - b. he would have Robinson's case dismissed by the following week, and
 - c. he would achieve these results due to his relationship with the judge.
62. In a follow-up phone conversation that Sunday morning, respondent told Robinson's wife that he was on his way to the judge's home.
63. Later that morning, respondent called Robinson's wife and his sister and told them that he was on his way to visit Robinson in the Cleveland City Jail and that he would handle Robinson's criminal matter for a \$30,000 flat fee.
64. When Robinson's wife and his sister questioned the \$30,000 fee, respondent repeated his assurances that he would have Robinson out of jail within hours and have the case dismissed within a week.
65. During this and the following conversations that Sunday, respondent insisted that Robinson's wife wire the entire \$30,000 to him that same day.
66. Also during these conversations and those over the next two days, Robinson's wife and his sister asked respondent to provide a written fee agreement explaining his fee and the legal services to be provided.
67. In response to the requests for a written fee agreement, respondent promised to send a written agreement to Robinson's wife. However, respondent never sent Robinson or his family a written fee agreement.

68. During his Sunday, December 23, 2007 meeting with Robinson at the jail, respondent misrepresented to Robinson that respondent would resolve Robinson's criminal charges within the week, advised Robinson that he would not have to appear at the arraignment, and told Robinson that respondent would appear for Robinson.
69. After he met with respondent that Sunday morning, Robinson spoke with his wife and sister by phone concerning respondent's representation.
70. During this conversation with his wife and sister, Robinson expressed his reluctance to pay respondent \$30,000 but ultimately agreed that day to hire respondent based on respondent's promises to resolve the matter quickly.
71. Despite respondent's promise of a release that Sunday, Robinson spent the night in jail.
72. Upon Robinson's release the next morning, respondent again advised Robinson that he did not have to appear at the December 26, 2007 arraignment and that respondent would handle it without him.
73. Respondent's statement to Judge Ryan concerning Robinson's absence at the arraignment the morning of December 26, 2007, was knowingly false because Robinson never told respondent that he could not make the December 26, 2007 arraignment due to family and financial obligations.
74. That December 26, 2007 morning at their home in Atlanta, Georgia, Robinson and his family saw a news story reporting that Robinson had missed his arraignment on felony gun charges and that he was now a fugitive.
75. Throughout his representation, respondent was instructed not to comment to the media about Robinson's case because Robinson wished to minimize publicity.

76. Respondent recognized that this was a “high-profile” case, and contrary to his client’s instruction not to publicize the case, respondent claims that he spent 19 hours talking to the media about Robinson’s case.

COUNT 2 – ALGERNON TOOLE

77. Respondent did not disclose to Toole in writing (1) the terms of the fee division or (2) the identity of Attorney Butler as an attorney who was sharing in the fee.
78. Respondent did not disclose to Toole in writing (1) the terms of the fee division or (2) the identity of Attorney Johnson as an attorney who was sharing in the fee.

COUNT 3 – FALSE STATEMENTS IN DISCIPLINARY MATTER

79. During the course of relator’s investigation of these matters, respondent knowingly made the following false statements of material fact.
- a. Respondent’s October 8, 2009 deposition testimony that he distributed all of the \$2,500 settlement proceeds to Attorney Butler is false because Attorney Butler states that respondent never gave him the entire \$2,500 settlement amount from the Toole case.
 - b. Respondent’s October 8, 2009 deposition testimony that he presented the \$2,500 to Attorney Butler in Attorney Johnson’s presence is false because Attorney Johnson states that “[she] was not present to witness the delivery of any funds to Attorney Butler in the Toole case.”

STIPULATED VIOLATIONS

COUNT 1 – JASIEL ROBINSON

80. Respondent stipulates that his conduct set forth in Count 1 violates the Ohio Rules of Professional Conduct, specifically:

- a) Rule 1.5(a) (charging or collecting a clearly excessive fee); and
- b) Rule 1.16(e) (failing to promptly refund unearned attorney's fee).

CONTESTED VIOLATIONS

COUNT 1 – JASIEL ROBINSON

81. Respondent contests that his conduct set forth in Count 1 violates the Ohio Rules of Professional Conduct, specifically:

- c) Rule 3.3(a)(1) (knowingly making a false statement to the tribunal);
- d) Rule 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation);
- e) Rule 8.4(e) (implying an ability to influence improperly a government official);
and
- f) Rule 8.4(h) (engaging in conduct adversely reflecting on the lawyer's fitness to practice law).

COUNT 2 – ALGERNON TOOLE

82. Respondent contests that his conduct before February 1, 2007, as set forth in Count 2, violates the Code of Professional Responsibility, specifically:

- a) DR 1-102(A)(4) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation);
- b) DR 1-102(A)(5) (engaging in conduct that is prejudicial to the administration of justice);
- c) DR 1-102(A)(6) (engaging in conduct adversely reflecting on the lawyer's fitness to practice law);
- d) DR 2-107(A)(2) (dividing fees with lawyer not in the same firm without prior consent of the client and the terms of the fee division and identity of the lawyers sharing in the fee are disclosed in writing to the client);
- e) DR 4-101(B)(1) (knowingly revealing a confidence or secret of his client);
- f) DR 7-101(A)(3) (prejudicing or damaging his client during the course of the representation); and
- g) DR 9-102(B)(4) (failing to promptly pay or deliver the funds, securities, and other properties in the possession of the lawyer which the client is entitled to receive).

