

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

10-0805

In Re:	:	
Complaint against	:	Case No. 09-040
Norbert Mark Doellman Attorney Reg. No. 0002122	:	Findings of Fact, Conclusions of Law and Recommendation of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio
<u>Respondent,</u>	:	
Disciplinary Counsel	:	
<u>Relator.</u>	:	

1. This matter was heard on February 1, 2010, before a panel consisting of William J. Novak, Joseph L. Wittenberg, and Lawrence R. Elleman, Chair. None of the panel members was from the district from which the complaint arose or served on the probable cause panel in this matter. Relator was represented by Robert R. Berger and Karen Osmonds. Respondent was represented by George D. Jonson and Brian Spiess.

FINDINGS OF FACT

A. Background Facts

2. At the hearing, Relator offered the Stipulations appended hereto. The panel unanimously adopts Stipulated Facts 1 through 60 as part of the Findings of Fact in this matter. The stipulations were supplemented by thirteen (13) stipulated exhibits, one of which was a collection of four (4) character letters from Respondent's clients and friends attesting to his professional competence, honesty and trustworthiness.

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SUPREME COURT OF OHIO

3. At the time of the conduct leading to the allegations in the Amended Complaint, Respondent was subject to the Ohio Code of Professional Responsibility and the Rules for the Government of the Bar of Ohio.

4. Respondent was admitted to the practice of law in the State of Ohio on November 19, 1976. He practices as a sole practitioner in Butler County, with an emphasis on debt collections. Respondent was hired as the collections attorney for the First National Bank of Southwestern Ohio nka First Financial Bank (First Financial or the Bank) in 1981.

5. In 1981, IOLTA accounts, as such, were not formally required under the Ohio Code of Professional Responsibility. However, First Financial requested that Respondent establish a separate trust account to be used exclusively for the deposit of First Financial collections. From the beginning of Respondent's representation of the Bank through sometime in 2001, Respondent deposited collections from First Financial's debtors in a non-IOLTA business account at First Financial, which was denominated as the Norbert Doellman Trustee Account. Respondent controlled this account. Respondent regularly left his portion of the fees from collection work for First Financial in this account. This business account was also used by Respondent to pay some of his personal bills and expenses unrelated to the practice of law. (Stip. 43-46)

6. For many years, Respondent enjoyed a good relationship with First Financial. His work for the Bank constituted the majority of his legal income. Pursuant to their oral fee arrangement, Respondent was to receive 1/3 of all amounts collected for First Financial with respect to all cases assigned to Respondent. Respondent, provided biweekly reports to the Bank and remitted to the Bank 2/3 of the amounts that were paid to his office. Any amounts with respect to cases assigned to Respondent that were paid directly to First Financial rather than to

Respondent, were reported by First Financial to Respondent and the Bank paid 1/3 of those amounts to Respondent. (Tr. 12-14)

7. Beginning in approximately 1985, Respondent established an IOLTA account at First Financial as required by the Ohio Code of Professional Responsibility. Respondent deposited his clients' funds (other than First Financial) in that account as required. However, Respondent continued to use the First Financial non-IOLTA account with respect to his collection work for First Financial as before. First Financial was aware of the existence of this account at its bank, but First Financial never requested that Respondent utilize a non-IOLTA account for holding collection proceeds. Respondent continued to use this non-IOLTA account for First Financial business because he was not aware at the time that he could have two IOLTA accounts, one for First Financial funds and one for all other client funds. (Tr. 69-70; 115)

8. In mid-2000, a personnel change occurred at First Financial and James Deller was put in charge of the credit control department. First Financial started sending fewer collection cases to Respondent, allegedly because Respondent testified that Deller told him, "you are just not the persona (sic) I want out there representing me." (Tr. 80) According to Respondent's testimony at the hearing, First Financial began to make direct contact with judgment debtors in collection cases handled by Respondent and stopped reporting to Respondent the amounts collected by First Financial directly with respect to judgments or garnishments which Respondent had secured for First Financial. Respondent testified that this deprived him of his 1/3 fee that he felt he had earned and further, that he discussed this matter with Deller who asserted that he was the one in charge and that he could do whatever he wanted. (Tr. 75-80)

9. On March 1, 2001, Respondent's services for First Financial were completely terminated. At that time, Respondent had over 150 collection files for the Bank. The Bank

requested that Respondent provide the client collection files and an accounting to the Bank. Respondent began to work on preparing the files and summaries for the Bank. He included with each summary a statement as to the amount that he felt he had earned as a result of work performed on cases that had not yet been completely collected. Respondent testified that First Financial never gave him his 1/3 share on those collections subsequent to the termination. (Tr. 82) By June 22, 2001, he had produced copies of the files and his summaries with respect to approximately 65 of the 150 collection files.

