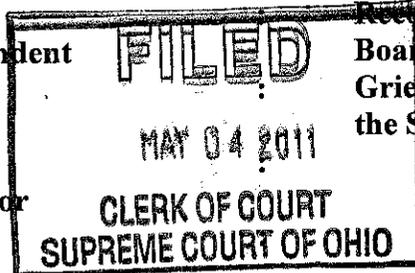


**BEFORE THE BOARD OF COMMISSIONERS  
ON  
GRIEVANCES AND DISCIPLINE  
OF  
THE SUPREME COURT OF OHIO**

**10-0668**

<b>In Re:</b>	:	
<b>Complaint against</b>	:	<b>Case No. 09-009</b>
<b>Harry J. Wittbrod Attorney Reg. No. 0066021</b>	:	<b>Findings of Fact, Conclusions of Law and Recommendation of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio</b>
<b>Respondent</b>		
<b>Akron Bar Association</b>		
<b>Relator</b>		



By Order filed December 6, 2010 the Supreme Court remanded this matter to the Board of Commissioners on Grievances and Discipline (Board) for supplementation of the record.

Upon review it was discovered that Relator inadvertently failed to include sworn or certified copies of the prima facie evidence in support of the allegations made in accordance with Gov.Bar R. V(6)(F)(1). On February 2, 2011, Relator filed supplemental exhibits in support of the motion for default judgment. The exhibits are attached to the affidavit of Jacqueline M. Forcina, Grievance Director and Records Custodian for Relator, the Akron Bar Association.

Ms. Forcina has certified that the following documents are true copies and reproductions of the original records of the Akron Bar Association Grievance Committee pertaining to the grievances of Karen Dekany, Duncan Soles, and Sara Poor against Attorney Harry J. Wittbrod that have been kept in the course of the regularly conducted business of the Certified Grievance Committee of the Akron Bar Association, and that it is the regular practice of such Committee to

make and keep such documents in the manner in which they appear in the records. The attached records are as follows:

A-1 Dekany complaint: True copies and exact reproductions of the 07/23/08 investigative assignment letter to Wittbrod from Steve Fallis and certified mail receipt accepted by Wittbrod on 07/25/08.

A-2 Soles complaint: True copies and exact reproductions of the 07/16/08 investigative assignment letter to Wittbrod from Fallis and certified mail receipt returned as unclaimed on 08/13/08.

A-3 Dekany & Soles complaints: True copies and exact reproductions of the 08/07/08 letter to Wittbrod from Fallis and certified mail receipt returned as unclaimed on 09/08/08.

A-4 Dekany & Soles complaints: True copy and exact reproduction of the 09/24/08 intent to file amended complaint letter to Wittbrod from Fallis.

A-5 Dekany & Soles complaints: True copy and exact reproduction of the 10/27/08 entry from the Board denying Relator's motion to amend complaint without prejudice.

A-6 Dekany & Soles complaints: True copies and exact reproductions of the 02/03/09 intent to file complaint letter to Wittbrod from Fallis and certified mail receipt returned as accepted on 02/10/09.

A-7 Poor complaint: True copies and exact reproductions of the 03/06/09 investigative assignment letter to Wittbrod from Fallis and certified mail receipt returned as unclaimed on 04/07/09.

A-8 Poor complaint: True copies and exact reproductions of the 03/23/09 letter to Wittbrod from Fallis and certified mail receipt returned as claimed on 03/26/09.

A-10 Dekany & Soles complaints: True and exact reproduction of the 04/27/09 Letter to the Board of Commissioners from Fallis requesting a hold on default motion.

A-11 Dekany, Soles & Poor complaints: True copy and exact reproduction of the 05/15/09 intent to file amended complaint letter to Wittbrod from W. Chris.

A-12 Dekany, Soles & Poor complaints: True copy and exact reproduction of the 10/01/09 request for a motion for default from the Board.

This matter was referred to Master Commissioner, Judge W. Scott Gwin, on March 1, 2011 by the Board Secretary pursuant to Gov. Bar R. V(6)(F)(2) for ruling on Relator's motion for default judgment. Master Commissioner Gwin then prepared a report pursuant to Gov. Bar R. V(6)(J).

Master Commissioner Gwin conducted a review on the file submitted by Relator and by Judgment Entry filed March 9, 2011 requested additional evidentiary documentation. Specifically, the Master Commissioner found that the materials submitted do not contain the original affidavit of Duncan Soles, Karen Dekany, and Sarah Poor. Further the transcript of the October 30, 2008 disciplinary hearing attached as Exhibit E-1 was not signed and notarized by the court reporter.

On March 31, 2011, Relator filed a Second Supplement to Motion for Default supported by the affidavit of Ms. Forcina. It was determined that the original affidavits requested by the Master Commissioner have been lost in the system and are otherwise unavailable. However, Ms. Forcina has certified that the following documents are true copies and reproductions of the original records of the Akron Bar Association Grievance Committee pertaining to the grievances of Karen Dekany, Duncan Soles, and Sara Poor against Respondent that have been kept in the course of the regularly conducted business of the Certified Grievance Committee of the Akron

Bar Association and that it is the regular practice of this Committee to make and keep such documents in the manner in which they appear in the records. The attached records are as follows:

E-1 An original transcript of the October 30, 2008 disciplinary hearing on a complaint filed by Relator against Respondent with the Board and has been certified by court reporter Todd L. Persson on October 30, 2008.

H-1 A true copy and exact reproduction of the original Exhibit B, "Affidavit of Duncan Soles in Support of Motion for Default Judgment." The original document was an exhibit to a motion for default judgment filed with the Board on December 10, 2009.

H-2 A true copy and exact reproduction of the original Exhibit C, "Affidavit of Karen Dekany in Support of Motion for Default Judgment." The original document was an exhibit to a motion for default judgment filed with the Board on December 10, 2009.

H-3 A true copy and exact reproduction of the original Exhibit D, "Affidavit of Sarah Poor in Support of Motion for Default Judgment." The original document was an exhibit to a motion for default judgment filed with the Board on December 10, 2009.

The two affidavits filed by Ms. Forcina are sufficient to satisfy Gov. Bar R. V(6)(F)(1). See *Cincinnati Bar Assn. v. Newman*, 123 Ohio St.3d 505, 2010-Ohio-928 at ¶7.

#### PROCEDURAL HISTORY

Relator submitted its Complaint on February 4, 2009, alleging two counts of violating the Rules of Professional Conduct and/or the Code of Professional Responsibility and the Rules for the Government of the Bar of Ohio.

On February 17, 2009, a probable cause panel of the Board found that probable cause existed for the filing of a formal complaint and certified the same to the Board. Notice of the

filing of the Complaint was served upon Respondent by certified mail, return receipt requested, at his residence address. No answer or other responsive pleading to the Complaint was forthcoming from Respondent. On May 20, 2009, the Board accepted an Amended Complaint from Relator that added an additional count of violating the Rules of Professional Conduct and/or the Code of Professional Responsibility and the Rules for the Government of the Bar.

Service of the Amended Complaint was attempted by certified mail upon Respondent at his business and residence addresses, but the mail was unclaimed by Respondent. The Board Secretary of the Board then filed service of the Amended Complaint upon Respondent through the Clerk of the Supreme Court on August 7, 2009. No answer or other responsive pleading was filed by or on behalf of Respondent to the Amended Complaint.

On December 14, 2009, Relator filed its motion for default judgment and served a copy of the same upon the Respondent by regular US mail at his last known business address. No response to the motion for default has been filed by or on behalf of Respondent.

#### FINDINGS OF FACT

##### The Soles Grievance

Duncan R. Soles retained Respondent in December 2005 to represent him in an automobile accident. In December 2006, a settlement agreement was reached and \$4,044.47 in subrogation fees was kept in escrow by Respondent to pay Soles's medical bills. At the date of the filing of the motion for default, these medical bills had not been paid by Respondent. Soles made several attempts to reach Respondent by telephone, but none of the calls was returned. On April 29, 2008, Soles learned that Respondent had closed his office without advising him of a forwarding address. At all times relevant, Respondent did not maintain malpractice insurance,

failed to advise Soles of that fact in writing, and failed to obtain Soles signed acknowledgment of that fact.

#### The Dekany Grievance

In June 2004, Karen Dekany retained Respondent through the payment of a \$1,000 retainer fee to represent her and her husband in a bankruptcy matter. Respondent did, in fact, file a Chapter 13 bankruptcy petition in the United States Bankruptcy Court for the Northern District of Ohio.

During the course of the bankruptcy proceedings, Mr. Dekany lost his employment and arrearages developed in the Chapter 13 proceedings. Additionally, there was a dispute over mortgage payments which the Dekanys had paid.

In June 2008, Respondent advised the Dekanys that the mortgage company had returned all of their payments. Thereafter, Ms. Dekany requested a return of the checks, but they have never been received. She was also not advised as to whether the checks were deposited in Respondent's IOLTA account or if the funds are otherwise still in his possession.

Thereafter, Respondent failed to communicate with the Dekanys and their house was foreclosed upon as a result of Respondent's inaction.

#### The Poor Grievance

In October 2007, Sara Poor paid Respondent a \$1,000 retainer to file a Chapter 7 bankruptcy proceeding. Ms. Poor advised Respondent that she needed to reaffirm her debt on her motor vehicle lease because her father had co-signed on the lease and she wished to protect her father's credit rating. Respondent assured Poor that he would act accordingly.

After her discharge in bankruptcy, Poor discovered that the lease debt had been charged off and not reaffirmed. Upon reporting this fact to Respondent, he advised that he would correct

the error. Since the debt had been discharged, it could not be reaffirmed as Respondent had represented.

Thereafter, the motor vehicle was repossessed and Poor's father's credit rating was adversely affected.

Poor attempted to contact Respondent on these matters on numerous occasions but no response was forthcoming. Respondent later closed his office.

#### Failure to Cooperate in Disciplinary Investigation

Relator notified Respondent in each of the above captioned complaints by certified mail or regular mail following certified mail being returned as "unclaimed." In each of those communications, Relator invited a written response and established a meeting date with Respondent to further discuss the complaint. Respondent did not respond in any manner and did not attend the scheduled meeting dates.

#### Substantiation of Allegations

Prima facie documentary evidence in support of the allegations made regarding the misconduct of Respondent is set forth above.

