ORIGINAL

10-1220

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

FILED
JUL 13 2010
CLERK OF COURT
SUPREME COURT OF OHIO

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| **In Re:** | : | |
| **Complaint against** | : | **Case No. 08-090** |
| **Edward Paul Brueggeman**<br>**Attorney Reg. 0029159** | : | **Findings of Fact, Conclusions of Law and Recommendation of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio** |
| **Respondent** | : | |
| **Disciplinary Counsel** | : | |
| **Relator** | : | |

INTRODUCTION

This matter was heard on February 24, 2010 in Columbus, Ohio, before a Board hearing panel consisting of members attorney Lynn B. Jacobs, Patrick Sink and Judge Arlene Singer, Chair. None of the panel members resides in the district from which the complaint arose or served as a member of the probable cause panel that reviewed the complaint. Attorney Alvin E. Mathews Jr. represented the respondent and Attorney Robert R. Berger, Assistant Disciplinary Counsel, represented the relator, Disciplinary Counsel.

Respondent was charged in a five count complaint filed December 8, 2008. As a preliminary matter at the formal hearing, the relator dismissed seven allegations of ethical misconduct. Charges of misconduct under Prof. Cond. R. 1.4(a)(2) were dismissed in Counts One and Three. In each of the five counts, the alleged violation of Gov. Bar R. V(4)(G) was dismissed. Those allegations remaining before the panel are as follows:

Count One

Prof. Cond. R. 1.3 - a lawyer shall act with reasonable diligence and promptness;
Prof. Cond. R. 1.4(a)(3) - a lawyer shall keep the client reasonably informed;
Prof. Cond. R. 1.4(a)(4) - a lawyer shall comply as soon as practicable with reasonable requests for information from the client;
Prof. Cond. R. 8.1(b) - a lawyer shall not knowingly fail to respond to a demand for information from disciplinary authority;
Prof. Cond. R. 8.4(h) - engage in any other conduct that adversely reflects on the lawyer's fitness to practice law.

Count Two

Prof. Cond. R. 1.3 - a lawyer shall act with reasonable diligence and promptness;
Prof. Cond. R. 1.4(a)(2) - a lawyer shall reasonably consult with the client;
Prof. Cond. R. 1.4(a)(3) - a lawyer shall keep the client reasonably informed;
Prof. Cond. R. 1.4(a)(4) - a lawyer shall comply as soon as practicable with reasonable requests for information from the client;
Prof. Cond. R. 8.1(b) - a lawyer shall not knowingly fail to respond to a demand for information from disciplinary authority;
Prof. Cond. R. 8.4(h) - engage in any other conduct that adversely reflects on the lawyer's fitness to practice law.

Count Three

Prof. Cond. R. 1.3 - a lawyer shall act with reasonable diligence and promptness;
Prof. Cond. R. 1.4(a)(3) - a lawyer shall keep the client reasonably informed;
Prof. Cond. R. 1.4(a)(4) - a lawyer shall comply as soon as practicable with reasonable requests for information from the client;
Prof. Cond. R. 1.15(d) - a lawyer shall promptly deliver to a client any funds or property the client is entitled to receive;
Prof. Cond. R. 8.1(b) - a lawyer shall not knowingly fail to respond to a demand for information from disciplinary authority;
Prof. Cond. R. 8.4(h) - engage in any other conduct that adversely reflects on the lawyer's fitness to practice law.

Count Four

Prof. Cond. R. 8.1(b) - a lawyer shall not knowingly fail to respond to a demand for information from disciplinary authority;
Prof. Cond. R. 8.4(h) - engage in any other conduct that adversely reflects on the lawyer's fitness to practice law.

Count Five

Prof. Cond. R. 1.3 - a lawyer shall act with reasonable diligence and promptness;
Prof. Cond. R. 1.4(a)(3) - a lawyer shall keep the client reasonably informed;
Prof. Cond. R. 1.4(a)(4) – a lawyer shall comply as soon as practicable with reasonable requests for information from the client;
Prof. Cond. R. 8.1(b) - a lawyer shall not knowingly fail to respond to a demand for information from disciplinary authority;
Prof. Cond. R. 8.4(h) - engage in any other conduct that adversely reflects on the lawyer's fitness to practice law.

The panel heard testimony from three witnesses including respondent as on cross examination. The parties also entered into stipulations.