10. During this same period of time, First Financial was aggressively pursuing collection of certain loans that it had made to Respondent, using collection efforts that Respondent felt was wrongful and unfair. For example, Respondent testified that the Bank repossessed his vehicle, leaving his wife and daughter at dance school at 9:00 p.m. (Tr. 39-40, Ex. 3)

11. In approximately June 2001, Respondent closed his non-IOLTA First Financial business account for debt collections for First Financial. At that time he opened a new account for that purpose at Key Bank. He continued to collect money on cases on which he had worked for First Financial prior to the termination of the First Financial attorney/client relationship. He testified that he changed this account from First Financial to Key Bank in order to prevent First Financial from setting off these funds against amounts that First Financial claimed from Respondent. (Tr. 27-28)

12. Respondent did not notify the various court clerks who were sending out garnishment checks to stop sending them to Respondent. He did not notify individual debtors to stop sending him money. He felt that he was entitled to a share of that money pursuant to his previous oral agreement with the Bank. He felt this was further justified because First Financial

was also receiving checks from debtors (and denying him his 1/3 fee) as to judgments he had obtained or work performed prior to termination of the attorney/client relationship. (Tr. 34-37)

13. From June 2001 through April 2002, Respondent deposited 38 checks for First Financial debt collections in the Key Bank non-IOLTA account. The total amount of these checks was \$2,764.46, of which Respondent was entitled to 1/3. He did not deposit his own personal funds into this account, but did not segregate Key Bank funds from his own 1/3 fee. He made withdrawals from this account from time to time for personal and business expenses. Also, during this period he received a large number of checks in envelopes which he did not even open. (Tr. 98-99) He did not immediately forward the uncashed checks to First Financial. He did not provide First Financial with any notice that he had received the 38 deposited checks or the checks in unopened envelopes, nor did he provide First Financial with an accounting or deposit the checks into an IOLTA account.

B. The Litigation

14. On June 22, 2001, First Financial filed suit against Respondent in the Butler County Court of Common Pleas alleging breach of contract, unjust enrichment, conversion and an action for replevin. Defendant filed an answer and counterclaim on August 27, 2001 (The Litigation). In his answer, Respondent admitted that he possessed files and money regarding cases in which he had represented First Financial, (Ex. 3, ¶ 4) but did not specify the amounts that he had collected or any other details about the money he was collecting. He asserted as an affirmative defense that he had a vested interest in the cases for collection and a lien on money that he had collected from such cases. (Ex. 3, ¶ 7)

15. Respondent relied on advice from another attorney that he had a lien on these funds. Respondent never denied that he was continuing to collect money from account debtors.

Rather, he always assumed that the amounts owed to him by the Bank and the amounts that he owed to the Bank would be sorted out as part of The Litigation. (Tr. 37, 101)

16. During at least the early stages of The Litigation, Respondent was suffering from clinical depression. Respondent sought and received psychiatric treatment beginning in April 2002. (Ex. 4) On March 17, 2003, his treating psychiatrist initiated a psychiatric hospitalization to address his severe depression. According to Respondent's testimony and a letter submitted by his psychiatrist in 2003, Respondent had essentially "shut down." (Ex. 5) He could not organize or motivate himself and often did not even open his correspondence. Evidence of his mental illness was not offered or received in this disciplinary proceeding for the purpose of mitigation, but for the purpose of placing his conduct in The Litigation in proper context.

17. First Financial aggressively pursued The Litigation against Respondent. Respondent's conduct with respect to this litigation was in many respects inadequate and dilatory. He failed to adequately respond to the Bank's written discovery; failed to attend scheduled court hearings; failed to comply with court orders; failed to produce documents and files to the Bank; and failed to appear at his scheduled depositions (Stip. 9-40). However, Relator's Amended Complaint does not assert that any of this conduct constitutes independent violations of the Code of Professional Responsibility.

18. On June 6, 2002, the trial court held a hearing on First Financial's motion for sanctions against Respondent for his failure to comply with the Bank's discovery requests. Respondent never filed a response, and did not attend the hearing. His reason given for the failure to attend was that the court's bailiff had told him "to stay with my family at the hospital where my father was taken into surgery." (Tr. 47)

19. As a result of the June 6, 2002 hearing, the trial court ordered Respondent to turn over all the Bank's files within two days and, among other things, dismissed Respondent's counterclaims, thus precluding Respondent from proving his damage claims against First Financial.

20. Respondent did not produce the files within two days. As a result on June 18, 2002, the trial court issued an order allowing First Financial access to Respondent's office to retrieve the files. Respondent's landlord granted the Bank access to his office without Respondent's knowledge or presence. First Financial seized every file or document that related to First Financial, including the bank statements and records with regard to the Key Bank account that had been established for First Financial's collections. (Tr. 89-90) Therefore, Respondent never saw a calculation as to the amount of First Financial funds that he had deposited into the Key Bank non-IOLTA account until he was shown that by Disciplinary Counsel as part of this disciplinary proceeding. (Tr. 119-120; 126)

21. On February 3, 2003, the trial court conducted a hearing to determine the amount of the monetary sanction to be imposed against Respondent. Respondent failed to appear at this trial. On February 11, 2003, the trial court granted a judgment against Respondent for \$279,292 as a sanction for Respondent's failure to comply with First Financial's discovery requests and prior discovery orders. The amount of this sanction was not an assessment of any misappropriation or violation of the Code of Professional Responsibility by Respondent. (Tr. 110-111; 131-135)

22. In 2006, the Twelfth District Court of Appeals held that the trial court erred in holding the June 6, 2002 hearing in Respondent's absence when the evidence indicated that the court bailiff had excused Respondent's attendance from the hearing. As a result, the matter was

remanded for a new hearing on the motion for sanctions. However, the appellate court held that because Respondent had received notice of the February 3, 2003 trial regarding the amount of the monetary sanction, the trial court need not revisit the monetary amount, should it ultimately determine that Respondent was liable for sanctions. (Ex. 7, page 6)

23. On remand, the trial court issued a judgment against Respondent on the issue of liability and dismissed his counterclaims. The court did not allow any evidence on the issue of the amount of the monetary sanction. On May 17, 2006, the court issued a final judgment against Respondent for \$279,292 and other relief. This judgment was affirmed on appeal. The net result of Respondent's inattention and dilatory conduct in The Litigation was that First Financial obtained a large judgment against Respondent and that he was precluded from proving his counterclaims against First Financial. This included his claims for a 1/3 fee on the debt collections that First Financial allegedly received directly on cases upon which Respondent had worked or obtained judgment or garnishment, and his 1/3 fee on checks contained in the unopened envelopes that he later turned over to the Bank. (Tr. 98-99; 111-112)

C. Other Clients

24. Also during 2001 and 2002, Respondent was engaged in collection efforts for certain other clients. According to Respondent, he chose to deposit the funds belonging to those clients in his Key Bank non-IOLTA account rather than his IOLTA account at First Financial so as to protect those funds from seizure by First Financial.