#### CONCLUSIONS OF LAW

Based upon the foregoing findings of fact, Respondent violated the following provisions of the Code of Professional Responsibility, the Rules of Professional Conduct, and the Rules for the Government of the Bar of Ohio as each may apply during the relevant time period stated:

A. Soles Grievance

DR 1-104(A) and (B) Prof. Cond. R. 1.4(c)	Disclosure of information regarding professional liability insurance.
DR 6-101(A)(3) Prof. Cond. R. 1.3	Neglect of an entrusted legal matter.
Gov. Bar R. V(4)(G) Prof. Cond. R. 8.1(b)	Failure to cooperate in a disciplinary investigation.

B. Dekany Grievance

DR 1-104(A) and (B) Prof. Cond. R. 1.4(c)	Disclosure of information regarding professional liability insurance.
DR 6-101(A)(1)	Failing to act competently.
DR 6-101(A)(3) Prof. Cond. R. 1.3	Neglect of an entrusted legal matter.
Gov. Bar R. V(4)(G) Prof. Cond. R. 8.1(b)	Failure to cooperate in a disciplinary investigation.

C. Poor Grievance

Prof. Cond. R. 1.1	Failure to competently represent a client.
Prof. Cond. R. 1.3	Failure to act with reasonable diligence.
Prof. Cond. R. 1.4(c)	Disclosure of information regarding professional liability insurance.
Gov. Bar R. V(4)(G) Prof. Cond. R. 8.1(b)	Failure to cooperate in a disciplinary investigation.

In the Soles and Dekany grievances, Relator alleges that Respondent's conduct violated DR 9-102(A) and (B)(3) and Prof. Cond. R. 1.15 by failing to preserve the identity of funds and property of clients. There is no evidence that the Respondent failed to maintain funds in a properly designated IOLTA account or that the claims of medical care providers in the Soles matter were valid claims subject to negotiation by Respondent with creditors. Therefore, clear

and convincing evidence of a violation of these rules is absent in the record and they are dismissed.

### MITIGATING FACTORS

Respondent was admitted to the practice of law in Ohio in 1996. He was previously sanctioned by the Supreme Court of Ohio on July 28, 2009, in *Akron Bar Assn. v. Wittbrod*, 122 Ohio St. 3d 394, 2009-Ohio-3549, on a stipulated finding that Respondent had violated DR 6-102 and Prof. Cond. R. 1.8, for failure to advise a client in a worker's compensation case of his lack of professional liability insurance and for making a proposal of settlement in a subsequent malpractice action that his client dismiss the disciplinary grievance filed against Respondent. At that time, the Court accepted the Board's recommendation that Respondent be suspended from the practice of law for six months, but with a stay of suspension on condition that he comply with the conditions of his OLAP contract, including any recommendations for medical treatment made by OLAP; that he attend one or more CLE courses on law-office management; and that his practice be monitored for one year by an attorney appointed by Relator. The Court specifically stated that if Respondent failed to comply with the terms of the stay, it would be lifted and Respondent would serve the entire six month suspension.

The grievances in the instant case either pre-dated or overlapped the conduct alleged in the prior disciplinary case. Relator attempted to amend its previous complaint to include these grievances, but its request for an amendment was denied by the Board due to the late status of the proceedings then pending before the Board in the original disciplinary matter.

### AGGRAVATING FACTORS

There are multiple offenses which demonstrate a pattern of misconduct through neglect of matters entrusted to Respondent resulting in harm and a lack of cooperation in the disciplinary

process. Furthermore, there is no evidence of any financial restitution to the clients harmed by Respondent's conduct.

Additionally, on December 4, 2009, the Supreme Court of Ohio issued an order for Respondent to appear and show cause as to why he should not be found in contempt for his failure to abide by the Court's July 28, 2009 disciplinary order with respect to the conditions necessary to continue the stay of the six month suspension ordered therein. By an order issued February 3, 2010, the Court found that Respondent was in contempt of such order, vacated the stay of the six month suspension, and ordered it to immediately take effect.

#### RECOMMENDED SANCTION OF RELATOR

Relator recommends that Respondent be indefinitely suspended from the practice of law.

#### RECOMMENDATION OF MASTER COMMISSIONER

Substantially all the misconduct of Respondent herein preceded or overlapped the misconduct for which the prior sanction of the Supreme Court was imposed in July 2009. While there is some question as to whether the Board would have recommended, or the Court would have imposed, a different sanction had these matters been heard and determined in that first disciplinary proceeding, the Board must also consider two other factors. First, Respondent was not entirely candid with this Board or the Supreme Court in submitting stipulated misconduct and a recommended sanction of leniency in the first disciplinary matter when he had knowledge of the transactions that are the subject of the present Complaint. Second, it is apparent from the February 2010 order from the Court finding Respondent in contempt that he has disregarded any part of the sanction which would assist him in recovering from the problems which he alleges led or significantly contributed to the misconduct in the first matter. This demonstrates a complete lack of remorse or acceptance of responsibility by Respondent for his conduct and, coupled with

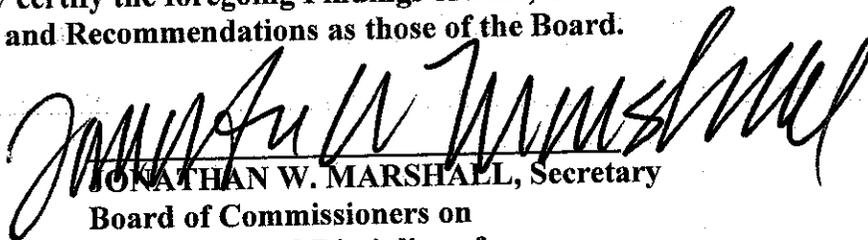
his failure to cooperate in the investigation of these complaints, a complete disregard for the disciplinary system and the profession.

Based on his prior disciplinary record, his indifference to the disciplinary sanctions and his failure to cooperate, I concur in the recommendation of Relator and recommend a sanction of indefinite suspension from the practice of law, with credit for time served on his first disciplinary case.

#### RECOMMENDATION

Pursuant to Gov. Bar Rule V(6)(L), the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio considered this matter on April 8, 2011. The Board adopted the Findings of Fact, Conclusions of Law and Recommendation of the Master Commissioner and recommends that Respondent, Harry J. Wittbrod, be suspended from the practice of law in the State of Ohio indefinitely with credit for time served on his first disciplinary case. 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**



# COPY

akron bar association  
(Serving all of Summit County)

July 23, 2008

Attorney Harry J. Wittbrod  
2213 18<sup>th</sup> St.  
Cuyahoga Falls OH 44223

Re: #08-071443G/Dekany vs. Wittbrod

Dear Attorney Wittbrod:

Please be advised that the Akron Bar Association has received the enclosed complaint against you by the above-listed complainant. Your complaint has been assigned to the following Grievance Committee panel for investigation:

Attorney Joseph S. Kodish, Chair  
One Cascade Plaza, Suite 1940  
Akron OH 44308  
(330) 434-3461

Attorney Kathryn A. Belfance  
One Cascade Plaza, Ste. 2100  
Akron OH 44308-1134

Mr. Virgil L. Brown  
1858 McTaggart Dr.  
Akron OH 44320

The investigation will be in accordance with Rule V of the Rules for Government of the Bar of Ohio, and the Bylaws of the Grievance Committee of the Akron Bar Association.

Every attorney is obligated under Rule V, Section 4(G) of the Supreme Court Rules of the Bar to cooperate fully with the Grievance Committee investigator and the Bar Association in this investigation. Failure to cooperate in a disciplinary investigation can, in and of itself, constitute a violation of the Ohio Rules of Professional Conduct.

In addition to discussing this complaint fully and candidly with the investigator, you must provide a written response and copies of all relevant documents relating to the complaint to the

J. DEAN CARRO, President  
HON. LINDA TUCCI TEODOSIO, Vice President  
DEBORAH S. MATZ, Treasurer  
MONTRELLA JACKSON, Secretary  
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WILLIAM D. DOWLING

JOSEPH W. GIBSON

Bar Council

EXHIBIT A-1

assigned investigator and copy Jackie M. Forcina, Grievance Director, within seven (7) days from the receipt of this letter. To request an extension beyond seven (7) days please do so in writing to me as Bar Counsel at the Akron Bar Association address.

PLEASE NOTE: Unless you provide a written request that your response not be released, Gov. Bar R. V Sec 11 (E) (3) requires us to share your response with the complainant. If you choose not to share your response with the complainant, please execute the enclosed request and return it to the Bar Association office. The form not to share your response should be returned within seven (7) days from the receipt of this letter along with your written response. A copy of your response directed to the complainant will not constitute a waiver of any other right to privacy or confidentiality provided by Rule V.

Please be advised that if the investigator is unable to reach you, or if you do not respond to the investigator's efforts, the investigator may assume that all facts set forth in the complaint are accurate and issue a report accordingly. For this reason it is important for you to contact the investigator as soon as possible after receiving this letter.

It is imperative that the investigation be completed expeditiously and that you cooperate fully and promptly.

Yours very truly,

CERTIFIED GRIEVANCE COMMITTEE  
OF THE AKRON BAR ASSOCIATION

*Stephen A. Fallis jr*

Stephen A. Fallis, Bar Counsel  
Certified Grievance Committee

Enclosure

cc: Assigned Investigators/Chair/Vice Chair

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**Attorney Harry J. Wittbrod  
2213 18th St.  
Cuyahoga Falls OH 44223**

2. Article Number  
(Transfer from service label)

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 *Harry J. Wittbrod*  Address

B. Received by (Printed Name) C. Date of Delivery  
*Harry J. Wittbrod* 7/25/08

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

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4. Restricted Delivery? (Extra Fee)  Yes

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July 16, 2008

Attorney Harry J. Wittbrod  
2213 18<sup>th</sup> St.  
Cuyahoga Falls OH 44223

Re: #08-070141G/Soles vs. Wittbrod

Dear Attorney Wittbrod:

Please be advised that the Akron Bar Association has received the enclosed complaint against you by the above-listed complainant. Your complaint has been assigned to the following Grievance Committee panel for investigation:

Attorney Joseph S. Kodish, Chair  
One Cascade Plaza, Suite 1940  
Akron OH 44308  
(330) 434-3461

Attorney Kathryn A. Belfance  
One Cascade Plaza, Ste. 2100  
Akron OH 44308-1134

Mr. Virgil L. Brown  
1858 McTaggart Dr.  
Akron OH 44320

The investigation will be in accordance with Rule V of the Rules for Government of the Bar of Ohio, and the Bylaws of the Grievance Committee of the Akron Bar Association.