FINDINGS OF FACT

Respondent was admitted to the practice of law in Ohio on November 4, 1972.

**Count One** - Kelley A. Dawson

On June 29, 2007, Dawson retained respondent to obtain a dissolution of marriage, and paid him $750, $250 of which represented the filing fee. Respondent advised Dawson that he would prepare the paperwork needed to file the dissolution. Dawson believed that respondent would file the dissolution by July 2007. Dawson was unable to contact respondent and heard nothing from him. (Stip. 4) Dawson filed a grievance, which relator received on October 9, 2007. Relator sent a letter by certified mail to respondent and respondent faxed a letter to relator requesting a two-week extension of time to answer the Dawson grievance, which was granted. This was in January 2008. Respondent did not file a response. Again, in February 2008, relator contacted respondent by certified mail. Respondent did not respond.

All correspondence from relator was sent to respondent at his home address listed in the Supreme Court attorney registry by certified mail. Respondent signed a receipt for the mail.

On May 15, 2008, respondent filed the dissolution petition, and on June 20, 2008 the petition was granted.

**Count Two** - George R. Kaufman

Kaufman filed a grievance against respondent on November 15, 2007, alleging that respondent prepared a deed with the wrong legal description. The deed was part of an estate plan for Kaufman that respondent was preparing.

On December 26, 2007, relator sent a letter of inquiry by certified mail to respondent at his home address. The certified mail receipt was signed by respondent's wife on December 28, 2007. On January 10, 2008, relator received a fax from respondent requesting a two-week extension to respond, which was granted. Respondent did not respond to the grievance. Another letter from relator was sent to respondent on February 21, 2008. The return receipt was signed by respondent on February 23, 2008. Respondent did not respond to this letter.

Respondent testified that the problem with the deed was that a new survey was required, and Kaufman did not want to pay for it. The deed, as it was initially prepared, was rejected by the Recorder's Office in March 2006. Respondent further testified that he was in constant communication with Kaufman until the grievance was filed, after which he did not contact Kaufman. Respondent misplaced Kaufman's file and did not locate the file until February 2008. When he tried to resolve the matter, he found that Kaufman had a survey prepared in conjunction with another real estate situation and had himself recorded a corrected deed at issue here.

**Count Three** - Diana Yovan

In 2004, Warren C. Winston retained respondent to assist him with the drafting of an estate plan, which respondent then prepared. Winston died on April 21, 2007. Winston's brother, David Yovan was the named executor/ successor trustee of his estate.

David Yovan and Diana Yovan, Winston's sister, met with respondent on May 7, 2007 to assist them with Winston's estate matters. Respondent indicated he would be willing to help for

a $1500 fee and would need an advance payment of $750. Diana Yovan gave respondent a check for $750, and a paper grocery bag filled with papers. (Stip. 20) Respondent testified that the check was from David Yovan. In September 2007 Diana Yovan sent respondent a letter by certified mail asking about the progress on the case, as he had not corresponded with her in four months. She also requested a return of the $750 and the documents she provided. Respondent testified that he had corresponded with David Yovan. Respondent did not respond to her letter.

Diana Yovan filed a grievance against respondent in October 2007. She also filed a small claims action against respondent in the Franklin County Municipal Court on November 9, 2007 for $750. (Stip. 25) A default judgment was rendered on December 13, 2007 for $750. (Stip. 25) Respondent testified that he never received service. Relator sent requests to respondent by certified mail for a response to the grievance on December 20, 2007 and again on February 21, 2008. Respondent did not respond.

All correspondence from relator was sent to respondent at his home address listed in the Supreme Court attorney registry by certified mail, and return receipts were signed at this address. After the first letter from relator, respondent requested by fax a two week extension of time to answer the letter of inquiry, which was granted.

Respondent misplaced the Winston file and did not locate it until August 2008. On August 25, 2008 respondent returned the documents and the $750 to David Yovan. (Stip. 29)

**Count Four** - John P. Talbott

Attorney Andrew Fishman prepared the Talbott family trust in July 2001. In September 2007 Talbott filed a grievance against respondent, alleging that he had been referred to respondent after Fishman's death and had not been able to contact respondent. Relator sent letters of inquiry to respondent on December 20, 2007 and February 21, 2008, but received no

response until June 13, 2008. (Stip. 32 and 34) Eventually, respondent was given contact information for Mr. Talbott. Respondent contacted Talbott and resolved the matter.

