

10-1793

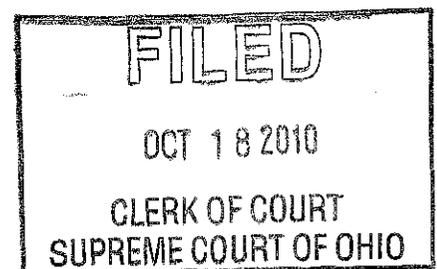
BEFORE THE BOARD OF COMMISSIONERS  
ON  
GRIEVANCES AND DISCIPLINE  
OF  
THE SUPREME COURT OF OHIO

In Re:	:	
Complaint against	:	Case No. 10-024
William Scott Medley Attorney Reg. No. 0031001	:	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	:	

This matter came on for consideration by panel members Patrick Sink of Cleveland, McKenzie K. Davis of Columbus, and Charles E. Coulson, chair, of Lake County. None of the panel members resides in the district from which the complaint originated or served on the probable cause panel that considered this matter. Representing Relator, Disciplinary Counsel, was Joseph M. Caligiuri and Respondent, William Scott Medley, was pro se.

**BACKGROUND**

Respondent, William Scott Medley, was admitted to the practice of law in the State of Ohio on November 7, 1980. On October 24, 2001, the Supreme Court of Ohio publically reprimanded Respondent. *Disciplinary Counsel v. Medley*, 93 Ohio St.3d 474, 2001-Ohio-1592. On December 8, 2004, the Supreme Court of Ohio suspended Respondent from the



practice of law for eighteen months, with six months stayed. *Disciplinary Counsel v. Medley*, 104 Ohio St.3d 251, 2004-Ohio-6402.

On February 8, 2010, Disciplinary Counsel filed a one count Complaint against Respondent alleging violations of both the Rules of Professional Conduct and the Code of Professional Responsibility. On September 20, 2010, Respondent and Relator filed a joint motion to waive evidentiary hearing. Respondent and Relator also filed agreed stipulations and a joint recommended sanction.

The panel finds that Respondent and Realtor have reached an agreement on all material matters pertaining to the complaint, including factual allegations, exhibits, disciplinary rule violations, aggravating and mitigating evidence, and have made a joint recommendation on the sanction. Therefore, the panel finds that the motion to waive evidentiary hearing is well taken and is granted.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Respondent, William Scott Medley, at all times material to this complaint was a full-time judge in the Gallia County Court of Common Pleas, Probate Division. When Respondent was suspended from the practice of law on December 8, 2004, for a period of eighteen months with six months stayed, Respondent was aware that such suspension was without pay. Due to an error of the Ohio Payroll System, Respondent received payroll checks during the time he was under suspension. Respondent cashed eight of the checks, totaling over \$71,000.00. Respondent did not cash four monthly payroll checks. When Respondent was contacted by the Ohio Payroll System as to why the four checks were not cashed, Respondent falsely stated that he was attempting to conserve funds and had held the checks too long and asked that they be reissued.

Before the checks could be reissued to Respondent, the payroll error was discovered. Relator, Disciplinary Counsel, and Respondent, William Scott Medley, have filed agreed stipulations with exhibits. A copy of the agreed stipulations and exhibits are attached hereto and incorporated herein.

Based upon the agreed stipulations and the exhibits attached thereto, the panel unanimously finds, by clear and convincing evidence, that Respondent violated the following:

- (1) DR 1-102(A)(4) and Prof. Cond. R. 8.4(c) [conduct involving dishonesty, fraud, deceit, or misrepresentation];
- (2) DR 1-102(A)(6) and Prof. Cond. R. 8.4(h) [conduct that adversely reflects upon the lawyer's fitness to practice law].

#### **MITIGATION**

Relator and Respondent stipulated and the panel finds the following mitigating factors:

- (a) Full and free disclosure during the disciplinary process;
- (b) Cooperative attitude toward the disciplinary proceedings;
- (c) Positive character evidence.

