

ORIGINAL

IN THE SUPREME COURT OF OHIO

Disciplinary Counsel	:	
	:	
Relator,	:	Case No. 2010-2199
	:	
v.	:	
	:	
Frederick B. Johnson	:	
	:	
Respondent.	:	

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**RESPONDENT, FREDERICK B. JOHNSON'S OBJECTION TO THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION OF THE BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE**

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 CLERK OF COURT  
 SUPREME COURT OF OHIO

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Now comes Respondent, Frederick B. Johnson ("Respondent" or "Mr. Johnson"), by and through counsel, and hereby objects to the Findings of Fact, Conclusions of Law and Recommendation of The Board of Commissioners on Grievances and Discipline filed with this Court on December 28, 2010. *See*, Findings of Fact, Conclusions of Law and Recommendation of the Board of Commissioners on Grievances and Discipline [Board Report], Appendix A.

Respectfully submitted,

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## STATEMENT OF THE CASE

This matter was formally commenced with the filing of a complaint on August 13, 2010, by Relator, Disciplinary Counsel, against Respondent, Frederick B. Johnson. (Findings of Fact, Conclusions of Law and Recommendation of the Board of Commissioners on Grievances and Discipline ["Board Report]," attached as Appendix A). Respondent offered some cooperation during the investigation, including appearing at a deposition at Relator's office on January 11, 2010, and providing a written response to Disciplinary Counsel received on March 19, 2010, describing personal difficulties (his father's death) and health-related problems which contributed to his conduct by causing depression. (*See*, March 2010 letter, Appendix B). However, Respondent did not file an answer to Relator's formal complaint; and Relator, thereupon, filed a motion for default on November 16, 2010. The Master Commissioner determined that the materials offered in support of the motion for default were sufficient, granting the motion.

The Board of Commissioners on Grievances and Discipline ("the Board") considered the matter on December 4, 2010. The Board adopted the Findings of Fact, Conclusions of Law and Recommendation of the Master Commissioner, recommending that Respondent's license to practice law be suspended for a two-year period, with six months of that suspension stayed, conditioned upon Respondent's participation in law office management CLE training.

In response to this Court's order to show cause, Respondent submits a Motion to Supplement the record (attached as Appendix C), and Objections to the Board's *Report* for the reasons outlined herein.

### **STATEMENT OF FACTS**

Respondent essentially agrees to the findings of misconduct determined by the Master Commissioner and the Board, including the following. Frederick Johnson is an attorney at law, licensed to practice in Ohio on November 4, 1977. In over thirty years of practice, Respondent has no disciplinary history. Respondent began suffering personal difficulty in 2006, including sorrow from the death of his father and a diagnosis of prostate cancer. (*See*, March 2010, Letter of Response to Relator, Appendix B and Affidavit of Frederick B. Johnson, attached to Respondent's Motion to Supplement the Record, Appendix C). Respondent believes these events led to depression, which he believes has affected his law practice and contributed to the problems herein. *Id.* He has signed a contract with the Ohio Lawyer's Assistance Program to monitor his mental health treatment. *Id.* at Appendix C.

In or about August of 2009, Relator started its investigation after receiving an overdraft notification regarding Respondent's IOLTA. (Board Report, at 1). Relator requested an explanation for the overdrafts, documents related to the IOLTA and evidence that the overdraft and bank fees were paid by Respondent. *Id.* After Respondent provided incomplete information, Relator scheduled a deposition on January

11, 2010. *Id.* Thereafter, Relator requested additional documents by letters dated January 15, February 12, March 3, March 26, April 13, and July 1, 2010. *Id.* at 2.

Respondent did provide important information related to his personal difficulties, medical problems and depression, which Relator received on March 29, 2010. After Relator did not receive satisfactory responses on the IOLTA questions, Relator sent Respondent a draft of a formal complaint, requesting response by August 1, 2010. *Id.* at 3. Respondent did request an extension of time to respond to the draft complaint, and Relator advised him it could not grant an extension. *Id.* The probable cause panel certified the matter on August 13, 2010, and the complaint was filed with the Board. Respondent did not answer the complaint. On November 16, 2010, Relator filed its motion for default judgment. *Id.*

Respondent's misconduct is set forth by Relator in three counts. The counts principally involve commingling of funds, not maintaining proper records, misrepresentation, false statements to a tribunal, and failing to cooperate during the investigation. As for Count One, on July 31, 2006, Respondent deposited \$89,000 into his trust account -- an inheritance from his father's estate. *Id.* At that time, the balance in the trust account was \$106,756.41, including Respondent's funds, and at least \$13,300.00, he held on behalf of a client. *Id.* From August 2006, through January 2008, Respondent spent most of the funds in the IOLTA. *Id.* Respondent wrote sixty-eight checks to himself for cash totaling \$7,000; six checks to his wife totaling \$5,250; three checks to

his assistant totaling \$1,280; and sixteen checks to various other entities, including insurance companies, some businesses and the bar association for fees, totaling approximately \$11,400. *Id.*

During 2008 and 2009, Respondent's commingling continued. *Id.* at 4. On January 31, 2008, Respondent deposited a check for \$5,800, written by his wife, into the IOLTA. *Id.* On November 4, 2008, Respondent deposited \$4,000 -- proceeds from a loan he had received. *Id.* On May 29, 2009, Respondent deposited \$4,041.66 of his funds into the IOLTA. *Id.* On June 26, 2009, Respondent deposited three checks totaling \$2,000 in the IOLTA. *Id.* On July 21, 2009, Respondent deposited \$600 into the IOLTA, representing earned guardian ad litem fees. *Id.* On August 21, 2009, Respondent deposited \$5,700 of his personal funds into the IOLTA to restore funds he had removed. *Id.*

During 2008, and 2009, Respondent wrote checks from his IOLTA to pay his assistant; to pay for a CLE course; to pay personal bills; to make payment on two loans; and to pay for office expenses. *Id.* During this period, Respondent did not maintain individual client ledgers to keep track of the client funds he held in trust. *Id.* To explain why he maintained his personal funds in the IOLTA, Respondent explains he had mistakenly believed the IRS had placed a lien on his personal checking account. *Id.*

Count Two relates to Respondent's mishandling of trust fund during representation of a client on a domestic relations case. On May 20, 2005, Respondent's client gave Respondent \$9,700, to hold in trust while the divorce was pending, and on November 1, 2005, gave Respondent an additional \$3,606.79, to hold in trust. *Id.* at 5. In total, Respondent was asked to hold \$13,306.79, in trust, but Respondent used the money for other purposes. *Id.* On August 31, 2007, the court issued a divorce decree in the matter and ordered that the funds Respondent held be paid towards the settlement. *Id.* After Respondent's client appealed, the court of appeals affirmed the trial court's decision on April 27, 2009. *Id.*

On May 8, 2009, May 18, 2009, and on June 1, 2009, opposing counsel sent Respondent letters demanding the funds. *Id.* Thereafter, opposing counsel took Respondent's deposition and filed a motion to compel, a motion for contempt, a motion for lump sum judgment, and a motion for legal fees. Respondent did not respond to the motion. The matter was set for hearing on August 24, 2009. *Id.*