All correspondence from relator was sent to respondent at his home address listed in the Supreme Court attorney registry by certified mail and receipts were signed at this address. Respondent requested a two week extension of time to answer the letter of December 20, 2007 by fax on January 10, 2008, which was granted.

**Count Five** - Michael Doersam

Attorney Andrew Fishman prepared testamentary documents for Bernard Doersam in 2000 or 2001, designating Michael Doersam his executor and trustee. Bernard Doersam died in 2002. Doersam met with respondent to discuss certain issues about the estate, including the disposition of a time share and a small bank account. Respondent testified that he could not resolve the estate issues, and after a while respondent did not respond to Doersam's call and letters.

In October, 2007, Doersam filed a grievance against respondent. Relator sent a letter of inquiry to respondent on December 26, 2007, and again on February 21, 2008, and again on June 24, 2008. Respondent did not reply. (Stip. 41, 43, 44)

The December and February correspondence from relator was sent to respondent at his home address listed in the Supreme Court attorney registration, by certified mail. A receipt was signed at this address, and respondent requested a two week extension of time to answer the first letter, by fax on January 10, 2008, which was granted.

Respondent testified that the June 2008 letter from relator was signed by an "A. Jones" whom he could not identify. The mail was sent to an address that was not current.

Respondent misplaced Doersam's file and did not locate it until August 2008.

## CONCLUSIONS OF LAW

Respondent argues that Prof. Cond. R. 8.4(h) violations do not apply to the facts in this case because 8.4(h) is merely a catch-all or residual category, and it is unnecessary as other rules apply more directly to the misconduct. Relator argues that the Supreme Court has not interpreted either Prof. Cond. R. 8.4(h) or DR 1-102(A)(6) in this manner in 275 cases cited. The panel disagrees with respondent's argument.

Relator argues in support of finding violations of Prof. Con. R. 8.4(h), that respondent failed to promptly notify his clients of his change of address and that respondent did not advise his clients of the status of their cases or resolve them until after a grievance was filed.

Respondent misplaced clients' files and did not address their claims or grievances until he eventually located the files. Respondent eventually filed the Dawson (Count One) dissolution in May 15, 2008 and the petition was granted in June 2008, a year after he was retained and after the grievance had been filed. By the time respondent located his clients' lost files, Kaufman (Count Two) had resolved his problem without respondent. Respondent did not return Yovan's money (Count Three) until after a grievance was filed, and now is attempting to vacate a default judgment, claiming that he did not receive proper notice of the small claim action against him. Respondent eventually contacted Talbott (Count Four) after the grievance had been filed, to resolve the matter. Respondent could not resolve the problem for Doersam (Count Five) and eventually just stopped communicating with him.

It appears that respondent put the cases which he perceived were problematical or caused a conflict with his client aside until they became grievances and then compounded his neglect by losing the files.

## Count One

The parties have stipulated to, and the panel agrees and finds by clear and convincing evidence a violation of:

Prof. Cond. R. 1.3 -a lawyer shall act with reasonable diligence and promptness;
Prof. Cond. R. 1.4(a)(3) -a lawyer shall keep the client reasonably informed;
Prof. Cond. R. 8.1(b)- a lawyer shall not knowingly fail to respond to a demand for information from disciplinary authority.

The panel also finds by clear and convincing evidence a violation of:

Prof. Cond. R. 1.4(a)(4) – a lawyer shall comply as soon as practicable with reasonable requests for information from the client;
Prof. Cond. R. 8.4(h) - engage in any other conduct that adversely reflects on the lawyer's fitness to practice law.

## Count Two

The parties have stipulated to, and the panel agrees and finds by clear and convincing evidence a violation of:

Prof. Cond. R. 1.4(a) (2) - a lawyer shall reasonably consult with the client;
Prof. Cond. R. 8.1(b)- a lawyer shall not knowingly fail to respond to a demand for information from disciplinary authority.

The panel also finds by clear and convincing evidence a violation of:

Prof. Cond. R. 1.3 - a lawyer shall act with reasonable diligence and promptness;
Prof. Cond. R. 1.4(a)(3) - a lawyer shall keep the client reasonably informed;
Prof. Cond. R. 1.4(a)(4) – a lawyer shall comply as soon as practicable with reasonable requests for information from the client;
Prof. Cond. R. 8.4(h) - engage in any other conduct that adversely reflects on the lawyer's fitness to practice law.