Every attorney is obligated under Rule V, Section 4(G) of the Supreme Court Rules of the Bar to cooperate fully with the Grievance Committee investigator and the Bar Association in this investigation. Failure to cooperate in a disciplinary investigation can, in and of itself, constitute a violation of the Ohio Rules of Professional Conduct.

In addition to discussing this complaint fully and candidly with the investigator, you must provide a written response and copies of all relevant documents relating to the complaint to the

J. DEAN CARRO, President  
HON. LINDA TUCCI TEODOSIO, Vice President  
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WILLIAM D. DOWLING

JOSEPH W. GIBSON

Bar Council

EXHIBIT A-2

assigned investigator and copy Jackie M. Forcina, Grievance Director, within seven (7) days from the receipt of this letter. To request an extension beyond seven (7) days please do so in writing to me as Bar Counsel at the Akron Bar Association address.

PLEASE NOTE: Unless you provide a written request that your response not be released, Gov. Bar R. V Sec 11 (E) (3) requires us to share your response with the complainant. If you choose not to share your response with the complainant, please execute the enclosed request and return it to the Bar Association office. The form not to share your response should be returned within seven (7) days from the receipt of this letter along with your written response. A copy of your response directed to the complainant will not constitute a waiver of any other right to privacy or confidentiality provided by Rule V.

Please be advised that if the investigator is unable to reach you, or if you do not respond to the investigator's efforts, the investigator may assume that all facts set forth in the complaint are accurate and issue a report accordingly. For this reason it is important for you to contact the investigator as soon as possible after receiving this letter.

It is imperative that the investigation be completed expeditiously and that you cooperate fully and promptly.

Yours very truly,

CERTIFIED GRIEVANCE COMMITTEE  
OF THE AKRON BAR ASSOCIATION

*Stephen A. Fallis jt*

Stephen A. Fallis, Bar Counsel  
Certified Grievance Committee

Enclosure

cc: Assigned Investigators/Chair/Vice Chair





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akron bar association  
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VIA REGULAR & CERTIFIED U.S. MAIL

August 7, 2008

Attorney Harry J. Wittbrod  
2213 18<sup>th</sup> St.  
Cuyahoga Falls, OH 44223

RE: #08-060435G/TOMKO V. WITTBROD  
#08-070141G/SOLES V. WITTBROD  
#08-071443G/DEKANY V. WITTBROD

Dear Attorney Wittbrod:

Please be advised that the Grievance subcommittee assigned to investigate the above-listed complaints has requested a meeting with you.

This meeting has been scheduled for **MONDAY, AUGUST 18, 2008 at 4:15 p.m.** at the law office of Attorney Kathryn A. Belfance, Roderick Linton Belfance, LLP, 1500 One Cascade Plaza, Akron, OH 44308.

Please bring to this meeting any and all documentation you have relevant to your representation of Ms. Tomko, Mr. Soles, and Ms. Dekany that you will believe will shed further light on the substance of the complaint.

You are reminded of every attorney's obligation under Rule V Section 4(G) of the Supreme Court Rules for the Government of the Bar to cooperate fully with the investigators and the Bar Association in this investigation. As you know, failure to cooperate in a disciplinary investigation can, in and of itself, constitute a violation of the Code of Professional Responsibility.

Please be advised that if you do not attend this meeting, the subcommittee may assume that all facts set forth in the complaint are accurate and issue a report accordingly.

EXECUTIVE OFFICE ♦ 57 S. BROADWAY STREET, AKRON, OHIO 44308-1722 ♦ 330-253-5007 ♦ FAX 330-253-2140 ♦ <http://www.akronbar.org>

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WILLIAM D. DOWLING

JOHN W. GIBSON

Bar Council

EXHIBIT A-3

Please contact me at (330) 253-5007 should you have any questions.

Very truly yours,

Jackie M. Forcina  
Grievance Director

Cc: Joseph S. Kodish  
Kathryn A. Belfance  
Virgil Brown

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Akron Bar Association

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8/28/08*

Attorney Harry J. Wittbrod  
2213 18th St.  
Cuyahoga Falls, OH 44223

13 09/05/08

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September 24, 2008

Mr. Jonathan W. Marshall, Secretary  
Board of Commissioners on Grievances & Discipline  
Ohio Judicial Center  
65 South Front Street, 5<sup>th</sup> Floor  
Columbus, Ohio 43215-3431

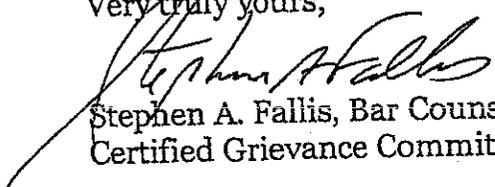
RE: Attorney Harry J. Wittbrod/#0066021

Dear Mr. Marshall:

Enclosed herein for filing with the Board of Commissioners are the original and four copies of the **Amended Complaint and Certificate** by the Akron Bar Association against Attorney Harry J. Wittbrod.

All parties have been notified.

Very truly yours,

  
Stephen A. Fallis, Bar Counsel  
Certified Grievance Committee

Enc.

CC: Jonathan Coughlan  
\*Harry J. Wittbrod, Esq.\*  
Joseph S. Kodish, Esq.  
Kathryn A. Belfance, Esq.  
Terry D. Zimmerman, Esq.  
John C. Weisensell, Esq.

EXECUTIVE OFFICE ♦ 57 S. BROADWAY STREET, AKRON, OHIO 44308-1722 ♦ 330-253-5007 ♦ FAX 330-253-2140 ♦ <http://www.akronbar.org>

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STEVEN COX

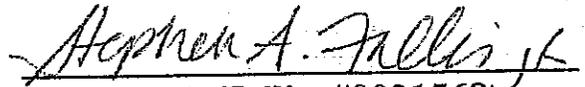
EXHIBIT A-4

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the forgoing Complaint and Certificate was sent by Regular U.S. Mail, postage prepaid, the 26<sup>th</sup> day of September 2008 to:

Attorney Harry J. Wittbrod  
2213 18<sup>th</sup> St.  
Cuyahoga Falls, OH 44223

Attorney Matthew  
Counsel for Respondent  
Oldham Kramer  
195 S. Main St., Ste. 300  
Akron, OH 44308-1314

  
Stephen A. Fallis #0021568  
Bar Counsel  
Akron Bar Association  
57 S. Broadway St.  
Akron, OH 44308  
(330) 253-5007

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

IN RE: )

COMPLAINT AGAINST )

CASE NO. 07-021

HARRY J. WITTBROD )

Registration No. #0066021 )

2213 18<sup>th</sup> St. )

Cuyahoga Falls, OH 44223 )

**RELATOR'S MOTION**  
**TO AMEND COMPLAINT**

RESPONDENT )

AKRON BAR ASSOCIATION )

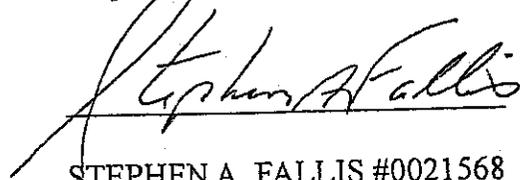
57 S. Broadway )

Akron, OH 44308 )

RELATOR )

Now comes the Relator, Akron Bar Association, by and through its undersigned  
Bar Counsel, Attorney Stephen A. Fallis, and respectfully requests the Board of  
Commissioners on Grievances and Discipline of the Supreme Court of Ohio permit the  
Filing of an Amended Complaint.

Respectfully submitted,



STEPHEN A. FALLIS #0021568  
Bar Counsel, Akron Bar Association  
57 S. Broadway  
Akron, Ohio 44308  
(330) 253-5007

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

IN RE: )

COMPLAINT AGAINST )

CASE NO. 07-021

HARRY J. WITTBROD )  
Registration No. #0066021 )  
2213 18<sup>th</sup> St. )  
Cuyahoga Falls, OH 44223 )

**SECOND AMENDED**  
**COMPLAINT AND**  
**CERTIFICATE**  
(Rule V of The Supreme Court  
Rules for the Government of  
The Bar of Ohio)

RESPONDENT )

AKRON BAR ASSOCIATION )  
57 S. Broadway )  
Akron, OH 44308 )

RELATOR )

Now comes the Relator and alleges that Harry J. Wittbrod, an Attorney at Law, Registration No. #0066021, duly admitted to the practice of law in the State of Ohio, is guilty of the following misconduct:

**PARTIES**

1. The Akron Bar Association ("the ABA" or "Relator") is a Certified Grievance Committee under Gov. Bar R. V (3)(C).
2. Harry J. Wittbrod ("Wittbrod" or "Respondent") is an attorney at law licensed to practice in Ohio, Registration No. 0066021, with his mailing address at 2213 18<sup>th</sup> Street, Cuyahoga Falls, Ohio, 44223. In mid-2008, Wittbrod closed his business office at 1630 Schiller Avenue, Suite 1, Cuyahoga Falls, OH 44223.
3. On June 16, 2008, Wittbrod received a CLE Suspension by the Supreme Court of Ohio.
4. Gregory P. Feriance ("Feriance") is a former client of Wittbrod and a complaining witness herein.

5. Duncan R. Soles ("Soles") is a former client of Wittbrod and a complaining witness herein.
6. Karen Dekany ("Dekany") is a former client of Wittbrod and a complaining witness herein.
7. Joanne M. Tomko ("Tomko") is a former client of Wittbrod and a complaining witness herein.

**ALLEGATIONS OF FACT: THE FERIANCE MATTER**

8. Feriance met with Respondent on May 12, 2005 for a consultation relating to bankruptcy.
9. As part of the financial issues, Respondent states that Feriance desired to defend a Workers' Compensation claim filed against him by an employee, Christopher Kittinger, who was injured as a result of a collision while he was parked waiting to make a delivery to the U.S. Post Office on behalf of Feriance.
10. On May 13, 2005, Feriance retained Respondent and paid him Five Hundred Dollars (\$500.00) to defend the Workers' Compensation claim.
11. At all times herein, Feriance did not pay Workers' Compensation premiums.
12. Respondent represented Feriance from May 26, 2005 through March 15, 2006 with respect to the defense of the Workers' Compensation claim.
13. Respondent admitted to the Grievance Investigator that he was not very experienced in the Workers' Compensation area and did not ally himself with anyone experienced in the field.
14. Feriance received an adverse ruling from the Industrial Commission respecting the Workers' Compensation claim filed by Christopher Kittinger.
15. Feriance requested that Respondent appeal the adverse ruling to Summit County Common Pleas Court.
16. Respondent requested that Feriance pay a Two Hundred Dollar (\$200.00) filing fee to file the appeal. Feriance delivered a \$200.00 check to Respondent on January 2, 2006 in order to satisfy the filing fee requirement and Respondent admitted to the Grievance Investigator in October 2006 that he was still in possession of the filing fee.