On August 24, 2009, Respondent used other funds available in the IOLTA, including the \$5,700, from his wife, to obtain a certified check for \$13,300. *Id.* At the hearing on August 25, 2009, Respondent incorrectly advised the court he maintained a separate ledger for each client. *Id.*

Finally, Count Three of Relator's complaint relates to Respondent's failure to assist with Relator's investigation. *Id.* On January 11, 2010, Respondent participated in a deposition. *Id.* Thereafter, he sent some of the documentation Relator had requested. *Id.* Respondent also provided an explanation of his personal and health challenges. Appendix B. However, Respondent never provided the client ledgers and any other documents that would show how he calculated his fees. Board Report, at 6. Of the eight letters Relator sent Respondent during Relator's investigation, Respondent only answered two of them. *Id.*

### ARGUMENT

#### **PROPOSITION OF LAW NO. I: RESPONDENT'S CONTRACT WITH THE OHIO LAWYERS ASSISTANCE PROGRAM, COMMITMENT TO COUNSELING, AND REQUEST TO PROVIDE MITIGATION EVIDENCE WARRANTS REOPENING RECORD AND REMANDING THE MATTER TO THE BOARD FOR FURTHER PROCEEDINGS.**

Ohio lawyers are obliged to cooperate and participate in disciplinary proceedings, including answering the complaint to avoid a default judgment. Gov.Bar R. V (6)(F). The cooperation in this process is vital to efficient operation of Ohio's lawyer disciplinary process:

Attorneys must timely respond to a disciplinary inquiry, whether the inquiry relates to the lawyer's own conduct or that of a colleague. Compliance with this obligation is critical to the effectiveness of the legal profession's effort to monitor itself. Although every communication from a disciplinary agency should be taken seriously, the initial inquiry about a client grievance should receive the respondent lawyer's immediate and professional attention.

*Cleveland Bar Ass'n v. James*, 109 Ohio St. 3d 310, 2006 – Ohio -- 2424. Although timely response and cooperation/participation are required, when Respondent's mental condition or impairment contributes to his failure to answer and participate in the proceedings, this Court has taken a different approach. In such circumstances, this Court has permitted lawyers to move to reopen the proceedings, provide additional evidence in mitigation of the Respondent's misconduct, and has even remanded the proceedings. *See, Butler County Bar Association v. Portman*, 116 Ohio St.3d 1450, 2007-Ohio-6842 (court permitting supplementation of record and remand of proceedings).

Allowing a motion to reopen the proceedings in such cases is consistent with the Court's policy of liberal amendments to (a) foster protection the public by disciplinary authorities and (b) afford reasonable due process to responding lawyers. *See, also, Columbus Bar Association v. Milles*, 96 Ohio St.3d 74, 2002-Ohio-3455 (court rules respondent may supplement the record, and without remand, reduces the sanction from an indefinite suspension to a fully stayed suspension). While this Court typically imposes a severe sanction when lawyers fail to respond and answer formal complaints, strong mitigation may warrant a term suspension of a lawyer's license to practice law, partially stayed, when he or she fails to answer and participate in the proceedings. *Id.* As Respondent discusses below, even if the Court declines to supplement the record and remand the matter, there is ample proof in the record to support the Board's recommended sanction.

**PROPOSITION OF LAW NO. II: THE MITIGATION EVIDENCE CITED BY THE BOARD AND CONTAINED IN THE RECORD SUPPORTS THE RECOMMENDED TERM SUSPENSION OF RESPONDENT'S LICENSE TO PRACTICE LAW, IN SPITE OF RESPONDENT'S FAILURE TO FULLY COOPERATE IN THE INVESTIGATION, ANSWER THE COMPLAINT AND PARTICIPATE IN THE FORMAL PROCEEDINGS AFTER THE COMPLAINT WAS FILED.**

The Master Commissioner's and the Board's recommendation of a two-year suspension of Respondent's license with six months stayed is in the reasonable range of sanctions that should be imposed, given the mitigating factors cited by the board and contained in the record. When imposing sanctions for lawyer misconduct, this Court considers relevant factors, including the ethical duties that the lawyer violated and the sanctions imposed in similar cases. *Stark Cty. Bar Assn. v. Buttacavoli*, 96 Ohio St. 3d 424, 2002 - Ohio - 4743. In making a final determination, this Court also weighs evidence of the aggravating and mitigating factors listed in Section 10(B) of the Rules and Regulations Governing Procedure on Complaints and Hearings before the Board of Commissioners on Grievances and Discipline ("BCGD Proc.Reg."). *Disciplinary Counsel v. Broeren*, 115 Ohio St. 3d 473. 2007- Ohio - 5251.

Respondent's attendance at the January 11, 2010, deposition conducted by Relator was quite helpful to the Master Commissioner and to the Board in determining what sanctions to recommend. Additionally, although the Board Report does not mention any of the personal difficulties and health-related information Respondent offered in his written response received by Disciplinary Counsel on March 19, 2010, including his

father's death, and his bout with prostate cancer, the Master Commissioner considered (a) the absence of a prior disciplinary record in nearly thirty years of practice; and (b) timely good faith effort to make restitution. BCGD Proc.Reg. 10(B). Respondent urges the Court to not only consider the mitigating factors outlined by the Master Commissioner, but to also consider the information in Respondent's communication about his personal and health problems. In the March 2010 letter, which Relator submitted with the motion for default, Respondent stated:

My father lived with our family for a number of years before his death in 2004. Soon after he died, I was diagnosed with prostate cancer. The combination of those two events led me to struggle with depression. I was named as executor of my father's estate, but the sadness I felt every time I attempted to work on the estate lead me to the conclusion that I should step down as executor. The estate was finished by another attorney and approved by the court in 2006[.] I received an inheritance of \$82,000 [sic]. I did not want to put the money in my checking account because I intended to search out an investment. However, I had to have two additional surgeries for my cancer around this time, and I had a very difficult and slow recovery. I needed the money received from my inheritance to pay ongoing expenses at home and in the office, which I was incapable of paying due to being out of the office for so many days.

*See*, Exhibit 12 to Motion for Default, Appendix B. As the foregoing reflects, even though Respondent's conduct is inexcusable, Respondent's actions were wholly inconsistent with the excellent character displayed during his thirty-year career while suffering from the personal difficulties he discussed in the letter. *Id.* Again, this important information is already part of the record. Thus, even if this Court does not remand the proceedings to the Board, which Respondent prays it should, the record

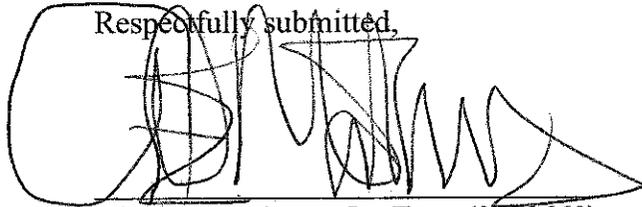
supports the Court's imposition of a sanction in the range of that which the Master Commission and the Board have recommended.