## Count Three

The parties have stipulated to, and the panel agrees and finds by clear and convincing evidence a violation of:

Prof. Cond. R. 1.3 - a lawyer shall act with reasonable diligence and promptness;
Prof. Cond. R. 1.4(a)(3) -a lawyer shall keep the client reasonably informed;
Prof. Cond. R. 1.15(d) - a lawyer shall promptly deliver to a client any funds or property the client is entitled to receive;
Prof. Cond. R. 8.1(b) - a lawyer shall not knowingly fail to respond to a demand for information from disciplinary authority.

The panel also finds by clear and convincing evidence a violation of:

Prof. Cond. R. 1.4(a)(4) - a lawyer shall comply as soon as practicable with reasonable requests for information from the client;
Prof. Cond. R. 8.4(h) - engage in any other conduct that adversely reflects on the lawyer's fitness to practice law.

**Count Four**

The parties have stipulated to, and the panel agrees and finds by clear and convincing evidence a violation of:

Prof. Cond. R. 8.1(b) -a lawyer shall not knowingly fail to respond to a demand for information from disciplinary authority.

The panel also finds by clear and convincing evidence a violation of:

Prof. Cond. R. 8.4(h) - engage in any other conduct that adversely reflects on the lawyer's fitness to practice law.

**Count Five**

The parties have stipulated to, and the panel agrees and finds by clear and convincing evidence a violation of:

Prof. Cond. R. 1.3- a lawyer shall act with reasonable diligence and promptness;
Prof. Cond. R. 1.4(a)(3) - a lawyer shall keep the client reasonably informed;
Prof. Cond. R. 1.4(a)(4) - a lawyer shall comply as soon as practicable with reasonable requests for information from the client;
Prof. Cond. R. 8.1(b) - a lawyer shall not knowingly fail to respond to a demand for information from disciplinary authority.

The panel also finds by clear and convincing evidence a violation of:

Prof. Cond. R. 8.4(h) - engage in any other conduct that adversely reflects on the lawyer's fitness to practice law.

## MITIGATION AND AGGRAVATION

Respondent presented to the panel three character letters from: Deborah DeHaan, the executive director of the Ohio Center for Law-Related Education (OCLRE); attorney Robert Newman; and Thomas Carroll, the city manager of Loveland City, Ohio, who also testified in person. Respondent testified that he had been active in the Cincinnati and Ohio State Bar associations, serving on the OSBA Council of Delegates. He participated in the High School Mock Trial Competition of the OCLRE and was a longtime chair of the City of Loveland's Planning and Zoning Commission.

Respondent testified that his problems seemed to arise after a series of events concerning his separation from the American Family Legal Plan, a pre-paid legal services plan. He left the plan, but indicated that he would continue to take referrals. He had an 800 number and was able to take the number with him so clients could continue to contact him. In fall of 2007, the 800 number was suddenly disconnected with no warning. About the same time, the building in which his office was located acquired different tenants who needed his space, and he had to relocate. During this time, he was also experiencing financial difficulties because he had several children in college, and he was paying two mortgages because of a problem with the sale of his home and the purchase of a new home. In early 2008 he began to send out letters to his active clients as well as the hundreds of other clients for which he was holding files for from the prepaid legal services plan. Because of his financial problems, he could not notify everyone at once, and eventually devised a plan to send out letters geographically, eventually notifying everyone by the end of 2008.

He also testified that when he started getting the letters about the grievances, he pulled the files of those clients to work on them, lost them during this hectic time, and did not find them until the spring of 2008.

Respondent contacted OLAP in September, 2009. He indicated that he felt "frozen in his practice," (Tr.84) avoided things that needed to be addressed, and did not handle conflict well. He signed a four year contract with OLAP on December 4, 2009 and has continued to comply with its terms. He has consulted John Tarpy Jr., Ph.D., a licensed clinical psychologist and is continuing treatment. Dr. Tarpy testified by deposition, and Stephanie Krznarich of OLAP testified in person. Both professionals agree that respondent suffers from dysthymia, a low level depression lasting two or more years. Although in the summer of 2008 respondent began to feel better, both Tarpy and Krznarich seem able to trace the patterns of his dysthymia to an earlier time. Krznarich testified that he has made unusually good progress and that his prognosis is good.