D. Facts Specific to Count I of the Complaint

25. Count I relates to Respondent's failure to deposit First Financial funds in an IOLTA account between 1985 and March 2001. The specific stipulated facts supporting Count I are set forth at Paragraphs 43 through 46 of the Stipulations.

26. No evidence was introduced suggesting that Respondent misappropriated client funds as a result of the violations set forth in Count I.

E. Facts Specific to Count II of the Complaint

27. Count II of the complaint relates to Respondent's misconduct regarding First Financial funds after First Financial's termination of the attorney-client relationship with him in March 2001. Respondent received 38 debt payment checks from debtors and clerks of court pursuant to several garnishment or collection actions that Respondent had undertaken on behalf of First Financial. These checks were deposited in the Key Bank non-IOLTA account from June 2001 through April 2002.

28. The specific stipulated facts supporting Count II of the Complaint are contained in Paragraphs 47 through 56 of the Stipulations.

29. Pursuant to their fee agreement, Respondent owes \$1,842.97 to the First Financial with respect to these 38 checks. Respondent has agreed to pay this amount to First Financial as restitution.

F. Facts Specific to Count III of the Complaint

30. Count III of the complaint relates to Respondent's deposit of funds collected for clients other than First Financial during 2001 and 2002 in his non-IOLTA Key Bank account. Specific stipulated facts supporting Count III are set forth in Paragraphs 57 to 60.

31. There is no evidence that any of these other clients were damaged as a result of the violations.

G. Current Situation

32. Respondent is currently receiving Social Security disability payments. He continues to practice law on a very limited basis. He does collection work, basic research and assists people in dealing with simple foreclosures.

33. Respondent remains under the care of a psychiatrist. His current diagnosis is Major Depression Recurrent and Generalized Anxiety Disorder. He continues to find it difficult to complete difficult tasks, but is able to carry out simple tasks and gains satisfaction from doing so. (Ex. 11)

34. On November 2, 2009, Respondent signed a four year contract with OLAP. (Ex. 10)

35. Since Respondent did not have possession of the records regarding the Key Bank account, he did not have actual knowledge of the amount of restitution required until Disciplinary Counsel supplied him with a calculation as part of this proceeding. On January 28, 2010, Respondent promised in writing to pay First Financial the sum of \$1,842.97 in twelve monthly payments as restitution. On that date, he paid the first installment of \$192.97. (Ex. 12)

36. On March 11, 2008, Respondent filed a Chapter 7 bankruptcy seeking to discharge various debts including the \$279,292 judgment for sanctions granted to First Financial. First Financial is currently contesting the dischargeability of that debt based on Respondent's alleged fraud. This matter is still pending. The discharge, if any, will not include the promise to make restitution referenced in paragraph 35 above.

CONCLUSIONS OF LAW

A. Violations Resulting from Respondent's Conduct in Count I

37. The panel concludes that Relator has proven by clear and convincing evidence that Respondent's conduct described in Count I violated DR 1-102(A)(6) (a lawyer shall not engage in conduct that adversely reflects upon his fitness to practice law; and DR 9-102(A) (all funds paid to a lawyer or a law firm, other than advances for costs and expenses, shall be deposited in one or more identifiable bank accounts and no funds belonging to the lawyer or law firm shall be deposited therein)), as stipulated by the parties in Paragraph 61 of the Stipulations.

38. However, the panel concludes that Relator has failed to prove by clear and convincing evidence the disputed claim that Relator's conduct set forth in Count I violated DR 1-102(A)(5) (a lawyer shall not engage in conduct that is prejudicial to the administration of justice) because there was no proof of injury to the client and Respondent did not interfere with the administration of justice with regard to the conduct described in Count I. The panel therefore recommends dismissal of this claimed violation.

B. Violations Resulting from Respondent's Conduct in Count II

39. The panel concludes that Relator has proven by clear and convincing evidence that Respondent's conduct described in Count II violated DR 1-102(A)(6) (a lawyer shall not engage in conduct that adversely reflects upon the lawyer's fitness to practice law); DR 9-102(A) (all funds of clients paid to a lawyer or law firm, other than advances for costs and expenses, shall be deposited in one or more identifiable bank accounts and no funds belonging to the lawyer or law firm shall be deposited therein); DR 9-102(B)(3) (a lawyer shall maintain complete records of all funds, securities or other properties of a client coming into the possession of the lawyer and render appropriate accounting to his client regarding them); and DR 9-

102(B)(4) (a lawyer shall promptly pay or deliver to the client as requested by the client the funds, securities or other properties in possession of the lawyer which the client is entitled), as stipulated in Paragraph 62 of the Stipulations.

