

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

11-2058

In Re: :  
Complaint against : Case No. 10-092  
Ronald E. Seibel : Findings of Fact,  
Attorney Reg. No. 0077296 : Conclusions of Law and  
: Recommendation of the  
Respondent, : Board of Commissioners on  
: Grievances and Discipline of  
Cincinnati Bar Association : the Supreme Court of Ohio  
:  
Relator. :

FILED  
DEC 08 2011  
CLERK OF COURT  
SUPREME COURT OF OHIO

{¶1} This matter was heard on November 17, 2011 in Cincinnati, Ohio, before a panel consisting of members Walter Reynolds, Charles E. Coulson, and Judge Robert Ringland, chair. None of the panel members resides in the district from which the complaint arose or served as a member of the probable cause panel that reviewed the complaint pursuant to Gov. Bar R. V, Section 6(D)(I). Respondent was *pro se*. Robert F. Laufman and Kelly A. Schoening represented Relator.

{¶2} On May 20, 2011, the hearing panel was assigned on this matter. The matter was submitted to the hearing panel as a consent to discipline, pursuant to BCGD Proc. Reg. 11. The agreement was timely filed with the Board. The hearing panel recommended acceptance of the agreement; however, after consideration, on October 7, 2011, the Board rejected the agreement and sent it back to the panel for further proceedings.

FINDINGS OF FACT

{¶3} Respondent is an attorney duly admitted to the practice of law in Ohio since 2004.

{¶4} In January 2007, Respondent undertook to represent Ms. Darlene Mincey in a sexual harassment and retaliation charge against the University of Cincinnati.

{¶5} At the initial meeting, Mincey paid Respondent a \$500 retainer. This retainer was treated as nonrefundable and was deposited into Respondent's operating account rather than his trust account. There is no dispute between the parties that the \$500 was earned by Respondent in the future performance of his duties.

{¶6} Respondent and Mincey entered into a verbal contingent fee agreement. Respondent failed to have Mincey sign a fee contract and never gave her a copy of a contract. The contract for representation was an oral contract.

{¶7} On or about August 10, 2007, the Equal Employment Opportunity Commission (EEOC) held a conciliation meeting with University of Cincinnati and Mincey. Respondent represented Mincey in these negotiations. Mincey did not accept the university's settlement offer.

{¶8} After this meeting, Mincey requested to move forward with a federal lawsuit. She instructed Respondent to request a notice of right to sue which was necessary to proceed with the case.

{¶9} After the August 10, 2007 meeting, Respondent requested another \$2,000, which Mincey understood to be for the litigation costs of moving forward in the case. Respondent claims this \$2,000 was part of the \$2,500 nonrefundable retainer he regularly charges. Respondent deposited the \$2,000 in his office operating account. There was a misunderstanding between the parties as to what the fee was for, and there was not an agreement in writing between the parties.

{¶10} Respondent requested a right to sue letter from the EEOC several times. The

failure to submit the right to sue letter was on the part of the EEOC and Department of Justice.

{¶11} Mincey attempted to contact Respondent over the course of the next three years and spoke to him a few times. She was not satisfied with the lack of progress on her case.

{¶12} On March 1, 2010, Mincey sent Respondent a certified letter requesting her files and an accounting of the money she had paid. Mincey sent the letter because Respondent had failed to return her phone calls.

{¶13} Respondent failed to return the file and account for his time spent on the case.

{¶14} Mincey hired another attorney to assist with her case and it is proceeding forward. There was no harm to Mincey's legal case due to anything Respondent did or failed to do.

{¶15} Respondent refunded the \$2,000 fee to Mincey.

{¶16} Respondent admits to violating his Oath of Office and the Code of Professional Responsibility, specifically the following Ohio Rules of Professional Conduct: Prof. Cond. R. 1.5(c)(1) by failing to have a signed, written fee agreement; Prof. Cond. R. 1.5(d)(3) for treating fees as nonrefundable and earned upon receipt without informing the client in writing; Prof. Cond. R. 1.15(a) for failing to deposit client funds in his client trust account and failing to keep records of those funds; and Prof. Cond. R. 1.15(d) for failing to return a client's file and failing to provide her with an accounting.

### **CONCLUSIONS OF LAW**

{¶17} The panel finds by clear and convincing evidence that Respondent had violated the Rules of Professional Conduct set forth in ¶16 of this report.