In summary, despite of Respondent's failure to fully cooperate with Relator's investigation, answer Relator's complaint, or otherwise participate in the formal proceedings, the Master Commissioner recommended a suspension of twenty-four months, with six months of the suspension stayed and that Respondent attend at least six hours of continuing legal education and law office management. This recommendation is consistent with the Court's precedent when similar facts have been presented. Thus, the present record contains ample mitigation evidence to warrant the imposition of a two-year suspension with six months stayed, even if the Court decides not to remand the proceedings to the Board.

### CONCLUSION

Based on the foregoing, Respondent, Frederick B. Johnson, respectfully urges the Court to consider the evidence offered in his Motion to Supplement the Record and Affidavit and consider remanding the proceedings to the Board for further hearing related to mitigation. Should the Court determine that remanding the matter to the Board is not warranted, Respondent urges the Court to consider the mitigation evidence which is cited in the Board Report and contained in the record (including information in Appendix B), and impose a sanction in the range of the sanction recommended by the Master Commissioner and the Board.

Respectfully submitted,

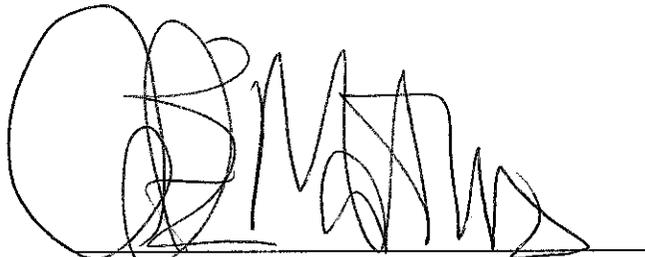


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Counsel for Respondent

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing *Respondent, Frederick B. Johnson's Objection To The Findings of Fact, Conclusions of Law, And Recommendation of The Board Of Commissioners On Grievances And Discipline* was sent via regular U.S. mail, postage prepaid this 24<sup>th</sup> day of January, 2011, to the following:

Karen H. Osmond  
Assistant Disciplinary Counsel  
Office of Disciplinary Counsel  
250 Civic Center Drive, #325  
Columbus, Ohio 43215



Alvin E. Mathews, Jr.

# **APPENDIX A**

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

10-2199

FILED  
DEC 17 2010  
CLERK OF COURT  
SUPREME COURT OF OHIO

<b>In Re:</b>	:	
<b>Complaint against</b>	:	<b>Case No. 10-081</b>
<b>Frederick Bruce Johnson</b>	:	<b>Findings of Fact,</b>
<b>Attorney Reg. No. 0003093</b>	:	<b>Conclusions of Law and</b>
	:	<b>Recommendation of the</b>
<b>Respondent</b>	:	<b>Board of Commissioners on</b>
	:	<b>Grievances and Discipline of</b>
<b>Disciplinary Counsel</b>	:	<b>the Supreme Court of Ohio</b>
	:	
<b>Relator</b>	:	

This matter was referred to Master Commissioner, Judge W. Scott Gwin, on November 17, 2010, by the Secretary of the Board pursuant to Gov. Bar R. V(6)(F)(2) for a ruling on Relator's motion for default judgment. Master Commissioner Gwin then proceeded to prepare a report pursuant to Gov. Bar R. V (6)(J).

PROCEDURAL HISTORY

On or about August 31, 2009, Relator began an investigation after receiving an overdraft notification from National City Bank (now PNC) regarding Respondent's IOLTA account. On October 1, 2009, Relator sent a letter of inquiry to Respondent requesting information about three overdrafts that occurred in August, 2009. Relator requested Respondent provide an explanation for the overdrafts, copies of the IOLTA statements for the month preceding, for the month of, and the month after his overdraft, copies of client ledgers, and proof that the overdraft and overdraft fees had been paid.

Respondent replied to the letter and submitted only his September 2009, IOLTA statement. Relator then scheduled a deposition, which took place on January 11, 2010.

As a follow up, on January 15, 2010, Relator requested various documents regarding topics that had come up at Respondent's deposition. Specifically, Relator requested copies of the client ledgers, and/or information showing how Respondent calculated attorney fees, and information concerning one of the checks. On February 12, 2010, Relator sent a letter also requesting information about a second check. Respondent did not answer either the January or February letters. On March 3, 2010, Relator sent a letter to which Respondent replied, but he did not provide copies of the client ledgers or information regarding how he calculated his fees. In his response, Respondent explained one of the checks, and indicated he was in the process of gathering the information Relator had requested regarding the rest of the checks. On March 26, 2010, Relator sent Respondent a letter advising him it would be subpoenaing Respondent's IOLTA records from the 2005 through the present date, and notifying him that a formal complaint would most likely be filed. On April 13, 2010, Respondent sent another letter again requesting the records, but Respondent did not answer the letter.

On July 1, 2010, Relator sent a final letter with a number of questions regarding Respondent's IOLTA records and again requesting client ledgers and/or other documents showing how Respondent calculated attorney fees. Respondent answered the letter but did not provide any of the requested documents, indicating for the first time he could not produce them because his records did not contain the type of documentation Relator was seeking.

On July 19, 2010, Relator sent Respondent a draft copy of the formal complaint,

asking Respondent to reply by August 1, 2010. On August 3, 2010, Respondent requested an extension of time to respond to the draft complaint. Relator stated it could not grant him an extension of time to respond to the draft complaint, but assured him he would have an opportunity to file an answer to the complaint if the probable cause panel certified the matter.

On August 13, 2010, a probable cause panel certified the matter to the Board. On August 16, 2010, the complaint was filed and the Secretary of the Board sent Respondent a copy of the complaint with a notice his written answer was due within 20 days. The Secretary sent the complaint and notice by certified mail, which was accepted. Respondent has not filed an answer or any other pleading response in the proceeding. On November 16, 2010, Relator filed its motion for default judgment.

## FINDINGS OF FACT

### COUNT ONE

On July 31, 2006, Respondent deposited \$89,000 into his trust account. These were personal funds Respondent had received as an inheritance from his father's estate. On July 31, 2006, the balance in the trust account was \$106,756.41, including Respondent's \$89,000 plus at least \$13,300.00 that he was holding on behalf of a client. Starting in August 2006 and continuing through January 2008, Respondent removed and used almost all the funds in his IOLTA account including the money being held in trust for the client. Respondent wrote 68 checks to himself for cash totaling over \$7,000.00; 6 checks to his wife totaling \$5,250.00; 3 checks to his assistant totaling \$1,280.00; and 16 checks to various other entities including insurance companies, some businesses, and the Bar Association for fees, totaling approximately \$11,400.00. On January 31, 2008,

Respondent's IOLTA account balance was \$54.51. During the same period of time, Respondent comingled other funds by depositing money from clients for filing fees, attorney fees, and other legal obligations into the IOLTA account.