17. Respondent states that he believed that the sixty (60) day time period for filing said appeal would have lapsed on December 27, 2005 and admits that he made an error.
18. Respondent now acknowledges that the sixty (60) day period would have lapsed on January 19, 2006.
19. Respondent failed to file the appeal in the Summit County Common Pleas Court within sixty (60) days of the date of the final entry.
20. Feriance has filed a lawsuit against Respondent for malpractice.
21. At all times mentioned herein, Respondent did not have malpractice insurance, failed to advise Feriance in writing of that fact and failed to obtain Feriance's signed acknowledgement.

### COUNT ONE

22. That as set forth in the previous paragraphs 8 through 21, Respondent has violated Disciplinary Rules:  
DR 6-101(A)(3): Failing to Act Competently: Respondent, in accepting the representation of Feriance, neglected a legal matter entrusted to him by permitting the time period to file an appeal to lapse, thereby barring Feriance from pursuing an appeal of the decision of the Industrial Commission;  
DR 6-101(1): Failing To Act Competently: Respondent undertook to represent Feriance in a legal matter which he knew or should have known that he was not competent to handle, to wit: defense of a Workers' Compensation claim;  
DR 1-104(A) and (B): Disclosure of Information to the Client: Respondent failed to inform Feriance at the time of the engagement that Respondent did not maintain professional liability insurance in the amount of at least One Hundred Thousand Dollars (\$100,000.00) per occurrence and Three Hundred Thousand Dollars (\$300,000.00) in the aggregate and, further, failed to provide Feriance with a separate form setting forth that Respondent did not have malpractice insurance and obtain Feriance's signed acknowledgement on said form.

**ADDITIONAL ALLEGATIONS OF FACT: THE FERIANCE MATTER CONTINUED**

23. Feriance filed a Civil Action against Respondent for legal malpractice. Said case is identified as *G. Feriance v. H. Wittbrod* identified as case number CV 2006 08 5387 in the Summit County Common Pleas Court.
24. From November 2006 through May 2007, during settlement negotiations, Respondent repeatedly demanded, both orally and in writing, that Feriance withdraw his pending Grievance complaint with the ABA as a condition for settlement of the malpractice case.
25. Respondent was notified by letter from Relator dated May 17, 2007 of the additional allegations against him. See attached "Exhibit A" which is incorporated herein.
26. Relator mailed to Respondent a follow-up letter dated July 9, 2007, a copy of which is attached hereto and incorporated herein and marked as "Exhibit B."
27. Respondent has failed to respond to either letter or otherwise respond to the allegations.

**COUNT TWO**

28. That as set forth in the previous paragraphs 23 through 27, Wittbrod has violated Disciplinary Rules:  
DR 6-102, ORPC Rule 1.8 (h): Limiting Liability to Client: Respondent attempted to exonerate himself or limit his liability to his client for his personal malpractice;  
DR 1-102(A)(5), ORPC Rule 8.4(d): Conduct Prejudicial to the Administration of Justice: Respondent engaged in conduct prejudicial to the administration of justice by offering a financial incentive in order to interfere with the prosecution of the Respondent in the instance matter, to wit, the payment of \$7,500 as well as other considerations;  
GOV. R. V(4)(G): Failure to Cooperate: Respondent has not responded to Relator's letters relating to the allegations set forth in the amended complaint since May of 2007.

**ADDITIONAL ALLEGATIONS OF FACT: THE SOLES MATTER**

29. Soles retained Respondent in December 2005 to represent him in an auto accident with a semi that occurred in December 2005.
30. In December 2006, a settlement agreement was made and \$4,044.47 in subrogation fees was kept in escrow by Respondent to pay Soles' medical bills.
31. To date, these medical bills have not been paid by Respondent and he has failed to return any of Soles' phone calls.
32. Soles attempted to reach Respondent by telephone on March 5, 2008, March 12, 2008, March 31, 2008 and April 3, 2008 and did not receive a return phone call from Respondent. On April 29, 2008 he learned that Respondent had closed his office and not advised him of a forwarding address.
33. Respondent was notified by letter from Relator dated July 16, 2008 of the additional allegations against him. The letter was returned to the Relator as being unclaimed by Respondent. See attached "Exhibit C" which is incorporated herein.
34. Respondent did not attend a meeting scheduled with the grievance investigators on August 18, 2008 despite being notified of the meeting via regular and certified mail, a copy of which is attached hereto and incorporated herein and marked as "Exhibit D."
35. Respondent has failed to respond to either letter or otherwise respond to the allegations.
36. At all times mentioned herein, Respondent did not have malpractice insurance, failed to advise Soles in writing of that fact and failed to obtain Soles' signed acknowledgement.

**COUNT THREE**

37. That as set forth in the previous paragraphs 29 through 36, Respondent has violated Disciplinary Rules:  
DR9-102(A),(B3) Preserving identity of funds and property of clients:

DR 1-104(A) and (B): Disclosure of Information to the Client: Respondent failed to inform Soles at the time of the engagement that Respondent did not maintain professional liability insurance in the amount of at least One Hundred Thousand Dollars (\$100,000.00) per occurrence and Three Hundred Thousand Dollars (\$300,000.00) in the aggregate and, further, failed to provide Soles with a separate form setting forth that Respondent did not have malpractice insurance and obtain Soles' signed acknowledgement on said form;

DR 6-101(A): Failing to Act Competently;

DR 6-101(A)(3): Neglect a legal matter entrusted to him;

GOV. R. V(4)(G): Failure to Cooperate: Respondent has not responded to Relator's letters relating to the allegations set forth in the amended complaint.

#### **ADDITIONAL ALLEGATIONS OF FACT: THE DEKANY MATTER**

38. Dekany retained Respondent in June 2004 and paid him \$1,000.00 to represent her in a bankruptcy matter.
39. Respondent did in fact file a Chapter 13 for the Dekanys' in the United States Bankruptcy Court for the Northern District of Ohio in Case Number 04-53045-mss.
40. The Dekanys attempted to contact Respondent on several occasions due to Mr. Dekany's loss of employment and they left Respondent many messages concerning the Chapter 13 arrearage.
41. There was some dispute over the mortgage payments. The Dekany's paid their mortgage payments. Mrs. Dekany indicates that they received a call from Respondent on June 12, 2008 indicating that the mortgage company had sent back all of her payments.
42. Mrs. Dekany was in her car in that time and could not take appropriate notes. She asked if Respondent could be called back in fifteen minutes and he said yes. She called Respondent within ten minutes and he did not answer. He never responded.
43. Dekany asked for the money back and never received same. Respondent did not receive approval from the court to list the Dekanys' home. Dekany has received

information from the mortgage company that the house is being reviewed for foreclosure.

44. Dekany has not received the payments that were forwarded to Respondent and did not receive any explanation from him as to whether or not the money was placed into his IOLTA account or if the funds were there.
45. Since that time Respondent has failed to communicate with the Dekanys and their house is being reviewed for foreclosure because of Respondent's inaction in the matter.
46. Respondent did accept the assignment letter and copy of the complaint mailed to him by Relator via certified mail, a copy of which is attached hereto and incorporated herein and marked as "Exhibit E."
47. Respondent did not submit a written response or otherwise respond to the allegations.
48. Respondent did not attend a meeting set up with the grievance investigators on August 18, 2008 despite being notified of the meeting via regular and certified mail, a copy of which is attached hereto and incorporated herein and marked as "Exhibit D."
49. At all times mentioned herein, Wittbrod did not have malpractice insurance, failed to advise the Dekanys in writing of that fact and failed to obtain Dekanys' signed acknowledgement.

#### COUNT FOUR

50. That as set forth in the previous paragraphs 38 through 49, Respondent has violated Disciplinary Rules:  
DR9-102(A),(B) Preserving Identity of funds and property of clients;  
DR 1-104(A) and (B): Disclosure of Information to the Client: Respondent failed to inform Dekany at the time of the engagement that Respondent did not maintain professional liability insurance in the amount of at least One Hundred Thousand Dollars (\$100,000.00) per occurrence and Three Hundred Thousand Dollars (\$300,000.00) in the aggregate and, further, failed to provide Dekany

with a separate form setting forth that Respondent did not have malpractice insurance and obtain Dekany's signed acknowledgement on said form;

DR 6-101(A): Failing to Act Competently:

DR 6-101(A)(3): Neglect a legal matter entrusted to him:

GOV. R. V(4)(G): Failure to Cooperate: Respondent has not responded to Relator's letters relating to the allegations set forth in the amended complaint.

#### **ADDITIONAL ALLEGATIONS OF FACT: THE TOMKO MATTER**

51. Tomko retained Respondent in October 2005 to represent her for an injury which she sustained while exiting a Lakefront bus in Cuyahoga County, Ohio.
52. Respondent undertook representation of Tomko but has not communicated with her relating to her claim other than requesting medical release authorizations.
53. Tomko had written to Respondent and had no response. Tomko also made several phone calls and received no response.
54. Respondent did not accept the assignment letter and copy of the complaint mailed to him by the Relator via certified mail, a copy of which is attached hereto and incorporated herein and marked as "Exhibit F."
55. Respondent did not submit a written response or otherwise respond to the allegations.
56. Respondent did not attend a meeting set up with the grievance investigators on August 18, 2008 despite being notified of the meeting via regular and certified mail, a copy of which is attached hereto and incorporated herein and marked as "Exhibit D."
57. At all times mentioned herein, Respondent did not have malpractice insurance, failed to advise Tomko in writing of that fact and failed to obtain Tomko's signed acknowledgement.