### **AGGRAVATING AND MITIGATING FACTORS**

{¶18} The panel notes that, while restitution had not been made prior to the original consent to discipline, Respondent explained that there was no reluctance to do so but simply, as

he was *pro se*, he was unfamiliar with the timing and procedure on when to accomplish this restitution. Since becoming aware of the procedure through Relator, he has made full restitution. Relator does not dispute this and does not seek this as an aggravating factor.

{¶19} The panel further finds and Relator agrees that the precipitating event was the delay occasioned by the loss of Respondent's case file by the EEOC. Respondent worked diligently in attempting to retrieve the file or monitor the EEOC while initially keeping his client informed but admittedly ceased returning each call when there was no progress to report until his client finally sought new representation. He claimed he stopped returning phone calls out of frustration with the EEOC and his inability to give his client any news of his progress. No allegations exist that Respondent has committed malpractice or failed to abide by any standard of misconduct other than those charged. Respondent cannot explain why he failed to put his client's funds into an IOLTA account or enter into a written fee agreement. His normal practice was to put money into his trust account and prepare written fee agreements. Relator had no evidence to the contrary.

{¶20} Respondent appears not to have been motivated by any selfishness but still feels responsible for the EEOC's inaction since as the "portal for his client to the system" he has let his client down. He has apparently accepted moral as well as legal responsibility. As a result he has apologized personally to his client. In addition, he has assisted new counsel by turning over the files and cooperating with all inquiries from that counsel to the point that the client's case while delayed has not been jeopardized. Admittedly, he stipulated that he did not initially return the files to his client but cannot explain why he did not other than hoping that the EEOC would finally respond. The panel finds that Respondent's remorse is deep and sincere.

{¶21} The panel, per stipulations of the parties, finds that the lack of any prior

disciplinary violation is a mitigation factor.

### SANCTION

{¶22} In the original consent to discipline, the parties stipulated to a six-month suspension from the practice all stayed. Both Respondent and Relator stand on this joint recommendation. This sanction is in line with the cases of *Columbus Bar Assn. v. Halliburton-Cohen*, 106 Ohio St.3d 98, 2005-Ohio-3956; *Cleveland Bar Assn. v. Ramos*, 119 Ohio St.3d 36, 2008-Ohio-3235; and *Cuyahoga Cty. Bar Assn. v. Cook*, 121 Ohio St.3d 9, 2009-Ohio-259, in which the court imposed a six-month stayed suspension for the same or similar violations.

{¶23} However, the panel finds that a lesser sanction of public reprimand may be more in line with the proper penalty for the following reasons: lack of any injury to the client or allegations of malpractice or incompetence; the unique precipitating events; and the sincere remorse and acceptance of moral and legal responsibility of Respondent.

{¶24} This sanction is more in line with cases imposing a public reprimand. In fact, those cases warranting public reprimand have more egregious conduct than the case at hand. For example, there is no inappropriate contact with the client or initial dishonesty about the misconduct as in *Cincinnati Bar Assn. v. Schmalz*, 123 Ohio St.3d 130, 2009-Ohio-4159. There was no attempt to deceive others as in *Akron Bar Assn. v. Finan*, 118 Ohio St.3d 106, 2008-Ohio-1807 and no lack of effective representation resulting in a malpractice suit as in *Lorain Cty. Bar Assn. v. Godles*, 128 Ohio St.3d 279, 2010-Ohio-6274.

{¶25} Based on the factual circumstances of these cases, the Respondent's sincere remorse, his lack of any potential or actual past disciplinary misconduct, his complete cooperation with the investigation as well as with successor counsel, and his effective performance of his functions as an attorney until the EEOC's dilatory efforts, as well as any lack

of harm to client, leads this panel to believe that a public reprimand will adequately deter him from further violations.

**BOARD RECOMMENDATION**

Pursuant to Gov. Bar R. V, Section 6(L), the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio considered this matter on December 2, 2011. The Board adopted the Findings of Fact, Conclusions of Law, and Recommendation of the panel and recommends that Respondent, Ronald E. Seibel, be publicly reprimanded in Ohio. 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.**



**RICHARD A. DOVE, Secretary  
Board of Commissioners on  
Grievances and Discipline of  
the Supreme Court of Ohio**