#### **AGGRAVATION**

Relator and Respondent stipulated and the panel finds the following aggravated factors:

- (1) Previous disciplinary offenses;
- (2) Dishonest or selfish motive.

#### **PANEL RECOMMENDATION**

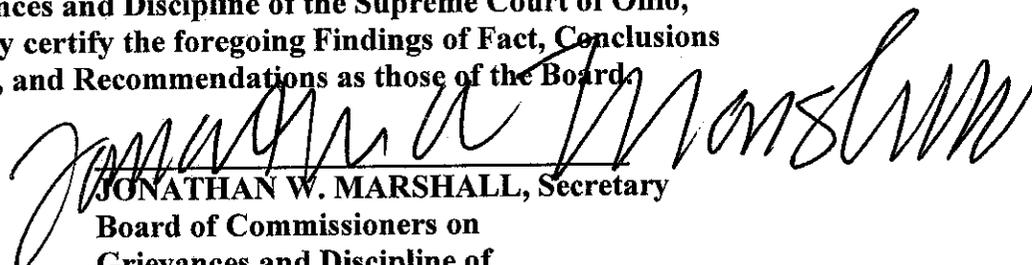
Respondent, William Scott Medley, and Relator, Disciplinary Counsel, jointly recommended the imposition of an indefinite suspension from the practice of law on condition

that Respondent not be allowed to petition for reinstatement until the balance of the restitution is paid. The panel accepts and adopts the joint recommendation and recommends to the Board that Respondent be indefinitely suspended from the practice of law in the State of Ohio and that he not be permitted to petition for reinstatement until such time as he has paid full restitution to the State of Ohio.

**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 October 7, 2010. The Board adopted the Findings of Fact, Conclusions of Law and Recommendation of the Panel and recommends that Respondent, William Scott Medley, be indefinitely suspended 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**

**William Scott Medley, Esq.  
173 Burkhart Lane  
Gallipolis, OH 45631**

**BOARD NO. 10-024**

Attorney Reg. No. 0031001

FILED

Respondent,

SEP 20 2010

BOARD OF COMMISSIONERS  
ON GRIEVANCES & DISCIPLINE

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

**AGREED STIPULATIONS  
& JOINT RECOMMENDED  
SANCTION**

Relator.

**AGREED STIPULATIONS & JOINT RECOMMENDED SANCTION**

Relator, Disciplinary Counsel, and respondent, William Scott Medley, do hereby stipulate to the admission of the following facts, exhibits, disciplinary rule violations, and joint recommended sanction.

**STIPULATED FACTS**

Respondent, William Scott Medley, and relator, hereby agree and stipulate to the following facts:

1. Respondent, William Scott Medley, was admitted to the practice of law in the state of Ohio on November 7, 1980. Respondent is subject to the Code of Professional Responsibility, Rules of Professional Conduct, and the Rules for the Government of the Bar of Ohio.

2. On October 24, 2001, the Supreme Court of Ohio publically reprimanded respondent. See *Disciplinary Counsel v. Medley*, 93 Ohio St.3d 474, 2001-Ohio-1592.

#### COUNT ONE

3. On December 8, 2004, the Supreme Court of Ohio (SCO) suspended respondent from the practice of law for 18 months with six months stayed. See *Disciplinary Counsel v. Medley*, 104 Ohio St.3d 251, 2004-Ohio-6402.
4. At the time of respondent's suspension from the practice of law, respondent was a full-time judge in the Gallia County Court of Common Pleas, Probate Division.
5. The SCO's December 8, 2004 Order stated, "It is further ordered that, pursuant to Gov. Jud. R. III, Sec.7(A), respondent is hereby concurrently suspended from his position as judge of the Probate Court of Gallia County without pay for the term of the suspension."
6. For the month of December 2004, respondent received the prorated share (December 1 through December 8, 2004) of his monthly compensation from the state of Ohio totaling \$2,140.58 in gross earnings.
7. Respondent received no further compensation for the month of December 2004.
8. At all times herein, respondent was aware that his suspension from the bench and practice of law was without pay.
9. On December 8, 2004, respondent's compensation suspension was entered into the state's automated payroll system.
10. In January 2005, the Department of Administrative Services entered a rate change for all judges in the state of Ohio payroll system.
11. Unbeknownst to the SCO staff, the rate change had the effect of overriding the suspension of respondent's compensation in the state's automated payroll system.