After January 2008, Respondent continued comingling clients' funds and personal funds in the IOLTA account and used the IOLTA account as if it were a personal or business account. On January 31, 2008, Respondent deposited a check for \$5,800.00, written by his wife, into his trust account. On November 4, 2008, Respondent deposited \$4,000.00, which represented the proceeds of a loan Respondent had taken out. On May 29, 2009, Respondent deposited \$4,041.66 into his trust account, \$1,270.83 of which was attorney fees for court-appointed criminal defense work and \$1,270.83, which was a rent payment from a tenant that leases office space from Respondent. On June 26, 2009, Respondent deposited three checks totaling \$2,000.00 in his trust account, one of which was another rent check. On July 21, 2009, Respondent deposited \$600.00 into the trust account, representing earned guardian ad litem fees. On August 21, 2009, Respondent deposited \$5,700.00 of his personal funds into the trust account to restore funds he had removed.

Between November 2008 and November 2009, Respondent used funds from the trust account to pay his assistant; to pay for a CLE course; to pay personal bills; to make payments on two loans Respondent had taken out; and to pay for various office expenses. From at least November 2008 to November 2009, Respondent did not maintain individual client ledgers for all the clients whose money he held in trust. During the same period of time, the IOLTA account was either overdrawn or had insufficient funds on eight separate occasions. Respondent testified at his deposition he had mistakenly

believed the IRS had placed a lien on his personal checking account, so he had to use his IOLTA account for his personal use.

#### COUNT TWO

Respondent represented Lawrence Shane Malloy in Logan County Case No. DR05-01-0018, *Malloy v. Malloy*. The other party, Malloy's wife Dawn, was represented by Attorney Scott Barrett. On May 20, 2005, Malloy gave Respondent \$9,700.00 to hold in trust while the divorce was pending, and on November 1, 2005, gave Respondent an additional \$3,606.79 to hold in trust. In total, Respondent was supposed to be holding \$13,306.79 in trust on the Malloy case, but acknowledged he was using the money for other purposes.

On August 31, 2007, the court issued a divorce decree in the Malloy case and ordered the funds Respondent was holding applied towards a settlement due Dawn Malloy. Malloy filed an appeal on September 28, which was dismissed for a lack of a final appealable order. On June 27, 2008, Malloy filed a second appeal. The Court of Appeals affirmed the trial court decision on April 27, 2009.

On May 8, 2009, attorney Barrett sent Respondent a letter requesting he turn over the funds he was holding for Malloy. Barrett sent a second letter on May 18, 2009, and third demand letter on June 1, 2009. When he did not receive the money, Barrett filed a motion to compel, a motion for contempt, a motion for lump sum judgment, and a motion for legal fees. Respondent did not file a response to the motion. The matter was set for hearing on August 24, 2009.

On July 6, 2009, Barrett took Respondent's deposition but Respondent did not bring his records with him. Barrett asked Respondent if he had the entire sum held in

escrow currently and Respondent responded "I think." In fact, the balance of the trust account was less than the approximately \$13,300.00 Respondent should have been holding for Malloy. Barrett then filed a motion for immediate escrow of funds, and the trial court ordered all funds Respondent held for Malloy to be immediately deposited with the Clerk of Courts. Respondent did not deposit any funds with the Clerk of Courts.

On August 24, 2009, Respondent used other funds available in the IOLTA account, including the \$5,700.00 from his wife, to obtain a certified bank check for \$13,300.00. At a hearing in the Malloy case on August 25, 2009, Respondent objected to Barrett's request to see his records, stating to the court, that because he was tendering the \$13,300.00 it should not matter what the records showed. Respondent advised the court his accounting methods would not make any sense to Barrett. Respondent informed the court he maintained a separate ledger for each of his clients, which was untrue. When the court specifically asked Respondent whether the \$13,300.00 had been continuously in the trust account from the date he first received them, Respondent admitted they had not.

### COUNT THREE

On January 11, 2010 Respondent participated in a deposition, and thereafter, sent some of the documentation Relator had requested. Respondent never provided the client ledgers and any other documents that would show how he calculated his fees. Of the eight letters Relator sent Respondent, Respondent answered two of the letters, and the information he gave in his replies was incomplete.

### CONCLUSIONS OF LAW

#### COUNT ONE

Respondent's conduct in count One occurred both prior to and after February 1,

2007, when the Supreme Court of Ohio adopted the Ohio Rules of Professional Conduct to supersede and replace the Ohio Code of Professional Responsibility.

Respondent's conduct in Count One violated the following provisions of the Code of Professional Responsibility:

DR 9-101(A)[failing to deposit all the funds of clients in one or more identifiable banks accounts and no funds belonging to the lawyer or law firm shall be deposited therein]; and

DR 9-102(B)(3)[failing to maintain complete records of all funds, securities, or other property].

Respondent's conduct after February 1, 2007 with regard to Count One violated the following Rules of Professional Conduct:

Prof. Cond. R. 1.15 (a) [failing to hold property of clients or third persons that is in the lawyer's possession in connection with representation separate from the lawyer's own property];

Prof. Cond. R. 1.15(b) [using the lawyer's own funds in a client trust account for reasons other than that permitted by the rule];

Prof. Cond. R. 1.15(a)(2) [failing to maintain a record for each client on whose behalf funds are held];

Prof. Cond. R. 1.15(c) [failing to withdraw only fees that are earned or expenses incurred from a client trust account into which fees and expenses have been paid in advance];

Prof. Cond. R. 8.4(c) [conduct involving dishonesty, fraud, deceit or misrepresentation];

Prof. Cond. R. 8.4(d) [conduct that is prejudicial to the administration of justice];  
and

Prof. Cond. R. 8.4(h) [conduct that adversely reflects on the lawyer's fitness to  
practice law].

#### COUNT TWO

Respondent's behavior with respect to Count Two violated the following Rules of  
Professional Conduct:

Prof. Cond. R. 1.15(d) [failing to promptly deliver to the client or third person any  
funds or other property to the client or third person is entitled to receive];

Prof. Cond. R. 3.3(a)(1) [knowingly making a false statement of fact to a tribunal  
or failing to correct a false statement of material fact or law previously made to a  
tribunal];

Prof. Cond. R. 8.4(c) [conduct involving dishonesty, fraud, deceit, or  
misrepresentation];

Prof. Cond. R. 8.4(d) [conduct prejudicial to the administration of justice]; and

Prof. Cond. R. 8.4(h) [conduct that adversely reflects on the lawyer's fitness to  
practice law].

#### COUNT THREE

Respondent's conduct in Count Three has violated the following Rules of  
Professional Conduct:

Prof. Cond. R. 8.1(b) [knowingly failing to respond to a demand for information  
from a disciplinary authority].

Respondent's behavior also violates Gov. Bar R. V(4)(G)[failing to cooperate

with a disciplinary investigation].

#### AGGRAVATING FACTORS

At least four of the nine aggravating factors set forth in BCGD Proc. Reg. 10

(B)(1) are present here:

- (b) Dishonest or selfish motive;
- (c) A pattern of misconduct;
- (d) Multiple offenses; and
- (e) Lack of cooperation in the disciplinary process.

#### MITIGATING FACTORS

At least two of the eight factors in mitigation found in BCGD Proc. Reg. 10(B)(2)

are present here:

- (a) Absence of a prior disciplinary record in nearly 30 years of practice; and
- (c) Timely good-faith effort to make restitution.