40. The panel concludes that Relator has also proven by clear and convincing evidence the disputed claim that Respondent's conduct described in Count II violated DR 1-102(A)(5) (a lawyer shall not engage in conduct that is prejudicial to the administration of justice) because of his failure to maintain complete records of all funds of First Financial that came into his possession, and because his conduct in The Litigation delayed the determination of the amount owed to the Bank and therefore interfered with the administration of justice.

41. The panel concludes that Relator has also proven by clear and convincing evidence the disputed claim that Respondent's conduct described in Count II violated DR 9-102(B)(1) (a lawyer shall promptly notify a client of the receipt of his funds) because he failed to provide First Financial with timely notice of the specific checks that he deposited in the Key Bank account or that remained in the unopened envelopes.

42. However, the panel concludes that Relator has failed to prove by clear and convincing evidence the disputed claim that Relator's conduct in Count II violated DR 1-102(A)(4) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation) because Respondent, pursuant to advice which he received from another attorney, in his answer filed in The Litigation, disclosed that he was holding funds as to which he claimed a lien. Respondent intended that the amount owed by him to the Bank and the amount that the Bank owed to him would be sorted out as part of The Litigation. The panel therefore recommends dismissal of this claimed violation.

C. Violations Resulting from Respondent's Conduct in Count III

43. The panel concludes that Relator has proven by clear and convincing evidence that Respondent's conduct described in Count III violated DR 1-102(A)(6) (a lawyer shall not engage in conduct that adversely reflects upon his fitness to practice law); and DR 9-102(A) (all funds of clients paid to a lawyer or law firm, other than advances and for costs and expenses, shall be deposited in one or more identifiable bank accounts and no funds belonging to a lawyer or the law firm shall be deposited therein), as stipulated by the parties in Paragraph 63 of the Stipulations.

44. However, the panel concludes that Relator has failed to prove by clear and convincing evidence the disputed claim that Relator's conduct set forth in Count III violated DR 1-102(A)(5) (a lawyer shall not engage in conduct that is prejudicial to the administration of justice) because there is no proof of injury to the other clients and Respondent did not interfere with the administration of justice with regard to the conduct described in Count III. The panel therefore recommends dismissal of this claimed violation.

AGGRAVATING AND MITIGATING FACTORS

45. The panel finds as an aggravating factor that Respondent committed multiple violations.

46. The panel finds the following mitigating factors set forth in BCGD Proc. Reg. 10(B)(2):

- a. Respondent has no prior disciplinary record;
- b. Respondent has made full and free disclosure of his conduct and has exhibited a cooperative attitude toward these proceedings;
- c. Respondent has a good reputation among friends and clients;

- d. Respondent has already been sanctioned for his conduct relating to The Litigation;
- e. Respondent has promised to make restitution to First Financial.

RECOMMENDED SANCTION

47. Relator recommends a sanction of a 24 month suspension from the practice of law with 12 months stayed on condition that he pay the \$1,842.97 restitution obligation with interest; that during the stayed suspension he have a monitor to assist and oversee his legal practice; and that he be ordered to fulfill his four year OLAP contract and abide by the recommendations of OLAP and his current mental health professionals.

48. Respondent recommends a suspension from the practice of law for six months or 12 months with the entire suspension stayed on conditions similar to those proposed by Relator.

49. Relator cites *Disciplinary Counsel v. Wolanin*, 121 Ohio St.3d 390, 2009-Ohio-1393 (indefinite suspension); *Cuyahoga Cty. Bar Assn. v. Maybaum*, 112 Ohio St.3d 93, 2006-Ohio-6507 (indefinite suspension); and *Disciplinary Counsel v. Claflin*, 107 Ohio St.3d 31, 2005-Ohio-5827 (two year suspension with one year stayed). The panel finds these cases not to be persuasive for this matter. The attorney misconduct in each of these cases was more egregious than Respondent's misconduct. In each of the cases there was a finding of dishonesty, fraud, deceit, or misrepresentation (which is not present in the instant case) and other serious violations or aggravating factors, including failure to fully participate in and demonstrating a dismissive attitude for the disciplinary process; lack of sincerity in the disciplinary hearing; client vulnerability; lack of remorse and/or a prior disciplinary record.

50. Respondent cites as authority for a lesser sanction the cases of *Disciplinary Counsel v. Croushore*, 108 Ohio St.3d 156, 2006-Ohio-412 (one-year suspension all

conditionally stayed, and a two-year probation) and *Disciplinary Counsel v. Fletcher*, 122 Ohio St.3d 390, 2009-Ohio-3480 (six-month suspension all conditionally stayed, and a one-year probation). These cases involved mishandling of the attorney's IOLTA account in various respects. *Fletcher* also involved an attorney who gave financial aid to a client in violation of the Code of Professional Responsibility. In neither of the cases was there evidence of monetary harm to clients, whereas in the instant case, Respondent was found to owe \$1,842.97 to First Financial, which Respondent has agreed to pay as restitution.

51. Respondent made a deliberate decision to withhold client funds from the client in a non-IOLTA account controlled by him because he believed the client was also withholding funds from him. His decision was wrong. However, the panel recommends that his mindset at the time be taken into consideration, *i.e.* that he disclosed that he was holding funds and intended that the money he owed the Bank and the money the Bank owed him would be sorted out as part of The Litigation.