12. Consequently, respondent began receiving monthly compensation warrants (checks) for judicial service beginning in January 2005 and continuing through December 2005, despite the fact that respondent was not entitled to compensation during the period of his suspension.<sup>1</sup>
13. Between January 31, 2005 and December 31, 2005, respondent received the following warrants (checks):

<b>Date</b>	<b>Gross Amount</b>	<b>Net Amount</b>
1-31-05	8925.63	5754.43
2-28-05	8925.63	5754.43
3-31-05	8925.63	5754.43
4-30-05	8925.63	5754.43
5-31-05*	8925.63	5754.43
6-30-05	8925.63	5754.43
7-31-05*	8925.63	5754.43
8-31-05	8925.63	5754.43
9-30-05	8925.63	5754.43
10-31-05	8925.63	5754.43
11-30-05*	8925.63	5754.43
12-31-05*	8925.63	5754.43
<b>Total</b>	<b>\$107,107.56</b>	<b>\$69,053.16</b>
* Did not cash		

<sup>1</sup> Respondent was reinstated to the practice of law and resumed his position on the bench on December 29, 2005.

14. Despite the fact that respondent was not entitled to the compensation, he cashed eight of the 12 checks totaling \$71,405.04 in gross wages.<sup>2</sup>
15. Respondent did not cash the May, July, November, or December checks; therefore, those checks were voided.
16. In or around June 2006, a SCO payroll specialist, who was unaware of respondent's suspension without pay, contacted respondent regarding the May, July, November, and December checks that had not been cashed.
17. The SCO payroll specialist provided respondent with forms to request a reissuance of the four voided checks.
18. Almost three years passed with no communication from respondent.
19. In February 2009, respondent completed and notarized the four reissuance forms and submitted them to the SCO.
20. Each "Claim for Reissuance of Voided Warrant" form contained the following language:

Describe in detail all circumstances pertaining to this claim. If claimant is other than the original payee, state the conditions under which warrant came into your possession and attach any documents that support your request for payment. The original warrant should accompany this claim, or an explanation of why it cannot be attached.
21. Respondent attached the May, July, November, and December 2005 warrants (checks) to each form and wrote the following:

The warrant is attached. During this period I was attempting to conserve funds and held the warrants (checks) too long. They became stale and the bank refused to cash them or let them be deposited.

---

<sup>2</sup> The eight cashed checks totaled \$46,035.44 in net earnings.

22. Respondent signed his name in the presence of a notary and falsely attested to the following:

I certify that the above is a complete statement of circumstances surrounding this claim against the state of Ohio and that all facts and statements contained herein are true to the best of my knowledge.

23. Despite respondent's knowledge, he failed to disclose that he was not entitled to the compensation.

24. Upon receipt of respondent's notarized claim forms, the SCO requested the reissuance of two warrants: one for \$17,263.55 (May, July, and November) and one for \$5,754.43 (December).

25. Respondent's untimely requests for the reissuance of checks from 2005 prompted the SCO to investigate the matter further.

26. The SCO immediately discovered the 2005 payroll system error that overrode respondent's December 8, 2004 compensation suspension and caused respondent's judicial compensation to be restarted in January 2005.

27. On April 6, 2009, the Supreme Court of Ohio was able to put a stop payment on the warrant for \$17,263.55 and cancelled the request for the second warrant of \$5,754.43.