Dr. Tarpy's answer, when asked if he had an opinion to a reasonable degree of professional certainty as to whether there is a causal connection between his diagnosis of dysthymia and respondent's conduct in this case of the neglecting clients and failing to respond to Disciplinary Counsel was "I do. I think it was the ultimate conclusion." (Depo. Tr. at 19) He also testified that, to a reasonable degree of professional certainty, respondent can maintain the proper competent, ethical and professional practice of law if he continues to make the progress respondent has made.

Relator has argued that respondent has not shown a sufficient causal link of the dysthymia and the ethical misconduct, and an insufficient period of time of successful treatment. The panel feels that respondent has met his burden of proof for this mitigating factor.

The parties stipulated to and the panel finds the following mitigating factors pursuant to BCGD Proc. Reg.10(B)(2): (a) absence of prior disciplinary record. The panel also finds the following mitigating factors to BCGD Proc. Reg. 10(B)(2): (b) absence of a dishonest or selfish motive; (d) full and free disclosure to disciplinary Board or cooperative attitude toward the proceedings after the Complaint was filed; (e) good character and reputation; (g) mental disability and (i) a diagnosis of mental disability by a qualified health care professional, (ii) a determination that the mental disability contributed to the cause of the misconduct, (iii) a sustained period of successful treatment, and (iv) a prognosis from a qualified health care professional that the attorney will be able to return to competent, ethical professional practice with continued treatment.

The panel finds the following aggravating factors pursuant to BCGD Proc. Reg.10(B)(1): (c) a pattern of misconduct; and (d) multiple offenses. Prior to the filing of the grievance by relator, the panel also finds as an aggravating factor BCGD Proc. Reg.10(B)(1)(e), lack of cooperation in the disciplinary process.

## SANCTION

Relator has requested that respondent be suspended from the practice of law for 18 months with 12 months stayed. Relator also suggested that respondent continue his OLAP contract, continue treatment with Dr. Tarpy, and that he have a monitor. Respondent requests a 12 month, stayed suspension with probation, conditioned upon continuing his OLAP contract as well as his counseling with Dr. Tarpy, and that he refrain from any more misconduct.

The parties have presented case law in support of these requested sanctions.

Relator has cited *Disciplinary Counsel v. Freeman*, 119 Ohio St.3d 330, 2008-Ohio-3836. Freeman was found to have suffered from depression. The Supreme Court suspended him

for one year, with six months stayed. Even though Freeman's misconduct was different than respondent's, the actual suspension was imposed to allow Freeman time to complete his treatment and recovery, as well as to protect the public. However, Freeman's doctor opined that Freeman was not yet capable of providing legal services beyond routine matters.

Respondent has cited *Cleveland Bar Assn. v. Norton*, 116 Ohio St.3d 226, 2007-Ohio-6038; *Columbus Bar Assn. v. Milless*, 96 Ohio St.3d 74, 2002-Ohio-3455; and *Cuyahoga Cty. Bar Assn. v. Drain,* 120 Ohio St.3d 288, 2008-Ohio-6141 in support of a stayed suspension. Milless was suspended for one year, all stayed for a grievance filed by one client. Milless never answered the grievance complaint and his case was assigned to a Master Commissioner. The *Norton* case involved two clients and Norton was suspended for six months, all stayed. Finally, *Drain* involved one client, and Drain received a six month suspension, all stayed.

The panel distinguishes this case from relator's cited case, as both Dr. Tarpy and Stephanie Krznarich find respondent making good progress and have not suggested a limitation to his practice. Respondent's cases cited are distinguished as they do not involve as many clients nor as many violations.

The panel has also reviewed *Dayton Bar Assn. v. Sebree* , 96 Ohio St.3d 50, 2002-Ohio-2987 (six month suspension stayed with conditions), *Disciplinary Counsel v. Harp* (2001), 91 Ohio St.3d 385 (six month stayed suspension with probation) and *Allen Cty. Bar Assn. v. Brown*, 124 Ohio St.3d 530, 2010-Ohio-580 (one year stayed suspension with conditions). These cases involved neglect of clients, poor office organizational skills, and personal problems, but the respondents had not yet undergone evaluation and treatment from OLAP, as Brueggeman has. However, none of these respondents were charged with Prof. Cond. R. 8.1(b) [or DR 1-101].