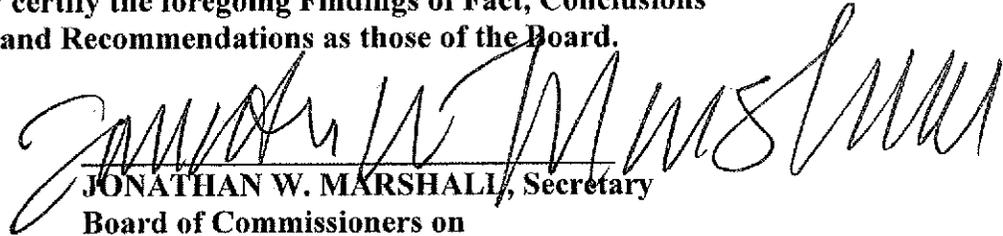
52. The primary purpose of disciplinary sanctions is not to punish the offender but to protect the public. See, e.g., *Disciplinary Counsel v. O'Neill*, 103 Ohio St.3d 204, 2004-Ohio-4704. The Supreme Court has in other cases taken into account that the Respondent is not likely to ever repeat his transgressions. See, e.g., *Stark County Bar Assn. v. Ake*, 111 Ohio St.3d 266, 2006-Ohio-5704. The panel in this case believes that Respondent will not repeat his transgressions. Given the mitigating factors in this case, including no prior disciplinary record, full and complete disclosure in the disciplinary process, cooperative attitude during the proceedings, and the promise to make restitution, the panel recommends that Respondent be sanctioned as follows: One year suspension from the practice of law, all of it stayed on the condition that Respondent make restitution to First Financial in the amount of \$1,842.97 in

twelve monthly payments plus 5% interest from January 28, 2010; that a monitor be appointed to oversee his legal practice and the management of his IOLTA account during the period of the stayed suspension; and that Respondent comply with the recommendations of OLAP pursuant to his current contract and the recommendations of his current mental health professionals.

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, Conclusions of Law and Recommendation of the Panel and recommends that Respondent, Norbert Mark Doellman, be suspended from the practice of law in the State of Ohio for one year with the entire year stayed upon the conditions contained in the panel report. The Board further recommends that the cost of these proceedings be taxed to Respondent in any disciplinary order entered, so that execution may issue.

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

NORBERT MARK DOELLMAN
P.O. Box 475
Hamilton, OH 45012
Atty. Reg. No.: (0002122)

FILED

JAN 25 2010

**BOARD OF COMMISSIONERS
ON GRIEVANCES & DISCIPLINE**

**AGREED
STIPULATIONS
BOARD NO. 09-040**

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

AGREED STIPULATIONS

Relator, Disciplinary Counsel, and respondent, Norbert Mark Doellman, do hereby stipulate to the admission of the following facts, violations, mitigation and exhibits.

STIPULATED FACTS

1. Respondent, Norbert Mark Doellman, was admitted to the practice of law in the State of Ohio on November 19, 1976. 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 was hired as the collections attorney for First National Bank of Southwestern Ohio nka First Financial Bank in 1981.

JOINT EXHIBIT 14

3. During the time that respondent represented First Financial Bank, he performed collection-related legal services.
4. Respondent and First Financial agreed that Respondent was to be paid a one-third contingency fee for his collections work.
5. In March 2001, respondent's services were terminated by First Financial Bank. At this time, respondent had over 150 collection files for the bank.
6. At the time of his termination, First Financial Bank requested that respondent provide the client collection files and an accounting to the bank. Despite repeated requests, respondent failed to return all files, provide a complete accounting or turn over all funds received on behalf of the bank.
7. On June 22, 2001, First Financial Bank filed suit against respondent in the Butler County Common Pleas Court alleging breach of contract, unjust enrichment, conversion and an action for replevin. *First National Bank of Southwestern Ohio v. Doellman*, Case No. CV 2001-06-1399 (Exhibit 2).
8. Respondent filed an answer and counterclaim on August 27, 2001. (Exhibit 3). In that counterclaim, Respondent alleged that he was owed in excess of \$100,000 for unpaid legal fees.

9. On September 26, 2001 First Financial Bank mailed respondent 10 interrogatories and 18 requests for the production of documents. Respondent failed to provide a response to these discovery requests.
10. On November 21, 2001 First Financial Bank mailed respondent the interrogatories and request for the production of documents a second time.
11. In response to the prior discovery requests, in January 2002, Respondent provided 40 files and some tax returns to First Financial Bank.
12. On February 21, 2002, respondent filed a motion for a protective order. In response, on March 11, 2002, First Financial Bank filed a motion to compel respondent to comply with their prior discovery requests.
13. The trial court held a hearing on First Financial Bank's motion to compel and respondent's motion for a protective order on April 18, 2002. Respondent did not attend this court hearing.
14. Respondent wrote a three-page letter to Judge Sage two days before the April 18, 2002, hearing. In the letter (Exhibit 4) he explains that he cannot attend the hearing because of an appointment to address his mental illness.