#### RECOMMENDED SANCTION

Relator recommends Respondent be suspended from the practice of law for 24 months with no more than six months of suspension stayed, on condition that Respondent engage in no further misconduct and that he complete at least six hours of continuing legal education in law office management.

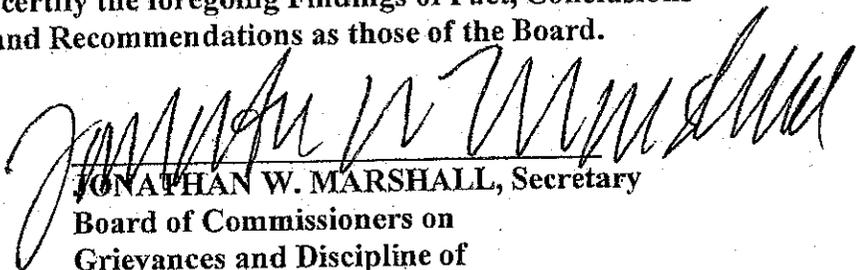
#### RECOMMENDATION OF MASTER COMMISSIONER

The Master Commissioner recommends a suspension of twenty-four (24) months with six (6) months of the suspension stayed and that the Respondent attend at least six hours of continuing legal education in law office management.

## BOARD RECOMMENDATION

Pursuant to Gov. Bar Rule V(6)(L), the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio considered this matter on December 2, 2010. The Board adopted the Findings of Fact, Conclusions of Law and Recommendation of the Master Commissioner and recommends that the Respondent, Frederick Johnson, be suspended from the practice of law in the State of Ohio for twenty-four months with six months stayed upon the conditions in the Master Commissioner's report. The Board further recommends that the cost of these proceedings be taxed to the 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**

# **APPENDIX B**

KH  
MAR 19 2010

DISCIPLINARY COUNSEL  
SUPREME COURT OF OHIO

Karen H. Osmond  
Disciplinary Counsel  
The Supreme Court of Ohio  
250 Civic Center Drive Suite 325  
Columbus, Ohio 43215-7411

Frederick B. Johnson  
214 S. Court St.  
Marysville, Ohio 43040

Re: File No. A9-2183

Dear Ms. Osmond,

First and foremost, I want to state that whatever was done by me is my complete responsibility. I am not blaming circumstances or failures on anyone but myself. The practice of law requires scrupulous behavior because as attorneys we are held up in the community in positions of trust. Violations of that trust effect the entire bar and tarnishes the image of all attorneys. Having prefaced my remarks, I want to add explanation to the National City Bank check of August 24, 2009.

I. Malloy check drawn on National City Bank, August 24, 2009.

My father lived with our family for a number of years before his death in 2004. Soon after he died, I was diagnosed with prostate cancer. The combination of those two events led me to struggle with depression. I was named as executor of my father's estate, but the sadness I felt every time I attempted to work on the estate lead me to the conclusion that I should step down as executor. The estate was finished by another attorney approved of by the court, and in 2006, I received an inheritance of \$82,000.00. I did not want to put that money in my checking account because I intended to search out an investment. However, I had to have two additional surgeries for my cancer around this time, and I had a very difficult and slow recovery. I needed the money received from my inheritance to help pay ongoing expenses at home and at the office, which I was incapable of paying due to being out of the office for so many days.

What you may not know if you have never lived in a small town, is that you cannot reveal your illness if you wish to remain in practice. If people discover that you have a serious illness, they do not want you as their attorney, in the belief that you will be more consumed in your problems than in their case. I watched this happen to a brilliant criminal attorney who lost his practice when it became known that he had cancer. Only my immediate family and my secretary knew of my illness. I managed cases and went to the office as much as possible, but I was really very ill and in more pain than I have ever experienced in my life. My primary attention was to struggle through it and focus on only what I had to get through that day. However, taking so much time from the office caused my income to plummet. I started to draw on my inheritance to pay office and personal expenses.

The Malloy case was a contentious divorce. My client cashed in accounts and was ordered to deposit the remaining money into my trust account. ( See deposit of May 20, 2005) He was also ordered to deposit his bonus check into my trust account. ( See deposit of Nov. 21, 2005)

While I was drawing down my inheritance, I did not pay attention to my account statements, and carelessly spent money to keep afloat, trying as best I could to get through my illness. Late in 2008, I discovered that I had exhausted all of the funds in the account, including the funds set aside for the Malloy case. I was shocked and panicked. The next day I made an application to National City Bank for a loan, but was turned down, because they determined that I was not credit-worthy. My next resource was to secure a loan with Liberty National Bank,

which I have since repaid. I was only able to borrow \$4,500.00, which was not enough money. I certainly would have borrowed more if I had been able to. All the while, I was putting as much of my earned income as possible back into my trust account. I even let my taxes and mortgage go, so that I could put money into my account as quickly as possible.

The Malloy case was moving at a snail's pace because the judge took two years to make a decision, and then the parties tied it up for another fourteen months in the Court of Appeals. At all times, my client gave me specific instructions not to release the money because he had cross claims which he contended would effect the amount of money owed.

My wife was able to withdraw money from a deferred compensation account which cleared up the arrearage on our mortgage and provided me with \$6,000.00 to put into my trust account. On August 24, 2010, I withdrew a certified check from National City Bank, payable to the court. At the hearing, Judge Chamberlain asked me if the money had always been in my trust account. As an officer of the court, I answered "no". He seemed very surprised. He said that he did not want an explanation but that he felt compelled to report this matter to the Disciplinary Council. I told him that I understood.

Looking back over that time, my main concern was my obligation to my client and to the bar. In my 33 years of practicing law I have never been in this type of predicament. My efforts at a broken-fix of the problem do not exculpate me from the fact that I created an ethical breach. I am just frightened to death as to how I will ever recover from being suspended from the practice of law. It is not a money issue but rather an issue of reputation which seems to be the only asset I still possess.

#### II. Check of January 15, 2009 number 935

I was very nervous on the day of the deposition, but I do not remember stating anything about an income tax check. The amount was used to pay GMAC Mortgage, and I would have known that from the amount of the check. I was required to get a certified check because I had bounced a check to GMAC at an earlier time and after that, GMAC required me to pay by certified check.

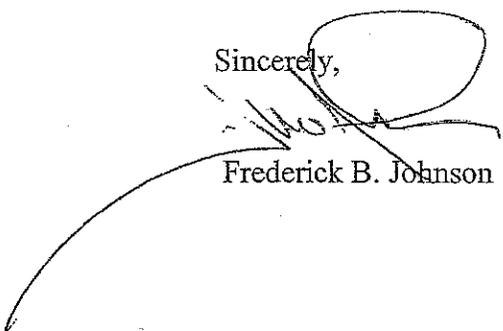
#### III Inquiry regarding various checks

- A. Check #952 to Mindy Foust, dated May 9, 2009, was a refund check.
- B. Check #912 to Robert Brown dated was a refund check but the amount was \$625.00 rather than \$400.00
- C. Check # 1063 to John Zacharias dated October 28, 2009 was a refund check.
- D. I was unable to find any check payable to Mary Windle, but will attempt to research this further if you can provide me with the check number.