The panel recommends a 12 month, stayed suspension, with probation, conditioned upon continuing his OLAP contract as well as his counseling with Dr. Tarpy, and that he refrain from anymore misconduct.

## BOARD RECOMMENDATION

Pursuant to Gov. Bar Rule V(6)(L), the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio considered this matter on June 10, 2010. The Board adopted the Findings of Fact, Conclusions of Law and Recommendation of the Panel and recommends that Respondent, Edward Paul Brueggeman, be suspended for a period of twelve months with the entire twelve month suspension stayed upon 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**

**EDWARD PAUL BRUEGGEMAN**
10507 Butterworth Road
Loveland, OH 45140
Atty. Reg. No.: (0029159)

FILED
FEB 19 2010
BOARD OF COMMISSIONERS
ON GRIEVANCES & DISCIPLINE

**AGREED**
**STIPULATIONS**
**BOARD NO. 08-090**

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

## AGREED STIPULATIONS

Relator, Disciplinary Counsel, and respondent, Edward Paul Brueggeman, do hereby stipulate to the admission of the following facts, violations, mitigation and exhibits.

## STIPULATED FACTS

1. Respondent was admitted to the practice of law in the State of Ohio on November 4, 1972. 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.

## COUNT ONE

2. On June 29, 2007, Kelley A. Dawson retained respondent to obtain dissolution of her marriage and paid $750 to respondent, $250 representing the filing fee.

3. Respondent advised Dawson that he would prepare to file the dissolution. Dawson believed the documents would be filed by July 2007.

4. After the initial payment was made, Dawson attempted to contact respondent numerous times by phone and e-mail, but received no response.

5. As a result, for months Dawson had no idea what, if any, work had been done regarding her dissolution or the status of the matter.

6. On October 9, 2007 relator received a grievance against respondent filed by Dawson. Dawson's grievance asserted that respondent had failed to file her dissolution and failed to respond to her requests for information.

7. On December 20, 2007, relator sent a letter of inquiry regarding the Dawson grievance by certified mail to respondent's home address. The certified mail return receipt was signed by respondent on December 22, 2007.

8. On January 10, 2008, respondent faxed relator a request for a two-week extension to answer Dawson's grievance. After this extension was granted, respondent failed to respond to the letter of inquiry.

9. On February 21, 2008, relator sent a second letter of inquiry by certified mail to respondent's home address. The certified mail return receipt was signed by respondent on February 23, 2008. Respondent failed to respond to this letter.

10. On May 15, 2008, respondent filed Dawson's petition for a dissolution in the Fairfield County Common Pleas Court and the court granted a decree of dissolution on June 20, 2008.

## COUNT TWO

11. On November 15, 2007, George R. Kaufman filed a grievance against respondent alleging respondent incorrectly prepared a deed by using the wrong legal description.

12. On December 26, 2007 relator sent a letter of inquiry by certified mail to respondent's home address. The certified mail return receipt was signed by respondent's wife, Cheryl Brueggeman on December 28, 2007.

13. On January 10, 2008, relator received a facsimile letter from respondent requesting a two-week extension to respond to Kaufman's grievance. After the extension was granted, respondent failed to respond to the letter of inquiry.

14. On February 21, 2008 relator sent a second letter of inquiry by certified mail to respondent's home address. The certified mail return receipt was signed by respondent on February 23, 2008. Respondent did not respond to this letter.

## COUNT THREE

15. In 2004 Diana Yovan's brother, Warren C. Winston, retained respondent to assist him with the drafting of an estate plan.

16. Respondent prepared Winston's estate plan.

17. Winston died on April 21, 2007.

18. Diana Yovan met with respondent on May 7, 2007 to inquire as to whether he could assist her with Winston's estate matters.

19. Respondent explained that he would be willing to help for a fee of $1,500.

20. Yovan paid respondent $750 and gave him several documents

21. Respondent failed complete the work necessary to resolve the Winston Estate.

22. On September 17, 2007, Yovan sent respondent a letter by certified mail expressing concerns about the lack of information she had been provided about the status of the case. Yovan also requested a return of the $750 fee and the documents she had provided to respondent. Yovan received no response to her letter from respondent.

23. Having received no response from respondent, Yovan filed a grievance with relator in October 2007.

24. On November 9, 2007, Yovan filed a small claims action against respondent in the Franklin County Municipal Court.

25. A default judgment for $750 was rendered against respondent on December 13, 2007.

26. On December 20, 2007 a letter of inquiry was sent by certified mail to respondent's home address. The certified mail return receipt was signed by Cory Brueggeman on December 24, 2007.