#### **COUNT FIVE**

58. That as set forth in the previous paragraphs 51 through 57, Respondent has violated Disciplinary Rules:

DR 1-104(A) and (B): Disclosure of Information to the Client: Respondent failed to inform Tomko at the time of the engagement that Respondent did not maintain professional liability insurance in the amount of at least One Hundred Thousand Dollars (\$100,000.00) per occurrence and Three Hundred Thousand Dollars (\$300,000.00) in the aggregate and, further, failed to provide Tomko with a separate form setting forth that Respondent did not have malpractice insurance and obtain Tomko's signed acknowledgement on said form;

DR 6-101(A): Failing to Act Competently:

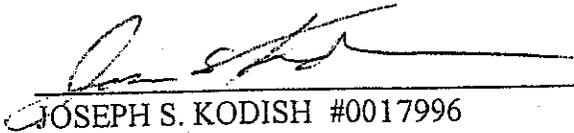
DR 6-101(A)(3): Neglect a legal matter entrusted to him:

GOV. R. V(4)(G): Failure to Cooperate: Respondent has not responded to Relator's letters relating to the allegations set forth in the amended complaint

REQUEST FOR RELIEF

Petitioner asks that such discipline be administered to Respondent as may be deemed appropriate following a hearing on the merits.

Respectfully submitted,



---

JOSEPH S. KODISH #0017996

Attorney for Relator

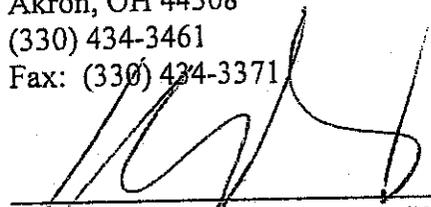
Legal Defender Office of Summit County, OH, Inc.

One Cascade Plaza, Suite 1940

Akron, OH 44308

(330) 434-3461

Fax: (330) 434-3371



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KATHRYN A. BELFANCE #0018035

Attorney for Relator

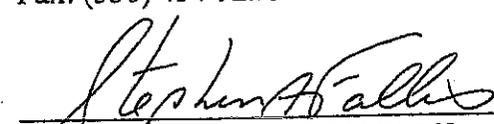
Roderick Linton Belfance, LLP

1500 One Cascade Plaza

Akron, OH 44308

(330) 434-3000

Fax: (330) 434-9220



---

STEPHEN A. FALLIS #0021568

Bar Counsel

Akron Bar Association

57 S. Broadway

Akron, OH 44308

(330) 253-5007

Fax: (330) 253-2140

**COPY**

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

RECEIVED

OCT 27 2008

Akron Bar Association

In Re: :

Complaint against : Case No. 07-021

Harry J. Wittbrod :

Respondent :

Akron Bar Association :

Relator : ENTRY

FILED

OCT 23 2008

BOARD OF COMMISSIONERS  
ON GRIEVANCES & DISCIPLINE

This matter comes before the Panel Chair upon Relator's Motion to Amend the Complaint and the proposed Amended Complaint filed with the Board on September 29, 2008.

This matter was originally filed on April 16, 2007. A Discipline by Consent was accepted by the Board on April 17, 2008, but rejected by the Supreme Court on May 20, 2008. The Supreme Court remanded this matter to the Board for further proceedings.

A hearing is currently scheduled for October 30, 2008. In order to reach a resolution on the original complaint, and to avoid a further continuance of the hearing, the Panel hereby denies the Relator's Motion to Amend Complaint without prejudice and the hearing set for October 30, 2008 shall go forward.

*Sandra J. Anderson* 15/1  
 Sandra J. Anderson, Panel Chair  
*Jan, Sec'y*  
*W. J. P. ...*

CC SFallis  
TZimmerman  
JWeisenschell



# COPY

akron bar association  
(Serving all of Summit County)

February 3, 2009

Mr. Jonathan W. Marshall, Secretary  
Board of Commissioners on Grievances & Discipline  
Ohio Judicial Center  
65 South Front Street, 5<sup>th</sup> Floor  
Columbus, Ohio 43215-3431

RE: Attorney Harry J. Wittbrod/#0066021

Dear Mr. Marshall:

Please be advised that the Certified Grievance Committee of the Akron Bar Association voted to file a formal complaint against Attorney Harry J. Wittbrod. Enclosed herein for filing with the Board of Commissioners are the original and six copies of the **Complaint and Certificate** by the Akron Bar Association against Attorney Wittbrod.

Seven copies of the investigative file pertaining to our investigation are enclosed.

The Respondent has been notified of the intent to file.

Very truly yours,

*Stephen A. Fallis*  
Stephen A. Fallis, Bar Counsel  
Certified Grievance Committee

Enc.

CC: Jonathan Coughlan (w/enc)  
Joseph S. Kodish, Esq. (w/enc)  
Kathryn A. Belfance, Esq. (w/enc)  
Terry D. Zimmerman, Esq., (w/enc)  
John C. Weisensell, Esq. (w/enc)

EXECUTIVE OFFICE ♦ 57 S. BROADWAY STREET, AKRON, OHIO 44308-1722 ♦ 330-253-5007 ♦ FAX 330-253-2140 ♦ <http://www.akronbar.org>

HON. LINDA TUCCI TEODOSIO, President  
MARC B. MERKLIN, Vice President  
DEBORAH S. MATZ, Treasurer  
DEBORAH L. RUBY, Secretary

Board of Trustees  
F. DANIEL BALMERT  
J. DEAN CARRO  
WILLIAM G. CHRIS  
STEVEN COY

JOSEPH V.  
NANCY H.  
MEGAN E.  
JOANN M.  
MELINDA

EXHIBIT A-6

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

IN RE: )

COMPLAINT AGAINST )

HARRY J. WITTBROD )  
Registration No. #0066021 )  
2213 18<sup>th</sup> St. )  
Cuyahoga Falls, OH 44223 )

**COMPLAINT AND  
CERTIFICATE**

(Rule V of The Supreme Court  
Rules for the Government of  
The Bar of Ohio)

RESPONDENT )

AKRON BAR ASSOCIATION )  
57 S. Broadway St. )  
Akron, OH 44308 )

RELATOR )

Now comes the Relator and alleges that Harry J. Wittbrod, an Attorney at Law, Registration No. #0066021, duly admitted to the practice of law in the State of Ohio, is guilty of the following misconduct:

**PARTIES**

1. The Akron Bar Association ("the ABA" or "Relator") is a Certified Grievance Committee under Gov. Bar R. V (3)(C).
2. Harry J. Wittbrod ("Wittbrod" or "Respondent") is an attorney at law licensed to practice in Ohio, Registration No. 0066021, with his mailing address at 2213 18<sup>th</sup> Street, Cuyahoga Falls, Ohio, 44223. In mid-2008, Wittbrod closed his business office at 1630 Schiller Avenue, Suite 1, Cuyahoga Falls, OH 44223.
3. On June 16, 2008, Wittbrod received a CLE Suspension by the Supreme Court of Ohio.
4. *The Akron Bar Association v. Harry J. Wittbrod* (Case No. 07-021) is currently pending before the Board of Commissioners on Grievances and Discipline. Due to

the amount of time the above case had been pending, the following three counts were not permitted as a second amendment and had to be filed separately.

5. Duncan R. Soles ("Soles") is a former client of Wittbrod and a complaining witness herein.
6. Karen Dekany ("Dekany") is a former client of Wittbrod and a complaining witness herein.

#### COUNT ONE: THE SOLES MATTER

7. Soles retained Respondent in December 2005 to represent him in an auto accident with a semi that occurred in December 2005.
8. In December 2006, a settlement agreement was made and \$4,044.47 in subrogation fees was kept in escrow by Respondent to pay Soles' medical bills.
9. To date, these medical bills have not been paid by Respondent and he has failed to return any of Soles' phone calls.
10. Soles attempted to reach Respondent by telephone on March 5, 2008, March 12, 2008, March 31, 2008 and April 3, 2008 and did not receive a return phone call from Respondent. On April 29, 2008 he learned that Respondent had closed his office and not advised him of a forwarding address.
11. Respondent was notified by letter from Relator dated July 16, 2008 of the allegations against him. The letter was returned to the Relator as being unclaimed by Respondent.
12. Respondent did not attend a meeting scheduled with the grievance investigators on August 18, 2008 despite being notified of the meeting via regular and certified mail.
13. Respondent has failed to respond to either letter or otherwise respond to the allegations.
14. At all times mentioned herein, Respondent did not have malpractice insurance, failed to advise Soles in writing of that fact and failed to obtain Soles' signed acknowledgement.
15. That as set forth in the previous paragraphs, Respondent has violated the following Disciplinary Rules:

DR 9-102(A),(B3) Preserving identity of funds and property of clients and Rule 1.15 for ongoing conduct after February 1, 2007;

DR 1-104(A) and (B): Disclosure of Information to the Client: Respondent failed to inform Soles at the time of the engagement that Respondent did not maintain professional liability insurance in the amount of at least One Hundred Thousand Dollars (\$100,000.00) per occurrence and Three Hundred Thousand Dollars (\$300,000.00) in the aggregate and, further, failed to provide Soles with a separate form setting forth that Respondent did not have malpractice insurance and obtain Soles' signed acknowledgement on said form and Rule 1.4 (c) for ongoing conduct after February 1, 2007;

DR 6-101(A)(3): Neglect a legal matter entrusted to him and Rule 1.3 for ongoing conduct after February 1, 2007;

GOV. R. V(4)(G) and Rule 8.1(b) Failure to Cooperate: Respondent has not responded to Relator's letters relating to the allegations set forth in the complaint.

### **COUNT TWO: THE DEKANY MATTER**

16. Dekany retained Respondent in June 2004 and paid him \$1,000.00 to represent her in a bankruptcy matter.
17. Respondent did in fact file a Chapter 13 for the Dekanys' in the United States Bankruptcy Court for the Northern District of Ohio in Case Number 04-53045-mss.
18. The Dekanys attempted to contact Respondent on several occasions due to Mr. Dekany's loss of employment and they left Respondent many messages concerning the Chapter 13 arrearage.
19. There was some dispute over the mortgage payments. The Dekany's paid their mortgage payments. Mrs. Dekany indicates that they received a call from Respondent on June 12, 2008 indicating that the mortgage company had sent back all of her payments.
20. Mrs. Dekany was in her car in that time and could not take appropriate notes. She asked if Respondent could be called back in fifteen minutes and he said yes. She

called Respondent within ten minutes and he did not answer. Respondent did not and has never responded to the Dekanys.