#### IV. Statement of Accounts

You asked for a statement showing the accounting of my clients and I am gathering that information, but my secretary has been gone to a conference this week. She will be back on Friday, and I should be able to send it to you at that time.

Sincerely,



Frederick B. Johnson

# **APPENDIX C**

IN THE SUPREME COURT OF OHIO

Disciplinary Counsel

Relators,

v.

Frederick B. Johnson

Respondent.

Case No. 2010-2199

---

**MOTION TO SUPPLEMENT THE RECORD AND  
TO REMAND PROCEEDINGS TO BOARD**

---

Karen H. Osmond (0082202)  
COUNSEL OF RECORD FOR RELATOR  
Assistant Disciplinary Counsel  
Office of Disciplinary Counsel  
250 Civic Center Drive, #325  
Columbus, Ohio 43215  
Phone: (614) 461-0256  
Fax: (614) 461-7205  
Email: [osmondk@sconet.state.oh.us](mailto:osmondk@sconet.state.oh.us)

Alvin E. Mathews, Jr., Esq. (0038660)  
COUNSEL OF RECORD FOR RESPONDENT  
Bricker & Eckler LLP  
100 South Third Street  
Columbus, Ohio 43215  
Phone: (614) 227-2312  
Fax: (614) 227-2390  
Email: [amathews@bricker.com](mailto:amathews@bricker.com)

IN THE SUPREME COURT OF OHIO

Disciplinary Counsel

Relator,

v.

Frederick B. Johnson

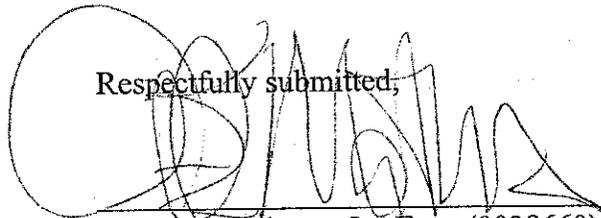
Respondent.

Case No. 2010-2199

MOTION TO SUPPLEMENT THE RECORD  
AND TO REMAND PROCEEDINGS TO BOARD

Now comes Respondent, Frederick B. Johnson, by and through counsel, and hereby moves this court to issue an order permitting Respondent to present limited mitigation evidence, contained in the attached Affidavit of Mr. Johnson, relevant to the disposition of this matter and to consider remanding the matter to the Board of Commissioners on Grievance and Discipline for presentation of additional mitigation evidence. The reasons in support of the application are more fully set forth in the attached memorandum.

Respectfully submitted;



Alvin E. Mathews, Jr., Esq. (0038660)  
Bricker & Eckler LLP  
100 South Third Street  
Columbus, OH 43215  
Phone: (614) 227-2312  
Fax: (614) 227-2390  
Email: [amathews@bricker.com](mailto:amathews@bricker.com)

## MEMORANDUM

Relator, Disciplinary Counsel, filed its formal complaint in this matter and Respondent, Frederick Johnson, failed to file an answer in the proceedings. Thereupon, Disciplinary Counsel filed a motion for default, which was granted. The Master Commissioners rendered factual findings, conclusions of law, and a recommendation of a two-year suspension of Respondent's license, with six months of the suspension stayed. The Board of Commissioners on Grievances and Discipline adopted the Master Commissioner's report and filed its report with this Court on December 17, 2010.

After this court issued an order to show cause, Respondent filed Objections to the Board's report, along with the instant Application. This Application is made pursuant to Gov.Bar. R. V, Section 11(D), which in relevant part states:

The process of procedure under this rule and regulations approved by the Supreme Court shall be as summary as reasonably may be. Amendments to any complaint, notice, answer, objections, report, or an order to show cause may be made at any time prior to the final order of the Supreme Court. The party affected by the amendment shall be given reasonable opportunity to meet any new matter presented.

Gov.Bar R. V (11)(D). Additionally, there is precedent for permitting Respondent to supplement the record at the stage of the proceedings where the Court has issued its Order to Show Cause. In the case *Butler County Bar Association v. Portman*, 116 Ohio St.3d 1450, 2007-Ohio-6842, the Respondent did not answer the complaint, and the Board of Commissioners on Grievances and Discipline referred Relator's motion for default to a master commissioner, who determined respondent, among other strings, had neglected numerous client matters, failed to refund unearned retainers, and

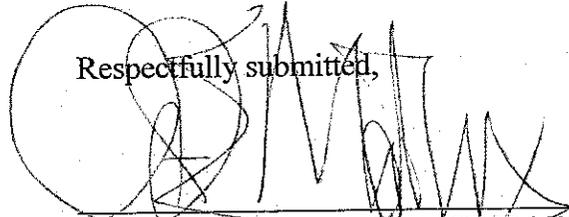
misrepresented the receipt of public defender fees. The Board adopted the master commissioner's recommendation of a permanent disbarment. This Court permitted respondent to supplement the record with considerable mitigation evidence, and the Court decided to remand the matter to the Board, permitting Mr. Portman to present additional mitigation evidence to the Board, which was later reviewed by this Court. The Court's review resulted in a more appropriate sanction under the circumstances – an indefinite suspension with credit for time served. *Butler County Bar Association v. Portman*, 121 Ohio St.3d 518, 2009-Ohio-1705; *see, also, Columbus Bar Association v. Milles*, 96 Ohio St.3d 74, 2002-Ohio-3455 (court permitting respondent to supplement the record, and without remand, reducing the sanction from an indefinite suspension to a fully stayed suspension).

In the present case, Respondent regrets his failure to participate in the hearing, after giving some cooperation during Relator's investigation. While Respondent did provide some explanation for his conduct, including that his father's death and bout with prostate cancer had caused him to be depressed, that information is not discussed in the Board Report. *See, Exhibit 12 to Relator's Motion for Default.* This and other information should be considered by the Court before its decision is rendered. Thus, consistent with the procedural rules and case law, Respondent should be permitted to supplement the record. Additionally, Respondent's newly-submitted mitigation evidence should be given some weight in the Court's determination as to whether this matter should be remanded for further consideration by the Board.

Respondent has signed a contract with the Ohio Lawyers Assistance Program and plans to begin treatment for a mental condition that may have bearing on his misconduct (*See*, Affidavit of Frederick Johnson, attached hereto and made a part hereof).

For the foregoing reasons, Respondent respectfully urges this Court to issue an order permitting Respondent to supplement the record with additional evidence regarding Respondent's contract with the Ohio Lawyers Assistance Program, so that this Court may determine whether the case should be remanded to the Board for further consideration.