27. On January 10, 2008 respondent sent a facsimile letter to relator requesting a two-week extension of time to respond to Yovan's grievance. After the extension was granted, respondent failed to respond to the letter of inquiry.

28. On February 21, 2008 relator sent a second letter of inquiry by certified mail to respondent's home address. The certified mail return receipt was signed by respondent on February 23, 2008. Respondent failed to respond to this letter.

29. In August 2008, respondent returned Yovan's documents and refunded the $750 fee.

**COUNT FOUR**

30. In July 2001 the Talbott Family Trust was prepared by Attorney Andrew Fishman.

31. On September 12, 2007, Talbott filed a grievance against respondent regarding respondent's lack of communication.

32. On December 20, 2007 relator sent a letter of inquiry by certified mail to respondent's home address. The letter of inquiry was signed by respondent on December 22, 2007.

33. On January 10, 2008 respondent sent relator a facsimile letter requesting a two-week extension of time to respond to Talbott's grievance. After the extension was granted, respondent failed to respond to the letter of inquiry.

34. On February 21, 2008 relator sent respondent a second letter of inquiry by certified mail to respondent's home address. Respondent signed the certified mail return receipt on February 23, 2008. Respondent failed to respond to this letter until June 2008.

**COUNT FIVE**

35. In 2000 testamentary documents were prepared for Bernard Doersam.

36. Michael Doersam, Bernard Doersam's son, was designated executor and trustee.

37. Bernard Doersam died in 2002.

38. Sometime after February 2005, Doersam met with respondent to review further issues regarding his father's estate. These issues included the disposition of a timeshare and a small bank account.

39. Respondent failed to assist Doersam in resolving the remaining estate issues, including disposition of the small bank account.

40. In October 2007 Doersam filed a grievance against respondent.

41. On December 26, 2007 relator sent a letter of inquiry to respondent by certified mail to respondent's home address. The certified mail return receipt was signed by respondent's wife, Cheryl Brueggeman on December 28, 2007.

42. On January 10, 2008 relator received a facsimile letter from respondent requesting a two-week extension of time to respond to the Doersam grievance. After the extension was granted, respondent failed to respond to this letter of inquiry.

43. On February 21, 2008 relator sent a second letter of inquiry by certified mail to respondent's home address. The certified mail return receipt was signed by respondent on February 23, 2008. Respondent failed to respond to this letter.

44. On June 24, 2008 relator sent a third letter of inquiry to respondent to his home address. The certified mail return receipt was signed by an unknown individual on June 25, 2008. Respondent failed to respond to this letter.

## STIPULATED VIOLATIONS

45. The parties stipulate that Respondent's conduct in Count I violates the following provisions of the Ohio Rules of Professional Conduct: Prof. Cond. R. 1.3 (A lawyer shall act with reasonable diligence and promptness in representing a client); Prof. Cond. R. 1.4(a)(3) (A lawyer shall keep the client reasonably informed about the status of the matter); and Prof. Cond. R. 8.1(b) (A lawyer shall not knowingly fail to respond to a demand for information from a disciplinary authority).

46. The parties stipulate that Respondent's conduct in Count II violates the following provisions of the Ohio Rules of Professional Conduct: Prof. Cond. R. 1.4(a)(2) (A lawyer shall reasonably consult with a client about the means by which the client's objectives are to be accomplished); and Prof. Cond. R. 8.1(b) (A lawyer shall not knowingly fail to respond to a demand for information from a disciplinary authority).

47. The parties stipulate that Respondent's conduct in Count III violates the following provisions of the Ohio Rules of Professional Conduct: Prof. Cond. R. 1.3 (A lawyer shall act with reasonable diligence and promptness in representing a client); Prof. Cond. R. 1.4(a)(3) (A lawyer shall keep the client reasonably informed about the status of the matter); Prof. Cond. R. 1.4(a)(4) (A lawyer shall comply as soon as practicable with reasonable requests for information from the client); Prof. Cond. R. 1.15(d) (A lawyer shall promptly deliver to a client any funds or property the client is entitled to receive); and Prof. Cond. R. 8.1(b) (A lawyer shall not knowingly fail to respond to a demand for information from a disciplinary authority).