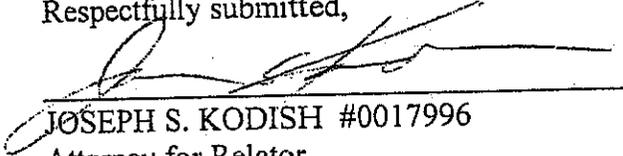
21. Dekany asked for the money back and never received same. Respondent did not receive approval from the Court to list the Dekanys' home. Dekany has received information from the mortgage company that the house is being reviewed for foreclosure.
22. Dekany has not received the payments that were forwarded to Respondent and did not receive any explanation from him as to whether or not the money was placed into his IOLTA account or if the funds are still there.
23. Since that time Respondent has failed to communicate with the Dekanys and their house is being reviewed for foreclosure because of Respondent's inaction in the matter.
24. Respondent did accept the assignment letter and copy of the complaint mailed to him by Relator via certified mail.
25. Respondent did not submit a written response to Relator or otherwise respond to the allegations.
26. Respondent did not attend a meeting set up with the grievance investigators on August 18, 2008 despite being notified of the meeting via regular and certified mail.
27. At all times mentioned herein, Wittbrod did not have malpractice insurance, failed to advise the Dekanys in writing of that fact and failed to obtain Dekanys' signed acknowledgement.
28. That as set forth in the previous paragraphs, Respondent has violated the following Disciplinary Rules:  
DR9-102(A),(B) Preserving Identity of funds and property of clients and Rule 1.15 for ongoing conduct after February 1, 2007;  
DR 1-104(A) and (B): Disclosure of Information to the Client: Respondent failed to inform Dekany at the time of the engagement that Respondent did not maintain professional liability insurance in the amount of at least One Hundred Thousand Dollars (\$100,000.00) per occurrence and Three Hundred Thousand Dollars (\$300,000.00) in the aggregate and, further, failed to provide Dekany with a

separate form setting forth that Respondent did not have malpractice insurance  
and obtain Dekany's signed acknowledgement on said form and Rule 1.4 (c) for  
ongoing conduct after February 1, 2007;  
DR 6-101(A): Failing to Act Competently;  
DR 6-101(A)(3): Neglect a legal matter entrusted to him; and Rule 1.3 for  
ongoing conduct after February 1, 2007;  
GOV. R. V(4)(G) and Rule 8.1(b) Failure to Cooperate: Respondent has not  
responded to Relator's letters relating to the allegations set forth in the complaint.

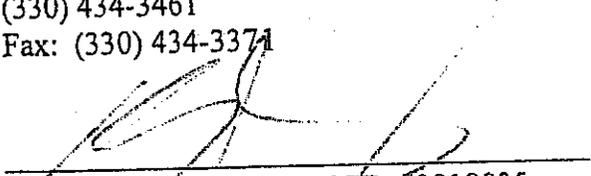
**REQUEST FOR RELIEF**

Petitioner asks that such discipline be administered to Respondent as may be  
deemed appropriate following a hearing on the merits.

Respectfully submitted,

  
JOSEPH S. KODISH #0017996

Attorney for Relator  
Legal Defender Office of Summit County, OH, Inc.  
One Cascade Plaza, Suite 1940  
Akron, OH 44308  
(330) 434-3461  
Fax: (330) 434-3371

  
KATHRYN A. BELFANCE #0018035

Attorney for Relator  
Roderick Linton Belfance, LLP  
1500 One Cascade Plaza  
Akron, OH 44308  
(330) 434-3000  
Fax: (330) 434-9220

*Stephen A. Fallis*  
STEPHEN A. FALLIS #0021568

Bar Counsel

Akron Bar Association

57 S. Broadway

Akron, OH 44308

(330) 253-5007

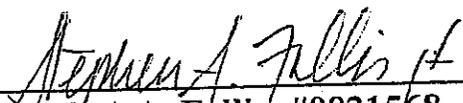
Fax: (330) 253-2140

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the forgoing Complaint and Certificate was sent by Regular U.S. Mail, postage prepaid, the 3<sup>rd</sup> day of February, 2009 to:

Attorney Harry J. Wittbrod  
2213 18<sup>th</sup> St.  
Cuyahoga Falls, OH 44223

Attorney Matthew  
Counsel for Respondent  
Oldham Kramer  
195 S. Main St., Ste. 300  
Akron, OH 44308-1314

  
\_\_\_\_\_  
Stephen A. Fallis #0021568  
Bar Counsel  
Akron Bar Association  
57 S. Broadway St.  
Akron, OH 44308  
(330) 253-5007

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Attorney Harry J. Wittbrod  
2213 18Th St.  
Cuyahoga Falls, OH 44223-1945

A. Received by (Please Print Clearly) \_\_\_\_\_ B. \_\_\_\_\_ of Delivery

C. Signature \_\_\_\_\_  Agent  
 Addressee

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number (Copy from service label)

7003 1010 0001 6913 2109

PS Form 3811, July 1999

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7003 1010 0001 6913 2109

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Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark  
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02/03/09

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*Matt Oby*

PS Form 3800, June 2002

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**OFFICIAL USE**

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

Postmark  
Here

02/03/09

Sent To

Street, Apt. No.,  
or PO Box No.  
City, State, ZIP+4

*Harry Wittbrod*

PS Form 3800, June 2002

See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Attorney Matthew W. Oby  
Oldham Kramer  
195 S. Main St., Ste. 300  
Akron, OH 44308-1314

2. Article Number  
(Transfer from service label)

PS Form 3811, February 2004

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature \_\_\_\_\_  Agent  
 Addressee

B. Received by (Printed Name)  
*Dee A. Maier*

C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

7003 1010 0001 6913 2116

Domestic Return Receipt

102595-02-M-1540



# COPY

akron bar association  
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March 6, 2009

Attorney Harry J. C. Wittbrod  
2213 18<sup>th</sup> St.  
Cuyahoga Falls, OH 44223

Attorney Matthew W. Oby  
Oldham Kramer  
195 S. Main St., Ste. 300  
Akron, OH 44308-1314  
COUNSEL FOR ATTORNEY WITTBROD

Re: #09-022405G/Poor vs. Wittbrod

Dear Attorney Wittbrod:

Please be advised that the Akron Bar Association has received the enclosed complaint against you by the above-listed complainant. Your complaint has been assigned to the following Grievance Committee panel for investigation:

Attorney Joseph S. Kodish, Chair  
Legal Defender Office of Summit County  
One Cascade Plaza, Suite 1940  
Akron OH 44308  
(330) 434-3461

Attorney Kathryn A. Belfance  
Roderick, Linton, Belfance LLC  
1500 One Cascade Plaza  
Akron OH 44308

Attorney R. Scott Haley  
867 Moe Dr., Ste. G  
Akron OH 44310

EXECUTIVE OFFICE ♦ 57 S. BROADWAY STREET, AKRON, OHIO 44308-1722 ♦ 330-253-5007 ♦ FAX 330-253-2140 ♦ <http://www.akronbar.org>

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MARC B. MERKLIN, Vice President  
DEBORAH S. MATZ, Treasurer  
DEBORAH L. RUBY, Secretary

Board of Trustees  
F. DANIEL BALMERT  
J. DEAN CARRO  
WILLIAM G. CHRIS  
STEVEN COX

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N  
lv  
J  
lv

EXHIBIT A-7

The investigation will be in accordance with Rule V of the Rules for Government of the Bar of Ohio, and the Bylaws of the Grievance Committee of the Akron Bar Association.

Every attorney is obligated under Rule V, Section 4(G) of the Supreme Court Rules of the Bar to cooperate fully with the Grievance Committee investigator and the Bar Association in this investigation. Failure to cooperate in a disciplinary investigation can, in and of itself, constitute a violation of the Ohio Rules of Professional Conduct.

In addition to discussing this complaint fully and candidly with the investigator, you must provide a written response and copies of all relevant documents relating to the complaint to the assigned investigator and copy Jackie M. Forcina, Grievance Director, within seven (7) days from the receipt of this letter. To request an extension beyond seven (7) days please do so in writing to me as Bar Counsel at the Akron Bar Association address.

PLEASE NOTE: Unless you provide a written request that your response not be released, Gov. Bar R. V Sec 11 (E) (3) requires us to share your response with the complainant. If you choose not to share your response with the complainant please execute the enclosed request and return it to the Bar Association office. The form not to share your response should be returned within seven (7) days from the receipt of this letter along with your written response. A copy of your response directed to the complainant will not constitute a waiver of any other right to privacy or confidentiality provided by Rule V.

Please be advised that if the investigator is unable to reach you, or if you do not respond to the investigator's efforts, the investigator may assume that all facts set forth in the complaint are accurate and issue a report accordingly. For this reason it is important for you to contact the investigator as soon as possible after receiving this letter.

The assigned investigator is required to report to the Investigative Subcommittee of the Grievance Committee. That Subcommittee will make a preliminary recommendation as to whether this complaint should be dismissed or referred to the entire Grievance Committee for further investigation.

If the complaint is dismissed, the complaining party is notified of the dismissal and of their right to appeal. If the matter is referred the entire Grievance Committee for further investigation, three members will be assigned.

During this initial review, the assigned investigator must act on this complaint within approximately thirty (30) days from the date of the complaint. It is therefore imperative that the investigation be completed expeditiously and that you cooperate fully and promptly.

Yours very truly,

CERTIFIED GRIEVANCE COMMITTEE  
OF THE AKRON BAR ASSOCIATION

*Stephen A. Fallis*  
Stephen A. Fallis, Bar Counsel  
Certified Grievance Committee

Enclosure

cc: Assigned InvestigatorS/Chair/Vice Chair



akron bar ASSOC  
57 S. BROADWAY STRE  
AKRON, OHIO 44308-

**CERTIFIED MAIL™**



7003 1010 0001 6911 7793



02 1A  
9004620992  
\$ 06.070  
APR 07 2009  
MAILED FROM: 44308

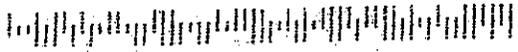
*Noted  
JTB  
3/17  
3-26  
3-31*

**RECEIVED**

APR 07 2009

Akron Bar Association

Attorney Harry J. C. Wittbrod  
2213 18Th St.  
Cuyahoga Falls, OH 44223-1945



Personal and Confidential

NIXIE 443 4E 1 02 04/03/09

RETURN TO SENDER  
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BC: 44308170259 \*3873-09459-09-38

4430801702





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VIA REGULAR & CERTIFIED U.S. MAIL

March 23, 2009

Attorney Harry J. C. Wittbrod  
2213 18<sup>th</sup> St.  
Cuyahoga Falls, OH 44223

RE: Poor vs. Wittbrod/#09-022405G

Dear Attorney Wittbrod:

Please be advised that the grievance subcommittee assigned to investigate the above-listed complaint has requested a meeting with you.

The meeting is scheduled for **TUESDAY, APRIL 7, 2009** at 3:45 p.m. at the Akron Bar Association, 57 S. Broadway St., Akron, OH 44308.