28. On April 7, 2009, the SCO sent respondent a letter by US Certified Mail; however, the letter was returned unclaimed.

29. On April 29, 2009, the Supreme Court of Ohio sent the same letter by regular mail.

30. The letter stated, in relevant part:

Upon verification that you received and accepted compensation to which you were not entitled during the period of your suspension from judicial office, you may be required to repay that compensation to the State of Ohio and this matter may be referred to the Office of Disciplinary Counsel. If you have any information to provide relevant to the matter, please contact Ronda Perri, Director of Fiscal and Management Resources, at 614.387.9480.

31. Because respondent had no information to supply, respondent elected not to reply to the letter.
32. In October 2009, the Supreme Court of Ohio turned the matter over to the Attorney General's Office (OAG) to begin collections proceedings.
33. On November 9, 2009, the OAG sent a demand letter to respondent's home address; however, respondent elected not to reply to the letter.
34. Consequently, the OAG referred the matter to special counsel, Lawrence Heiser, of Wellston, Ohio.
35. Heiser made contact with respondent and reached a tentative agreement whereby respondent agreed to pay \$15,000 by December 31, 2009 and \$2,000 per month beginning in January 2010 and continuing until the entire debt was satisfied.
36. Although respondent could not meet the December 31, 2009 deadline, as of September 1, 2010, respondent has repaid \$23,500 and has agreed to pay \$2,000 per month until the debt is satisfied.

### **STIPULATED DISCIPLINARY RULE VIOLATIONS**

Respondent, William Scott Medley, and relator, hereby agree and stipulate that respondent's conduct as alleged in Count One violates the following disciplinary rules:

- DR 1-102(A)(4) & ORPC 8.4(c) [A lawyer shall not engage in conduct involving fraud, dishonesty, deceit, or misrepresentation]
- DR 1-102(A)(6) & ORPC 8.4(h) [A lawyer shall not engage in any conduct that adversely reflects upon his fitness to practice law].

## **STIPULATED MITIGATION EVIDENCE**

- Full and free disclosure during the disciplinary process
- Cooperative attitude toward the disciplinary proceedings
- Positive character evidence

## **STIPULATED AGGRAVATION EVIDENCE**

- Previous disciplinary offenses
- Dishonest or selfish motive

## **STIPULATED EXHIBITS**

- Exhibit 1 Letter from Richard Dove, Asst. Administrative Director, Ohio Supreme Court (with Exhibits)
- Exhibit 2 December 8, 2004 Order
- Exhibit 3 October 9, 2009 Letter to Attorney General's Office
- Exhibit 4 November 9, 2009 Letter from Donn Rosenblum (OAG)
- Exhibit 5 Electronic Mail from Larry Heiser, Esq. to Robin King, 12/18/09
- Exhibit 6 Electronic Mail from Larry Heiser, Esq. to Joseph Caligiuri, 9/1/10
- Exhibit 7 Character Letters

## **JOINT RECOMMENDED SANCTION**

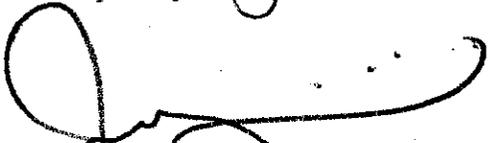
Respondent, William S. Medley, and relator jointly recommend the imposition of an **INDEFINITE SUSPENSION** from the practice of law on condition that respondent not be allowed to petition for reinstatement until the balance of the restitution has been paid.

CONCLUSION

The above are stipulated to and entered into by agreement by the undersigned parties on this 17<sup>th</sup> day of September 2010.



Jonathan E. Coughlan (0026424)  
Disciplinary Counsel



Joseph M. Caligiuri (0074786)  
Senior Assistant Disciplinary Counsel  
250 Civic Center Drive, Suite 325  
Columbus, OH 43215  
614-461-0256



William Scott Medley, Esq. (0031001), *Pro Se*  
173 Burkhart Lane  
Gallipolis, OH 45631  
740-446-7889