48. The parties stipulate that Respondent's conduct in Count IV violates the following provisions of the Ohio Rules of Professional Conduct: Prof. Cond. R. 8.1(b) (A lawyer shall not knowingly fail to respond to a demand for information from a disciplinary authority).

49. The parties stipulate that Respondent's conduct in Count V violates the following provisions of the Ohio Rules of Professional Conduct: Prof. Cond. R. 1.3 (A lawyer shall act with reasonable diligence and promptness in representing a client); Prof. Cond. R. 1.4(a)(3) (A

lawyer shall keep the client reasonably informed about the status of the matter); Prof. Cond. R. 1.4(a)(4) (A lawyer shall comply as soon as practicable with reasonable requests for information from the client); and Prof. Cond. R. 8.1(b) (A lawyer shall not knowingly fail to respond to a demand for information from a disciplinary authority).

## DISPUTED VIOLATIONS

50. As to Count I, Respondent disputes that he violated Prof. Cond. R. 1.4(a)(4) and Prof. Cond. R. 8.4(h) (conduct adversely reflecting on fitness to practice law).

51. As to Count II, Respondent disputes that he violated Prof. Cond. R. 1.3; Prof. Cond. R. 1.4(a)(4) and Prof. Cond. R. 8.4(h).

52. As to Count III, Respondent disputes that he violated Prof. Cond. R. 8.4(h).

53. As to Count IV, Respondent disputes that he violated Prof. Cond. R. 8.4(h).

54. As to Count V, Respondent disputes that he violated Prof. Cond. R. 8.4(h).

## MITIGATION

55. Respondent has no prior disciplinary record.

## STIPULATED EXHIBITS

The parties stipulate as to the authenticity and admissibility of the following exhibits:

Exhibit 1 June 29, 2007 check for $750

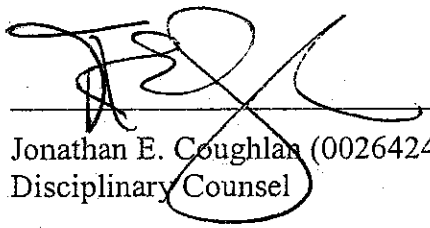
Exhibit 2 December 20, 2007 Dawson letter of inquiry with certified mail return receipt

Exhibit 3 January 10, 2008 facsimile from respondent

| | |
|---|---|
| Exhibit 4 | February 21, 2008 Dawson second letter of inquiry with certified mail return receipt |
| Exhibit 5 | Court case docket for *Dawson v. Dawson*, Case No. 2008 DS 00092 |
| Exhibit 6 | December 26, 2007 Kaufman letter of inquiry with certified mail return receipt |
| Exhibit 7 | February 21, 2008 Kaufman second letter of inquiry with certified mail return receipt |
| Exhibit 8 | May 9, 2007 cashier's check for $750 |
| Exhibit 9 | September 17, 2007 letter from Yovan to respondent |
| Exhibit 10 | December 13, 2007 judgment entry from *Yovan v. Brueggeman*, Case No. 2007 CVI 052277 |
| Exhibit 11 | December 20, 2007 Yovan letter of inquiry with certified mail return receipt |
| Exhibit 12 | February 21, 2008 Yovan second letter of inquiry with certified mail return receipt |
| Exhibit 13 | December 20, 2007 Talbott letter of inquiry with certified mail return receipt |
| Exhibit 14 | February 21, 2008 Talbott second letter of inquiry with certified mail return receipt |
| Exhibit 15 | December 26, 2007 Doersam letter of inquiry with certified mail return receipt |
| Exhibit 16 | February 21, 2008 Doersam second letter of inquiry with certified mail return receipt |
| Exhibit 17 | June 24, 2008 Doersam third letter of inquiry with certified mail return receipt |

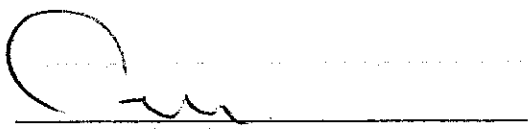
## CONCLUSION

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



Jonathan E. Coughlan (0026424)
Disciplinary Counsel

Alvin Earl Mathews, Jr. Esq. (0038660)
Counsel for Respondent



Robert R. Berger (0064922)
Senior Assistant Disciplinary Counsel

Edward Paul Brueggeman, Esq. (0029159)
Respondent

## CONCLUSION

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

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