15. On April 22, 2002 the trial court granted First Financial Bank's motion to compel and ordered respondent to immediately produce the requested documents and respond to the bank's written discovery requests. The court further denied respondent's motion for a protective order.
16. On April 26, 2002, First Financial Bank filed a motion requesting the trial court order that all funds collected by respondent and the bank related to collection cases previously handled by respondent be placed in an escrow account until it could be determined how the funds should be divided.
17. Respondent failed to fully comply with the trial court's order compelling the production of discovery. On May 15, 2002, First Financial Bank filed a motion for sanctions against respondent. Respondent did not file a response to this motion.
18. The trial court held a hearing on the motion for sanctions on June 6, 2002. Respondent did not attend this hearing.
19. As a result of this hearing, the trial court:
 - Ordered respondent to turn over the bank's files within two days,
 - Issued a judgment against respondent on the issue of liability,
 - Dismissed respondent's counterclaims,
 - Ordered respondent to pay First Financial Banks' costs and attorney fees for the motion for sanctions, and

- Ordered the bank to submit a brief on damages.
20. On June 6, 2002, the trial court granted the bank's motion seeking escrow of all funds collected by respondent and First Financial Bank related to collection cases previously handled by respondent.
 21. Respondent failed to comply with the trial court's order to provide files to First Financial Bank within two days. As a result, on June 18, 2002, the trial court issued an order granting First Financial Bank access to respondent's office to retrieve the files.
 22. On July 12, 2002, First Financial Bank filed and mailed respondent a notice he was required to appear for a deposition on July 30, 2002. Respondent failed to appear for this deposition.
 23. On September 20, 2002, First Financial Bank mailed respondent a second notice of deposition requiring his appearance on October 1, 2002. Respondent failed to appear for this deposition.
 24. On January 21, 2003, respondent filed an affidavit of disqualification against trial court Judge Michael Sage claiming that Judge Sage was biased against him. On January 24, 2003, Judge Sage recused himself. A short time later, Judge Charles Pater was assigned to hear the lawsuit.

25. The trial to determine the bank's damages had been previously scheduled for February 3, 2003. On this date, respondent failed to appear for the trial.
26. On February 11, 2003, the trial court granted a judgment against respondent for \$279,292 as a sanction for respondent's failure to comply with First Financial Bank's discovery requests and the court's prior discovery orders.
27. The trial court further ordered respondent to provide an accounting to the bank, turn over files to First Financial Bank and to pay the bank's costs and attorney fees.
28. On March 17, 2003, Respondent's treating psychiatrist initiated a psychiatric hospitalization to address the severity of his severe depression (Exhibit 5).
29. In June 2003, respondent met on several occasions with representatives of First Financial, including Marla Wyant, to review the status of various collection files he had handled for the bank.
30. On February 2, 2004, respondent filed a Civ.R. 60(b) motion seeking relief from the June 6, 2002 and February 11, 2003 trial court orders. This motion was denied by the trial court on May 10, 2004.

31. On February 11, 2004, respondent filed an affidavit of disqualification against trial court Judge Charles Pater claiming that Judge Pater was biased against him. The Supreme Court of Ohio overruled respondent's request on February 18, 2004.
32. On June 7, 2004, respondent filed a notice of appeal of the denial of his Civ.R. 60(B) motion.
33. On February 22, 2005, the Twelfth District Court of Appeals affirmed the trial court decision. (Exhibit 6)
34. However, the court of appeals found that it appeared respondent had not been properly served with the February 11, 2003 judgment entry. As a result, the court of appeals suggested that, if this apparent service failure was correct, respondent's time for appeal of that order had not expired.
35. A short time later, the common pleas court clerk served respondent with the February 11, 2003 entry. Respondent then filed a second notice of appeal on May 25, 2005.
36. On April 3, 2006, the Twelfth District Court of Appeals held that the trial court erred in holding the June 6, 2002 hearing in respondent's absence, when the evidence indicated that the court bailiff had excused respondent's attendance from the hearing. As a result, the matter was remanded for a new hearing on the motion for sanctions. (Exhibit 7)

37. On May 9, 2006 the trial court held a second sanctions hearing. Respondent attended this hearing.
38. On May 17, 2006, the trial court issued a decision on the sanctions motion. The court issued a judgment against respondent on the issue of liability and dismissed respondent's counterclaims. On the same day the trial court issued a final a judgment against respondent for \$272,292 and again ordered respondent to provide an accounting to First Financial Bank, turn over requested documents and pay the bank's costs.
39. Respondent filed a notice of appeal of the trial court's May 17, 2006 entries on June 16, 2006.
40. On May 14, 2007 the court of appeals affirmed the judgment of the trial court. (Exhibit 8)
41. On March 11, 2008, respondent filed a Chapter 7 bankruptcy petition seeking to discharge various debts, including but not limited to the \$279,292 judgment granted to First Financial Bank.
42. On June 12, 2008, First Financial Bank filed an adversary action contesting the dischargeability of their judgment based upon the assertion that the judgment was based upon respondent's fraud while acting in a fiduciary capacity. This matter is still pending.

COUNT I

43. Between 1981 and March 2001 when respondent represented First Financial Bank, respondent failed to deposit proceeds from collection efforts for the bank into an IOLTA account. Instead, respondent deposited these collections proceeds (involving monies owed to the bank and Respondent's collection fees) into a non-IOLTA business bank account, denominated Norbert Doellman Trustee Account.
44. Respondent regularly left his portion of the fees from collection work in this same business bank account.
45. First Financial Bank never requested that Respondent utilize a non-IOLTA account for holding bank collection proceeds.
46. This business bank account was used by respondent to conduct personal and/or business transactions unrelated to the practice of law.

COUNT II

47. After respondent's termination by First Financial Bank in March 2001, respondent continued to receive debt payment checks from debtor's and clerk's of court pursuant to several garnishment and/or collection actions respondent had undertaken on behalf of First Financial Bank.
48. The debtors from which Respondent continued to receive payment included Leon Deck, Hilda Boyer, Jason Clements, Frederick Moore and Vida Langdon.