Please any and all documentation you have relevant to your representation of Ms. Sarah Poor.

You are reminded of every attorney's obligation under Rule V Section 4(G) of the Supreme Court Rules for the Government of the Bar to cooperate fully with the investigators and the Bar Association in this investigation. As you know, failure to cooperate in a disciplinary investigation can, in and of itself, constitute a violation of the Code of Professional Responsibility.

Please be advised that if you do not attend this meeting, the subcommittee may assume that all facts set forth in the complaint are accurate and issue a report accordingly.

Please contact me at (330) 253-5007 should you have any questions.

Very truly yours,

*Terry D. Zimmerman*  
Terry D. Zimmerman, Chair  
Certified Grievance Committee

Cc: Joseph S. Kodish  
Kathryn A. Belfance  
R. Scott Haley  
Matthew W. Oby, Counsel for Attorney Wittbrod

EXECUTIVE OFFICE ♦ 57 S. BROADWAY STREET, AKRON, OHIO 44308-1722 ♦ 330-253-5007 ♦ FAX 330-253-2140 ♦ <http://www.akronbar.org>

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EXHIBIT A-8

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature <input checked="" type="checkbox"/> Agent  <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p>
<p>1. Article Addressed to:</p> <p style="text-align: center;"><b>Attorney Harry J. C. Wittbrod</b>  <b>2213 18th St.</b>  <b>Cuyahoga Falls, OH 44223</b></p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes  If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type  <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number  (Transfer from service label)</p>	<p style="text-align: center;">7003 1010 0001 6912 4210</p>

PS Form 3811, February 2004

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Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To Harry Wittbrod

Street, Apt. No., or PO Box No. \_\_\_\_\_

City, State, ZIP+4 \_\_\_\_\_

PS Form 3800, June 2002 See Reverse for Instructions

7003 1010 0001 6912 4210

# The Supreme Court of Ohio **COPY**

BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

65 SOUTH FRONT STREET, 5TH FLOOR, COLUMBUS, OHIO 43215-3431

(614) 387-9370 (888) 664-8345

FAX: (614) 387-9379

www.sconet.state.oh.us

**RECEIVED**

APR 01 2009

RUTH BOPE DANGEL  
STATE COUNSEL

Akron Bar Association

JONATHAN W. MARSHALL, ESQUIRE  
SECRETARY

March 30, 2009

Akron Bar Association  
Attn: Stephen Fallis  
57 S. Broadway Street  
Akron, OH 44308

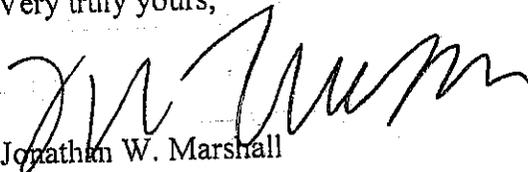
Re: Case No. 09-009  
Akron Bar Association, Relator v.  
Harry J. Wittbrod, Respondent

Dear Mr. Fallis:

Please note that Harry J. Wittbrod is in default and has not filed an answer. The original Complaint was served on the Respondent by certified mail on February 20, 2009. Please submit your motion for default as soon as possible.

If you have any questions or concerns regarding this matter, please feel free to contact this office.

Very truly yours,



Jonathan W. Marshall  
Secretary

JWM/fil

cc: Joseph Kodish  
Kathryn A. Belfance

cc: W.chris

EXHIBIT A-9



**COPY**

akron bar association  
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April 27, 2009

Mr. Jonathan W. Marshall, Secretary  
Board of Comm. on Griev. & Discipline of the Bar  
Ohio Judicial Center  
65 South Front Street, 5<sup>th</sup> Floor  
Columbus, Ohio 43215-3431

Re: Akron Bar Association v. Harry J. Wittbrod, Case No. 09-009

Dear Mr. Marshall:

I am in receipt of your letter dated March 30, 2009 and I am aware that Attorney Wittbrod has not filed an answer to the complaint and that a Motion for Default is to be filed.

However, a new matter has come to our attention regarding additional violations. After an investigation, it is our intention to amend the original complaint and add new counts. We prefer to do that first rather than file a Motion for Default and have to start all over by filing the new (and third) case against Attorney Wittbrod.

Accordingly, we are not filing the Default at this time but will serve him with an Amended Complaint and will prepare a Motion for Default later if necessary.

Please advise if this is not acceptable.

Very truly yours,

William G. Chris, Bar Counsel  
Certified Grievance Committee

Cc: Attorney Joseph S. Kodish  
Attorney Kathryn A. Belfance  
Attorney R. Scott Haley

EXECUTIVE OFFICE ♦ 57 S. BROADWAY STREET, AKRON, OHIO 44308-1722 ♦ 330-253-5007 ♦ FAX 330-253-2140 ♦ <http://www.akronbar.org>

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JOSEPI  
NANCY  
MEGAI  
JOAQUIN  
MELINE

EXHIBIT A-10

**COPY**



akron bar association  
(Serving all of Summit County)

May 15, 2009

Mr. Jonathan W. Marshall, Secretary  
Board of Commissioners on Grievances & Discipline  
Ohio Judicial Center  
65 South Front Street, 5<sup>th</sup> Floor  
Columbus, Ohio 43215-3431

RE: Attorney Harry J. Wittbrod/#0066021

Dear Mr. Marshall:

Enclosed herein for filing with the Board of Commissioners are the original and four copies of the **Amended Complaint and Certificate** by the Akron Bar Association against Attorney Harry J. Wittbrod.

All parties have been notified.

Very truly yours,

William G. Chris, Bar Counsel  
Certified Grievance Committee

Enc.

CC: Jonathan Coughlan, Disciplinary Counsel  
Harry J. Wittbrod, Esq.  
Matthew J. Oby, Esq.  
Joseph S. Kodish, Esq.  
Kathryn A. Belfance, Esq.  
R. Scott Haley, Esq.  
Terry D. Zimmerman, Esq.  
John C. Weisensell, Esq.

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DEBORAH S. MATZ, Treasurer  
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WILLIAM G. CHRIS  
STEVEN COY

JK  
N  
W  
JK  
W

EXHIBIT A-11

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

IN RE: )

COMPLAINT AGAINST )

CASE NO. 09-009

HARRY J. WITTBROD )  
Registration No. #0066021 )  
2213 18<sup>th</sup> St. )  
Cuyahoga Falls, OH 44223 )

**RELATOR'S MOTION**  
**TO AMEND COMPLAINT**

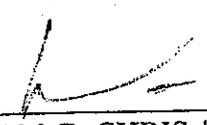
RESPONDENT )

AKRON BAR ASSOCIATION )  
57 S. Broadway )  
Akron, OH 44308 )

RELATOR )

Now comes the Relator, Akron Bar Association, by and through its undersigned Bar Counsel, Attorney William G. Chris, and respectfully requests the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio permit the Filing of an Amended Complaint.

Respectfully submitted,

  
\_\_\_\_\_  
WILLIAM G. CHRIS #0006593

Bar Counsel  
Akron Bar Association  
57 S. Broadway  
Akron, OH 44308  
(330) 253-5007  
Fax: (330) 253-2140

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

IN RE: )

COMPLAINT AGAINST )

Case No. 09-009

HARRY J. WITTBROD )

Registration No. #0066021 )

2213 18<sup>th</sup> St. )

Cuyahoga Falls, OH 44223 )

**AMENDED COMPLAINT  
AND CERTIFICATE**

(Rule V of The Supreme Court  
Rules for the Government of  
The Bar of Ohio)

RESPONDENT )

AKRON BAR ASSOCIATION )

57 S. Broadway St. )

Akron, OH 44308 )

RELATOR )

Now comes the Relator and alleges that Harry J. Wittbrod, an Attorney at Law, Registration No. #0066021, duly admitted to the practice of law in the State of Ohio, is guilty of the following misconduct:

**PARTIES**

1. The Akron Bar Association ("the ABA" or "Relator") is a Certified Grievance Committee under Gov. Bar R. V (3)(C).
2. Harry J. Wittbrod ("Wittbrod" or "Respondent") is an attorney at law licensed to practice in Ohio, Registration No. 0066021, with his mailing address at 2213 18<sup>th</sup> Street, Cuyahoga Falls, Ohio, 44223. In mid-2008, Wittbrod closed his business office at 1630 Schiller Avenue, Suite 1, Cuyahoga Falls, OH 44223.
3. On June 16, 2008, Wittbrod received a CLE Suspension by the Supreme Court of Ohio.
4. *The Akron Bar Association v. Harry J. Wittbrod* (Case No. 07-021) is currently pending before the Supreme Court of Ohio. Due to the amount of time the above

case had been pending, the following three counts were not permitted as a second amendment and had to be filed separately.

5. Duncan R. Soles ("Soles") is a former client of Wittbrod and a complaining witness herein.
6. Karen Dekany ("Dekany") is a former client of Wittbrod and a complaining witness herein.
7. Sara Poor ("Poor") is a former client of Wittbrod and a complaining witness herein.

#### COUNT ONE: THE SOLES MATTER

8. Soles retained Respondent in December 2005 to represent him in an auto accident with a semi that occurred in December 2005.
9. In December 2006, a settlement agreement was made and \$4,044.47 in subrogation fees was kept in escrow by Respondent to pay Soles' medical bills.
10. To date, these medical bills have not been paid by Respondent and he has failed to return any of Soles' phone calls.
11. Soles attempted to reach Respondent by telephone on March 5, 2008, March 12, 2008, March 31, 2008 and April 3, 2008 and did not receive a return phone call from Respondent. On April 29, 2008 he learned that Respondent had closed his office without advising him of a forwarding address.
12. Respondent was notified by letter from Relator dated July 16, 2008 of Soles' allegations against him. The letter was returned to the Relator as being unclaimed by Respondent.
13. Respondent did not attend a meeting scheduled with the grievance investigators on August 18, 2008 despite being notified of the meeting via regular and certified mail.
14. Respondent has failed to respond to either letter or otherwise respond to the allegations.
15. At all times mentioned herein, Respondent did not have malpractice insurance, failed to advise Soles in writing of that fact and failed to obtain Soles' signed acknowledgement.