Respectfully submitted,



Alvin E. Mathews, Jr., Esq. (0038660)

Bricker & Eckler LLP

100 South Third Street

Columbus, Ohio 43215

Phone: (614) 227-2312

Fax: (614) 227-2390

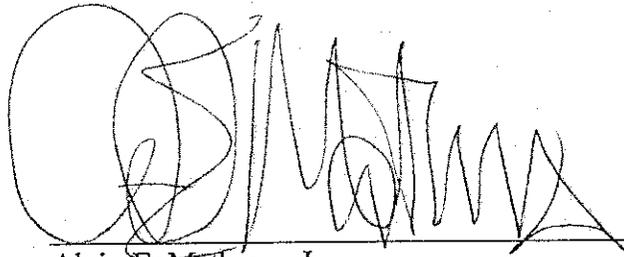
Email: [amathews@bricker.com](mailto:amathews@bricker.com)

Counsel for Respondent

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing *Motion to Supplement the Record*  
*and to Remand Proceedings to Board* was sent via regular U.S. mail, postage prepaid this  
24<sup>th</sup> day of January, 2011, to the following:

Karen H. Osmond  
Assistant Disciplinary Counsel  
Office of Disciplinary Counsel  
250 Civic Center Drive, #325  
Columbus, Ohio 43215

A handwritten signature in black ink, appearing to read "Alvin E. Mathews, Jr.", written over a horizontal line.

Alvin E. Mathews, Jr.

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

Disciplinary Counsel

Relator

Vs.

Case No.: 2010-2199

Frederick B. Johnson

Respondent

**AFFIDAVIT OF RESPONDENT**

STATE OF OHIO            )  
  ) ss  
COUNTY OF UNION        )

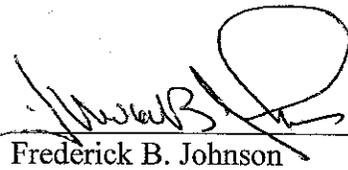
I, Frederick B. Johnson, who is of the age of majority and is competent to testify, after being duly sworn, states:

- 1.) I am the respondent in the above-captioned matter.
- 2.) The investigation of my conduct by the disciplinary Counsel was commenced in August of 2009.
- 3.) I initially cooperated with the Disciplinary Counsel, including the attendance at a deposition in January of 2010. Thereafter, I stopped responding to their requests, as I became paralyzed and felt hopeless about the situation. I had become depressed as a consequence of several life events, including my father's death, my own prolonged illness (prostate cancer) and the financial downturn of the economy, which had a disastrous effect on my law practice and my ability to generate revenue.
- 4.) When the formal complaint was filed, I did not respond; nor did I hire a lawyer to respond for me. When I receive a Motion for Default Judgment, I never even opened the envelope; nor did I seem to care what repercussions the proceedings would have on my future ability to practice law.
- 5.) I also did not reveal my mental and physical suffering to my colleagues of the bench and the bar, although they could plainly see the effects of my depression did how I had emotionally changed.
- 6.) I was called into a conference with Judge Fraser and Judge Coleman-Eufinger, along with Magistrate Jillisky, who had read the ~~posting on~~ the Supreme Court website. They convinced me that I was doing a disservice to myself by

failing to respond and/or defend the allegations.

7.) As a result of their recommendation, I sought help from the Ohio Lawyers Assistance Program, who interviewed me on Monday, January 10, 2011. After the interview, I entered into a contract for treatment of my depression which condition I understand has existed for some time. I also scheduled a January 14, 2011 appointment to see a therapist by the name of Stephanie Stark, who I plan to treat with on an ongoing basis. (See OLAP Contract, attached hereto and made apart hereof). Additionally, I will be seeing a psychiatrist to obtain mediation.

8.) Lastly, I have hired the service of Alvin E. Matthews, Esq. to request that instant proceedings be reopened and/or remand for consideration of mitigation evidence by the Board of Commissioners on Grievances and Discipline, and/or this Court.

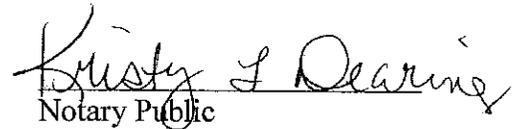


Frederick B. Johnson

On this 19<sup>th</sup> day of January, 2011 came Frederick B. Johnson, who after being sworn, state the above is the truth to the best of his belief and knowledge.



**KRISTY L. DEARING**  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES SEPTEMBER 7, 2013



Notary Public

CONFIDENTIAL

Ohio Lawyers Assistance Program, Inc.

1650 Lake Shore Drive, Suite 375, Columbus, Ohio 43204-4991
Tel. 800-348-4343 614-586-0621 Fax: 614-586-0633
www.ohiolap.org

SCOTT R. MOTE, J.D.
EXECUTIVE DIRECTOR

STEPHANIE S. KRZMARICH, LISW-S, LCDC-III, ICADC
CLINICAL DIRECTOR

MEGAN R. SNYDER, MSW, LISW
CLINICAL ASSOCIATE

Cincinnati Office:
PATRICK J. GARRY, J.D.
ASSOCIATE DIRECTOR
513-623-9853

Cleveland Office:
PAUL A. CAIMI, J.D., LCDC-III, ICADC
ASSOCIATE DIRECTOR
800-618-8606

OHIO LAWYERS ASSISTANCE PROGRAM, INC.
MENTAL HEALTH CONTRACT

WHEREAS, Frederick B. Johnson

by order of the Supreme Court of Ohio dated 1-10-2011, participation in the program offered by the Ohio Lawyers Assistance Program, Inc. (OLAP) is required, and/or, is obligated by reason of an agreement with OLAP to participate in the program offered by OLAP and/or Ohio Lawyers Support System (OLSS), and/or, is currently involved in the Supreme Court of Ohio disciplinary process, and/or, is applying for admission to the Ohio bar, and/or, has been diagnosed as suffering from a mental health or related disorder(s), and desires assistance from and participation in the program offered by OLAP, and

WHEREAS, OLAP is a nonprofit Ohio corporation providing evaluation, rehabilitation, and assistance to attorneys suffering from mental health or related disorder(s), and to provide monitoring and reporting services in connection therewith.

NOW, THEREFORE, the parties who agree as follows:

I, Frederick B. Johnson agree to:
to be determined

- 1. Report to \_\_\_\_\_ for an assessment to determine diagnosis, appropriate level of care, and treatment recommendations no later than 1-30-2011.
2. Renegotiate the terms of this Agreement upon receipt of the above evaluation if required by OLAP.
3. Totally refrain from the use of all mood altering substances, including alcohol.
4. Prior to the use of any mood altering/psychoactive prescription medication, I agree to notify the prescribing physician that I am under contract with OLAP, and request that the physician notify OLAP in writing that he/she has knowledge of my chemical dependency, identify the drug or drugs prescribed, and advise of the reason for said prescription.
- may have a glass of wine per month.

5. Provide OLAP with the name, address and telephone number of each physician and other mental health professional(s) treating me, and herein authorize OLAP to obtain any information desired from said professionals.

6. I have selected as my primary physician, Dr. Henzel, located at \_\_\_\_\_, with telephone number \_\_\_\_\_.

7. I agree to obtain treatment from my primary physician and mental health professional(s) and to provide free and unlimited release of all information concerning my health and participation in treatment to OLAP.

8. I understand the need for and have requested that my primary physician, as well as any other treating professional(s), notify OLAP immediately of the following:

- a. failure to comply with or progress in treatment;
- b. any change of medication;
- c. discontinuation of therapy;
- d. change of treating professional(s);
- e. failure to appear for appointments, continue prescribed medications or cooperate in the therapeutic process.