49. As detailed in the chart below, respondent collected \$2,764.46 in 38 checks from these debtors after his termination:

Debtor	Payor	Payee	Date of Check	Date of Deposit	Amount of Check
Hilda Boyer	Hilda Boyer	Respondent	Illegible	June 14, 2001	\$50
Leon Deck	Butler County Clerk of Court	Respondent	July 19, 2001	July 23, 2001	\$102.73
Frederick Moore	Franklin Municipal Court	Respondent	July 26, 2001	July 31, 2001	\$66.76
Leon Deck	Butler County Clerk of Court	Respondent	August 2, 2001	August 3, 2001	\$85.92
Jason Clements	Fairfield Municipal Court	Respondent	August 6, 2001	August 7, 2001	\$135.24
Frederick Moore	Franklin Municipal Court	Respondent	August 2, 2001	August 7, 2001	\$33.38
Hilda Boyer	Hilda Boyer	Respondent	August 8, 2001	August 13, 2001	\$50
Frederick Moore	Franklin Municipal Court	Respondent	August 22, 2001	August 24, 2001	\$33.38
Vida Langdon	Christopher Calender	First National Bank	August 26, 2001	August 28, 2001	\$50
Leon Deck	Butler County Clerk of Court	Respondent	August 30, 2001	August 31, 2001	\$96.72
Jason Clements	Fairfield Municipal Court	Respondent	August 30, 2001	September 4, 2001	\$135.56
Vida Langdon	Christopher Calender	First National Bank	July 23, 2001	September 5, 2001	\$50
Leon Deck	Butler County Clerk of Court	Respondent	September 12, 2001	September 17, 2001	\$96.72
Vida Langdon	Christopher Calender	First National Bank	September 14, 2001	September 17, 2001	\$50

Jason Clements	Fairfield Municipal Court	Respondent	October 1, 2001	October 3, 2001	\$124.26
Frederick Moore	Franklin Municipal Court	Respondent	October 4, 2001	October 9, 2001	\$33.38
Hilda Boyer	Hilda Boyer	Respondent	October 12, 2001	October 15, 2001	\$50
Frederick Moore	Franklin Municipal Court	Respondent	October 15, 2001	October 17, 2001	\$33.38
Vida Langdon	Christopher Calender	First National Bank	Illegible	October 22, 2001	\$50
Frederick Moore	Franklin Municipal Court	Respondent	October 18, 2001	October 22, 2001	\$33.38
Leon Deck	Butler County Clerk of Court	Respondent	October 24, 2001	October 26, 2001	\$96.72
Jason Clements	Fairfield Municipal Court	Respondent	November 2, 2001	November 5, 2001	\$268.48
Frederick Moore	Franklin Municipal Court	Respondent	November 2, 2001	November 16, 2001	\$33.38
Jason Clements	Fairfield Municipal Court	Respondent	December 3, 2001	December 6, 2001	\$109.44
Frederick Moore	Franklin Municipal Court	Respondent	December 12, 2001	December 17, 2001	\$33.38
Frederick Moore	Franklin Municipal Court	Respondent	December 21, 2001	December 28, 2001	\$33.38
Jason Clements	Fairfield Municipal Court	Respondent	January 4, 2002	January 7, 2002	\$113.93
Hilda Boyer	Hilda Boyer	Respondent	January 11, 2002	January 14, 2002	\$50
Frederick Moore	Franklin Municipal Court	Respondent	January 16, 2002	January 23, 2002	\$33.38
Jason Clements	Fairfield Municipal Court	Respondent	February 4, 2002	February 6, 2002	\$192.50

Leon Deck	Butler County Clerk of Court	Respondent	February 14, 2002	February 15, 2002	\$78.67
Frederick Moore	Franklin Municipal Court	Respondent	February 20, 2002	February 22, 2002	\$33.38
Hilda Boyer	Hilda Boyer	Respondent	February 4, 2002	February 25, 2002	\$50
Jason Clements	Fairfield Municipal Court	Respondent	March 4, 2002	March 6, 2002	\$143.49
Frederick Moore	Franklin Municipal Court	Respondent	March 20, 2002	March 22, 2002	\$33.38
Frederick Moore	Franklin Municipal Court	Respondent	March 14, 2002	March 22, 2002	\$33.38
Frederick Moore	Franklin Municipal Court	Respondent	April 3, 2002	April 8, 2002	\$33.38
Frederick Moore	Franklin Municipal Court	Respondent	April 17, 2002	April 22, 2002	\$33.38

50. Despite the fact that respondent was no longer legal counsel for First Financial Bank, respondent did not:

- Forward the uncashed checks to First Financial Bank.
- Provide First Financial Bank with any notice that he had received these checks.
- Provide First Financial Bank with a full accounting of the checks he received after his termination.
- Deposit the checks into an IOLTA account for safekeeping until any potential dispute over the division of these checks was resolved.

51. Instead, respondent deposited these 38 checks from the debtors of First Financial Bank into the non-IOLTA account denominated Norbert Doellman Trustee Account that he maintained at Key Bank, account number XXXXXXXX0095.
52. Pursuant to their fee agreement, Respondent owed two-thirds of the \$2,764.46 in collected funds -- \$1,842.97 -- to First Financial Bank.
53. Respondent did not forward any of the funds from these checks to First Financial Bank.
54. Respondent's Key Bank account balance regularly fell below the \$1,842.97 owed to First Financial Bank. For example, the account balance on August 24, 2001 was \$88.98, on September 27, 2001 was \$193.78 and on November 28, 2001 was \$290.11.
55. Respondent expended the funds from these checks owed to First Financial Bank for his business and personal expenses.
56. Respondent has agreed to pay \$1,842.97 to First Financial Bank. (Exhibit 12)

COUNT III

57. During 2001 and 2002, respondent represented several clients, including MidFirst Credit Union, Augusta Properties, Hamilton Orthopaedic Associates, Mayor Jewelry and Oxfordview Nursing Center. Respondent engaged in collection efforts for these clients.