16. That as set forth in the previous paragraphs, Respondent has violated the following Disciplinary Rules:
- DR 9-102(A),(B3) Preserving identity of funds and property of clients and Rule 1.15 for ongoing conduct after February 1, 2007;
  - DR 1-104(A) and (B): Disclosure of Information to the Client: Respondent failed to inform Soles at the time of the engagement that Respondent did not maintain professional liability insurance in the amount of at least One Hundred Thousand Dollars (\$100,000.00) per occurrence and Three Hundred Thousand Dollars (\$300,000.00) in the aggregate and, further, failed to provide Soles with a separate form setting forth that Respondent did not have malpractice insurance and obtain Soles' signed acknowledgement on said form and Rule 1.4 (c) for ongoing conduct after February 1, 2007;
  - DR 6-101(A)(3): Neglect a legal matter entrusted to him and Rule 1.3 for ongoing conduct after February 1, 2007;
  - GOV. R. V(4)(G) and Rule 8.1(b) Failure to Cooperate: Respondent has not responded to Relator's letters relating to the allegations set forth in the complaint.

#### **COUNT TWO: THE DEKANY MATTER**

17. Dekany retained Respondent in June 2004 and paid him \$1,000.00 to represent her in a bankruptcy matter.
18. Respondent did in fact file a Chapter 13 for the Dekanys' in the United States Bankruptcy Court for the Northern District of Ohio in Case Number 04-53045-mss.
19. The Dekanys attempted to contact Respondent on several occasions due to Mr. Dekany's loss of employment and they left Respondent many messages concerning the Chapter 13 arrearage.
20. There was some dispute over the mortgage payments. The Dekany's paid their mortgage payments. Mrs. Dekany indicates that they received a call from Respondent on June 12, 2008 indicating that the mortgage company had sent back all of her payments.

21. Mrs. Dekany was in her car in that time and could not take appropriate notes. She asked if Respondent could be called back in fifteen minutes and he said yes. She called Respondent within ten minutes and he did not answer. Respondent did not and has never responded to the Dekanys.
22. Dekany asked for the money back and never received same. Respondent did not receive approval from the Court to list the Dekanys' home. Dekany has received information from the mortgage company that the house is being reviewed for foreclosure.
23. Dekany has not received the payments that were forwarded to Respondent and did not receive any explanation from him as to whether or not the money was placed into his IOLTA account or if the funds are still there.
24. Since that time Respondent has failed to communicate with the Dekanys and their house is being reviewed for foreclosure because of Respondent's inaction in the matter.
25. Respondent did accept the assignment letter and copy of the Dekany complaint mailed to him by Relator via certified mail.
26. Respondent did not submit a written response to Relator or otherwise respond to the allegations.
27. Respondent did not attend a meeting set up with the grievance investigators on August 18, 2008 despite being notified of the meeting via regular and certified mail.
28. At all times mentioned herein, Wittbrod did not have malpractice insurance, failed to advise the Dekanys in writing of that fact and failed to obtain Dekanys' signed acknowledgement.
29. That as set forth in the previous paragraphs, Respondent has violated the following Disciplinary Rules:  
DR9-102(A),(B) Preserving Identity of funds and property of clients and Rule 1.15 for ongoing conduct after February 1, 2007;  
DR 1-104(A) and (B): Disclosure of Information to the Client: Respondent failed to inform Dekany at the time of the engagement that Respondent did not maintain professional liability insurance in the amount of at least One Hundred Thousand

Dollars (\$100,000.00) per occurrence and Three Hundred Thousand Dollars (\$300,000.00) in the aggregate and, further, failed to provide Dekany with a separate form setting forth that Respondent did not have malpractice insurance and obtain Dekany's signed acknowledgement on said form and Rule 1.4 (c) for ongoing conduct after February 1, 2007;

DR 6-101(A): Failing to Act Competently;

DR 6-101(A)(3): Neglect a legal matter entrusted to him; and Rule 1.3 for ongoing conduct after February 1, 2007;

GOV. R. V(4)(G) and Rule 8.1(b) Failure to Cooperate: Respondent has not responded to Relator's letters relating to the allegations set forth in the complaint.

### **COUNT THREE: THE POOR MATTER**

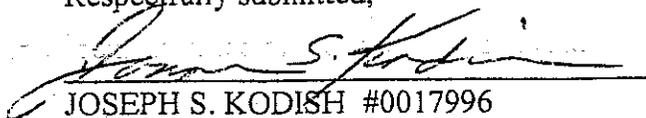
30. Poor retained Respondent in October 2007 to represent her in filing a Chapter 7 bankruptcy due to large medical bills.
31. Poor paid Respondent \$1,000.00 for representing her in the bankruptcy.
32. Poor advised Respondent that she needed to reaffirm her debt on her car lease because her father co-signed on the lease and she needed the car and needed to protect her father's credit rating.
33. Respondent assured Poor that he would have the car lease debt reaffirmed in the bankruptcy proceeding.
34. After her discharge in bankruptcy Poor discovered the car lease debt had been reported as being charged off and she reported this fact to Respondent who advised he would correct the error.
35. Respondent in fact could do nothing to correct the charge off since the debt had been discharged and not reaffirmed as represented.
36. Soon thereafter Poor's car was repossessed and her father's credit rating has been adversely affected.
37. Poor attempted to contact Respondent on numerous occasions but Respondent did not respond to phone messages and closed his office.
38. Respondent and his attorney were notified by letter from Relator dated March 6, 2009 of the allegations by Poor against Respondent.

39. Respondent did not attend a meeting scheduled with the grievance investigators on April 7, 2009 despite being notified of the meeting via regular and certified mail.
40. Respondent has failed to respond to the letter or otherwise respond to the allegations.
41. At all times mentioned herein, Respondent did not have malpractice insurance, failed to advise Poor in writing of that fact and failed to obtain Poor's signed acknowledgement.
42. That as set forth in the previous paragraphs, Respondent has violated the following Rules:
- Rule 1.1 Competence: Respondent failed to competently represent Poor;
  - Rule 1.3: Diligence: Respondent failed to act with reasonable diligence and promptness in representing Poor;
  - Rule 1.4 (c) Communication: Respondent failed to inform Poor at the time of the engagement that Respondent did not maintain professional liability insurance in the amount of at least One Hundred Thousand Dollars (\$100,000.00) per occurrence and Three Hundred Thousand Dollars (\$300,000.00) in the aggregate and, further, failed to provide Poor with a separate form setting forth that Respondent did not have malpractice insurance and obtain Poor's signed acknowledgement on said form;
  - GOV. R. V(4)(G) and Rule 8.1(b) Failure to Cooperate: Respondent has not responded to Relator's letters and failed to attend a meeting to relating to the allegations set forth in the complaint.

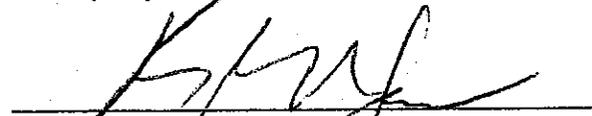
#### **REQUEST FOR RELIEF**

Petitioner asks that such discipline be administered to Respondent as may be deemed appropriate following a hearing on the merits.

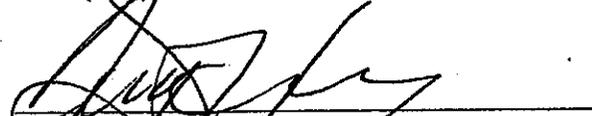
Respectfully submitted,



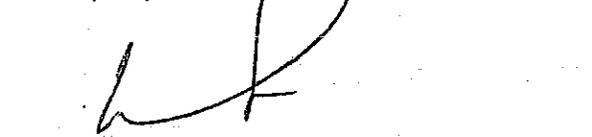
JOSEPH S. KODISH #0017996  
Attorney for Relator  
Legal Defender Office of Summit County, OH, Inc.  
One Cascade Plaza, Suite 1940  
Akron, OH 44308  
(330) 434-3461  
Fax: (330) 434-3371



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Attorney for Relator  
Roderick Linton Belfance, LLP  
1500 One Cascade Plaza  
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Fax: (330) 434-9220



R. SCOTT HALEY #0018737  
Attorney R. Scott Haley  
Haley Law Offices Co., L.P.A.  
867 Moe Dr., Ste. G  
Akron, OH 44310  
(330) 633-2069  
Fax: (330) 633-2580



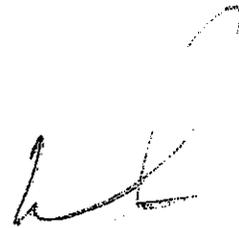
WILLIAM G. CHRIS #0006593  
Bar Counsel  
Akron Bar Association  
57 S. Broadway  
Akron, OH 44308  
(330) 253-5007  
Fax: (330) 253-2140

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the forgoing Complaint and Certificate was sent by Regular U.S. Mail, postage prepaid, the 15<sup>th</sup> day of May, 2009 to:

Attorney Harry J. Wittbrod  
2213 18<sup>th</sup> St.  
Cuyahoga Falls, OH 44223

Attorney Matthew  
Counsel for Respondent  
Oldham Kramer  
195 S. Main St., Ste. 300  
Akron, OH 44308-1314



---

**WILLIAM G. CHRIS #0006593**  
Bar Counsel  
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# The Supreme Court of Ohio

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JONATHAN W. MARSHALL, ESQUIRE  
SECRETARY

RECEIVED  
OCT 05 2009  
BOPE DANGEL  
STAFF COUNSEL

Akron Bar Association

October 1, 2009

Akron Bar Association  
Attn: William G. Chris  
57 S. Broadway Street  
Akron, Ohio 44308

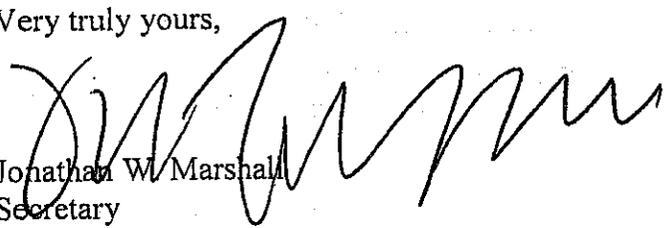
Re: Case No. 09-009  
Akron Bar Association, Relator v.  
Harry J. Wittbrod, Respondent

Dear Mr. Chris:

Please note that Harry J. Wittbrod is in default and has not filed an answer. The original Complaint was served on the Respondent on February 20, 2009 and the Amended Complaint was served on Respondent on August 7, 2009. Please submit your motion for default as soon as possible.

If you have any questions or concerns regarding this matter, please feel free to contact this office.

Very truly yours,

  
Jonathan W. Marshall  
Secretary

JWM/flf

cc: Joseph Kodish  
Kathryn A. Belfance  
Stephen Fallis

EXHIBIT A-12