9. Accept Scott Mok, Stephanie Parnawich, Megan Snyder as Monitor of my performance under this contract and I assume the responsibility of making at least one personal contact per month with my Monitor, in addition to other therapy sessions recommended by my Monitor, treating physician and/or mental health professional(s).

10. Provide my OLAP Monitor with whatever substantiating documentation the monitor may require to assure compliance with this contract.

11. Provide OLAP with notification of any changes in my physical or mental health, address, phone number, or employment.

12. If available and endorsed by my Monitor, actively participate in a facilitated support group for recovering professionals.

13. If therapeutically indicated, submit to and pay for random urine drug/alcohol screens at the direction of OLAP.

14. Provide appropriate signed release forms for urine/blood laboratory results, treatment center records, psychiatric or mental health records, physician or therapist reports and other written and verbal information required to assure compliance with the terms of this Agreement.

15. Participate in continuing private and/or group therapy as required by OLAP, treating physician, mental health professional(s) or Monitor.

16. Immediately notify OLAP as well as my monitor in the event I use any mind or mood altering substances without a prescription from the physician above or any new physicians that may not be aware of my condition(s).

17. Agree to pay OLAP \$50.00/\$100/~~\$200~~ monthly administrative fee and forward payment to OLAP by the fifth day of each month.

18. Involve my family in continuing supportive care as suggested by OLAP, my Monitor, my physician and my mental health professional(s).

19. Make appropriate restitution, if applicable.

20. To perform in accordance with each and every term contained in any court order and this agreement.

21. To the modification of these Contract terms as required by my monitor and dictated by a change in circumstances.

22. To attend the annual OLAP workshop, if possible.

OLAP agrees to:

1. Provide a trained and/or certified individual to monitor the performance required by this Contract.
2. Insofar as treatment and ability to practice law is concerned, and where applicable, assume an advocacy role before any Commission Court Agency or with any Employer or other person to whom Participant must report or account.
3. Assume the responsibility to hold this Contract and all information acquired in furtherance thereof in strict confidence until released from such obligation in writing.
4. Assume the responsibility to report compliance or non-compliance with this Contract to the appropriate person (this report may also be made by the Monitor).

This Contract shall remain in effect for three ( 3 ) years from the date of execution and may be extended by order of the Court or agreement of the parties.

Date: 1-10-2011

Date: January 10, 2011

**OHIO LAWYERS ASSISTANCE  
PROGRAM, INC.**

By: [Signature]  
Scott R. Mote, Esq.  
Stephanie S. Krznarich, MSW, LISW-S, LCDC-III  
Megan R. Robertson, MSW, LISW  
Paul A. Caimi, J.D., LCDC-III, ICADC  
Patrick J. Garry, Esq.

[Signature]  
Participant  
Frederick R. Johnson  
Print Name

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Ohio Lawyers Assistance Program, Inc.

1650 Lake Shore Drive, Suite 375, Columbus, Ohio 43204-4991
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CLINICAL DIRECTOR

MEGAN R. ROBERTSON, MSW, LISW
CLINICAL ASSOCIATE

AUTHORIZATION FOR DISCLOSURE OF MEDICAL RECORDS

I, Frederick B. Johnson, authorize the Ohio Lawyers Assistance Program, Inc. (OLAP) to disclose information about me to:
(Name, Address, Telephone Number)

Alvin Mathews-attorney
Jane Johnson-wife
Therapist- name to be determined
psychiatrist - to be determined

Dr. Henzel - primary care physician
Judge Fraser
Jody Charollette Coleman - Eufinger

Information to be released will be limited to:

- 1. Diagnosis
2. Compliance and involvement with the treatment plan, treatment recommendations and aftercare
3. Any regression in status when appropriate
4. Unilateral cessation of participation on my part
5. Positive urine test results
6. Quarterly reports and a final summary when appropriate

I further understand that this consent for disclosure of information may be revoked by me at any time by written notice to that effect, but such revocation would not limit any information previously released. If not previously revoked, this consent agreement will terminate three (3) years from 1-10-2011, or upon the successful completion by the person named above as a participant in the Ohio Lawyers Assistance Program, Inc. Lawyers Support System, whichever occurs later. I further understand that my records are protected by Federal and State confidentiality laws and any further disclosure of information regarding my situation is prohibited without written authorization.

A photocopy of this Authorization may be relied upon for all purposes.

Program Participant

Date

Witness

CONFIDENTIAL

Ohio Lawyers Assistance Program, Inc.

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STEPHANIE S. KRZMARICH, MSW, LISW-S, LCDC-III
CLINICAL DIRECTOR

MEGAN R. ROBERTSON, MSW, LISW
CLINICAL ASSOCIATE

AUTHORIZATION AND RELEASE

I, Fredrick B. Johnson authorize OHIO LAWYERS ASSISTANCE PROGRAM, INC., its employees, agents, and my Monitoring Attorney, to release information in conjunction with the disciplinary or admissions proceedings in which I am involved to the following:

- The Supreme Court of Ohio, the Office of the Disciplinary Counsel, the Board of Commissioners on Grievances and Discipline, and the Columbus Bar Association Ethics Grievance Committee;
AND/OR
The Supreme Court of Ohio, the Board of Commissioners on Character and Fitness, and the Bar Association Admissions Committee

Information to be released will be limited to:

- 1. Date of initial contact and date of assessment, if any;
2. Diagnosis;
3. Recommendations to treatment or follow-up with treatment professionals;
4. Occurrence of relapses, if any;
5. Drug and alcohol test results, if any;
6. Date of entering into and compliance with OLAP contract;
7. Prognosis;
8. Related information received from treatment providers;
9. Reservations regarding fitness to practice law, if any.

I further understand that this consent for disclosure of information may be revoked by me at any time by written notice to that effect, but such revocation would not limit any information previously released. If not previously revoked, this consent agreement will terminate three (3) years from 1-10-2011, or upon the successful completion by the person named above as a participant in the Ohio Lawyers Assistance Program, Inc. Lawyers Support System, whichever occurs later. I further understand that my records are protected by Federal and State confidentiality laws and any further disclosure of information regarding my situation is prohibited without written authorization.

Handwritten signature of Fredrick B. Johnson
Program Participant
Handwritten signature of Lynne
Witness

Jan 10, 2011
Date

## Recommendations:

1. Begin individual counseling for support due to depression and other current stressors.  
( - determine what your mental health benefit is from your insurance company and obtain a list of preferred providers. )
- ( suggestion: The Center for Balanced Living (Washington). David R. Daqq, (614) 293-9556  
→ specialize in eating disorders )
2. Consider <sup>mrs</sup> seeking a consult with a psychiatrist to discuss medication for mood.
3. Begin an exercise program, with your Dr's approval. 30 min a day x 3 days a week.
4. Begin healthy eating. 3 balanced meals with healthy snacks.
5. Obtain sleep study to determine if there is an issue.
6. OLAP Mental Health Contract for three years
7. Call OLAP daily until linked with therapist.