58. Respondent deposited the funds he collected on behalf of these clients into the non-IOLTA Norbert Doellman Trustee Account.
59. The Norbert Doellman Trustee Account regularly held respondent's personal and/or business funds.
60. The Norbert Doellman Trustee Account was used by respondent to conduct personal and/or business transactions unrelated to the practice of law.

STIPULATED VIOLATIONS

61. Respondent's conduct as set forth in Count I violates the Code of Professional Responsibility: DR 1-102(A)(6) [a lawyer shall not engage in conduct that adversely reflects upon his fitness to practice law]; and DR 9-102(A) [all funds of clients paid to a lawyer or law firm, other than advances for costs and expenses, shall be deposited in one or more identifiable bank accounts and no funds belonging to the lawyer or law firm shall be deposited therein].
62. Respondent's conduct as set forth in Count II violates the Code of Professional Responsibility: DR 1-102(A)(6) [a lawyer shall not engage in conduct that adversely reflects upon his fitness to practice law]; DR 9-102(A) [all funds of clients paid to a lawyer or law firm, other than advances for costs and expenses, shall be deposited in one or more identifiable bank accounts and no funds belonging to the lawyer or law firm shall be deposited therein]; DR 9-102(B)(3) [a lawyer shall maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and

render appropriate accounts to his client regarding them]; and DR 9-102(B)(4) [a lawyer shall promptly pay or deliver to the client as requested by the client the funds, securities or other properties of in possession of the lawyer which the client is entitled to receive].

63. Respondent's conduct as set forth in Count III violates the Code of Professional Responsibility: DR 1-102(A)(6) [a lawyer shall not engage in conduct that adversely reflects upon his fitness to practice law]; and DR 9-102(A) [all funds of clients paid to a lawyer or law firm, other than advances for costs and expenses, shall be deposited in one or more identifiable bank accounts and no funds belonging to the lawyer or law firm shall be deposited therein].

DISPUTED VIOLATIONS

64. Relator contends that Respondent's conduct as set forth above violates these additional Code sections: In Count I, DR 1-102(A)(5) [a lawyer shall not engage in conduct that is prejudicial to the administration of justice]. In Count II violates the Code of Professional Responsibility: DR 1-102(A)(4) [a lawyer shall not engage in conduct involving fraud, deceit, dishonesty, or misrepresentation]; DR 1-102(A)(5) [a lawyer shall not engage in conduct that is prejudicial to the administration of justice]; and DR 9-102(B)(1) [a lawyer shall promptly notify a client of the receipt of his funds]. In Count III, DR 1-102(A)(5) [a lawyer shall not engage in conduct that is prejudicial to the administration of justice].

STIPULATED MITIGATION

65. Respondent has no prior disciplinary record.
66. Respondent has cooperated in the disciplinary process.

STIPULATED EXHIBITS

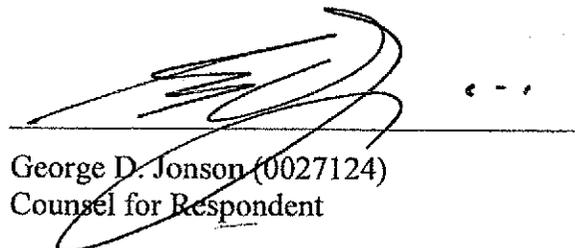
- Exhibit 1 Docket for *First National Bank of Southwestern Ohio v. Doellman*, Case No. CV 2001 1399
- Exhibit 2 First Financial Bank's Complaint.
- Exhibit 3 Respondent's Answer and Counterclaim.
- Exhibit 4 Respondent's April 16, 2002, letter to Judge Sage.
- Exhibit 5 March 17, 2003, Diagnosis letter from Michael E. Miller, M.D.
- Exhibit 6 Twelfth District Court of Appeals decision in *First National Bank of Southwestern Ohio v. Doellman*, 2005 WL 406212
- Exhibit 7 Twelfth District Court of Appeals decision in *First National Bank of Southwestern Ohio v. Doellman*, 2006 WL 846001
- Exhibit 8 Twelfth District Court of Appeals decision in *First National Bank of Southwestern Ohio v. Doellman*, 2007 WL 1394568
- Exhibit 9 Respondent's Key Bank bank account statements for account number XXXXXXXX0095 for June 2001 through April 2002
- Exhibit 10 Ohio Lawyers Assistance Program, Inc. Mental Health Contract and related documents
- Exhibit 11 Jan. 11, 2010, Diagnosis letter from Mary Hattemer, LISW
- Exhibit 12 Respondent's January 25, 2010 letter to First National Bank.
- Exhibit 13 Group Exhibit of Character letters

CONCLUSION

The above are stipulated to and entered into by agreement by the undersigned parties on this _____ day of January, 2010.



Jonathan E. Coughlan (0026424)
Disciplinary Counsel



George D. Jonson (0027124)
Counsel for Respondent



Robert R. Berger (0064922)
Senior Assistant Disciplinary Counsel



Norbert Mark Doellman, Esq. (0002122)
Respondent

CONCLUSION

The above are stipulated to and entered into by agreement by the undersigned parties on this 25th day of January, 2010.

Jonathan E. Coughlan

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