83. Respondent contests that his conduct on and after February 1, 2007, as set forth in Count 2, violates the Ohio Rules of Professional Conduct, specifically:

- a) Rule 1.15(d) (failing to promptly deliver to client any funds that the client is entitled to receive and promptly render a full accounting regarding such funds);
- b) Rule 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation); and
- c) Rule 8.4(h) (engaging in conduct adversely reflecting on the lawyer's fitness to practice law).

COUNT 3 – FALSE STATEMENTS IN DISCIPLINARY MATTER

84. Respondent contests that his conduct as set forth in Count 3 violates the Ohio Rules of Professional Conduct, specifically:

- a) Rule 8.1(a) (knowingly making a false statement of material fact in connection with a disciplinary matter) and
- b) Gov. Bar R. V §4(G) (failing to cooperate with a disciplinary investigation).

STIPULATED MITIGATING FACTORS

85. Relator and respondent stipulate to the following mitigating factor as listed in BCGD Proc. Reg. §10(B)(2):

- a) absence of a prior disciplinary record.

STIPULATED EXHIBITS

- J1. Agreed Stipulations and Contested Material
- J2. Attorney Registration record for respondent
- J3. Transcript of respondent's 2/12/09 and 10/8/09 deposition
- J4. Internet article posted December 24, 2007
- J5. Grievance of Jasiel Robinson with attached Letter dated January 7, 2008 from Attorney Millican re: respondent's termination
- J6. Case Docket Sheet, City of Cleveland v. Robinson, Cleveland Municipal Court, Case No. 2007CRA043801
- J7. Case Docket Sheet, State of Ohio v. Robinson, Cuyahoga County Common Pleas Court, Case No. 2007CR505353
- J8. Letter dated April 7, 2008, re: wire transfers to respondent
- J9. Check #2014 to the Law Office of Stanley Jackson, Jr., for \$5,000
- J10. Transcript of initial December 26, 2007 Arraignment Hearing, City of Cleveland v. Robinson, Cleveland Municipal Court, Case No. 2007CRA043801

- J11. Transcript of continued December 26, 2007 Arraignment Hearing, City of Cleveland v. Robinson, Cleveland Municipal Court, Case No. 2007CRA043801
- J12. Letter dated January 11, 2008 from Attorney Millican re: refund
- J13. Letter dated January 18, 2008 from Attorney Millican re: refund
- J14. Robinson's Invoice prepared on July 31, 2008
- J15. Appellate Decision, In re: Disposition of Evidence Held by the Willoughby Hills Police Department, Eleventh Appellate District, Lake Cty., Ohio, Case No. 2005-L-058 and 059
- J16. Grievance of Algernon Toole
- J17. Special and Limited Power of Attorney by Algernon Toole for respondent
- J18. Letter dated October 25, 2004, from Attorney Donald Butler re: Toole's representation
- J19. Letter dated March 28, 2005, from Toole re: Attorney Butler's termination
- J20. Letter dated March 30, 2005, from Attorney Donald Butler re: \$5,000 fees
- J21. Appellant's Brief, In re: Disposition of Evidence Held by the Willoughby Hills Police Department, Eleventh Appellate District, Lake Cty., Ohio, Case No. 2005-L-058 and 059
- J22. Civil Cover Sheet and Complaint, Toole v. The City of Willoughby Hills, et al., USDC, Northern Dist. of OH, Case No. 1:05CV2178
- J23. Inter-Office Memorandum dated September 18, 2006, re: \$2,500 settlement check
- J24. Response Letter dated December 8, 2008, from respondent
- J25. Dismissal with Prejudice Granted, Toole v. The City of Willoughby Hills, et al., USDC, Northern Dist. of OH, Case No. 1:05CV2178
- J26. Respondent's response to relator's interrogatories directed at respondent

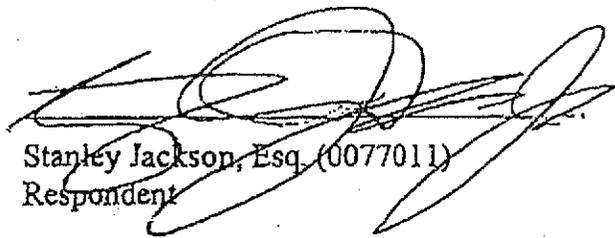
CONCLUSION

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

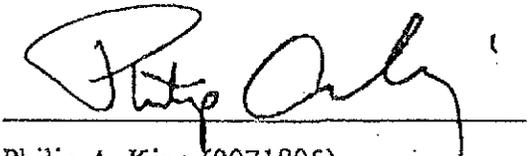
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Disciplinary Counsel
Relator



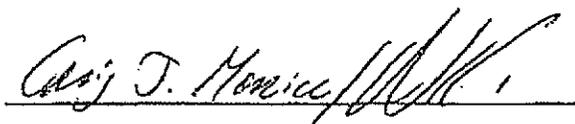
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