

IN THE
SUPREME COURT OF OHIO

LEO JOHNNY TALIKKA, ESQ.

Respondent,

v.

OFFICE OF DISCIPLINARY COUNSEL

Relator.

12-1324

CASE NO. 11-009

RESPONDENT'S OBJECTIONS TO
THE BOARD OF COMMISSIONERS'
FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND RECOMMENDATION

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BRIEF IN SUPPORT

I. INTRODUCTION

After a review of the evidence accepted at the complete and total stipulation of the parties in lieu of an in-person hearing of the instant matter, including evidence of factors both mitigating and aggravating, the Board of Commissioners on Grievances & Discipline of the Supreme Court of Ohio (hereinafter “Board”) recommended that Mr. Leo Talikka be suspended from the practice of law indefinitely, despite the acceptance of the stipulated sanction by the hearing panel assigned by the Board to adjudicate the matter. As will be discussed at length below, the Board’s recommendation was not only inconsistent with the Disciplinary Counsel’s and Panel’s recommendation but is also inconsistent with similar cases previously decided by this Honorable Court.

On July 18, 2012, Relator, Disciplinary Counsel, filed an amended complaint charging Leo Talikka, a 44 year veteran in the practice of law in Ohio, with eleven violations of the Ohio Rules of Professional Conduct. (See Third Amended Cmplt.). Leo and Relator agreed to stipulate to all of the underlying facts of the complaint. (See Agreed Stipulations, hereinafter “Stip.”). The parties also agreed to waive a hearing with the Panel of the Board of Commissioners on Grievances and Discipline (hereinafter “Panel”). The parties’ agreement was accepted by the Panel, which could have, had it been deemed appropriate, called for a hearing. As aggravating factors, Leo admitted that he possessed a dishonest or selfish motive, committed a pattern of misconduct and multiple offenses, as well as failed to make restitution. (See Appendix A, Bd. Op. p.3-4). The Panel found that the victims being vulnerable to harm was an additional aggravating factor. (Bd. Op. p.4); (Stip. ¶127). As for mitigating factors, the parties stipulated that Leo offered evidence of good character and had no prior disciplinary proceedings within the 40 years prior to these incidents. (Stip. ¶128).

In addition, the Ohio Rules of Professional Conduct that Leo violated were also stipulated; specifically, Rule 1.3 [a lawyer shall act with reasonable diligence and promptness in representing a client], Rule 1.4(a)(3) [a lawyer shall comply as soon as practicable with reasonable requests for information from his client], Rule 1.5(c)(2) [a lawyer who is entitled to compensation under a contingent-fee agreement shall not fail to prepare a closing statement and provide it to the client at the time of or prior to the lawyer's receiving compensation], Rule 1.15(a) [a lawyer shall keep client funds in the lawyer's possession separate from the lawyer's funds], Rule 1.15(a)(2) [a lawyer shall maintain a record for each client on whose behalf funds are held], Rule 1.15(a)(5) [a lawyer shall not fail to perform and retain a monthly reconciliation of the funds in his trust account], Rule 1.15(d) [a lawyer shall not fail to promptly deliver funds or other property that the client is entitled to receive], Rule 1.16(e) [a lawyer who withdraws from employment shall refund promptly any unearned fees], Rule 8.4(c) [a lawyer shall not engage in conduct involving fraud, deceit, dishonesty or misrepresentation], Rule 8.4(d) [a lawyer shall not engage in conduct that is prejudicial to the administration of justice], and Rule 8.4(h) [a lawyer shall not engage in conduct that adversely reflects upon his fitness to practice law]. (Stip. ¶119-126).

The Panel made findings of fact, conclusions of law and a recommendation for sanction of a two-year suspension from the practice of law with one year stayed upon certain conditions. (Bd. Op. p.1-2). The Board adopted the findings of fact and conclusions of law, but rejected the Panel's recommendation and, instead, indefinitely suspended the 73 year-old Respondent from the practice of law. (Bd. Op. p.6).

Based upon the entirety of the evidence submitted as part of the record in the instant matter, this Honorable Court should modify the Board's Recommendations that Leo be

suspended from the practice of law indefinitely, and instead, in its de novo review, impose the stipulated sanction adopted by the Panel of a two-year suspension with the second year stayed upon the conditions that: 1) Leo Talikka commit no further misconduct; 2) Leo Talikka not be reinstated until he makes restitution to Jeffery Homkes in the amount of \$8,674.59, to Fran Cantrell in the amount of \$1,000.00, and to John Ingram in the amount of \$39,196.70; and 3) Leo Talikka, upon reinstatement, completes one year of probation and be monitored by an attorney appointed by Relator in accordance with Ohio Rev. Code Ann. Gov. Bar R., V§9(B).

II. FACTS

Leo J. Talikka was born in Viipuri, Finland and immigrated to the United States in 1952 at age 13. Leo, as a young immigrant, learned English and matriculated through his public school education, excelling both academically and athletically. After high school graduation, Leo graduated from Hiram College and subsequently earned his Juris Doctorate degree from Ohio Northern University in 1966. He earned his license to practice law in 1968. (Stip. ¶1). Early in his legal career, Leo served the public as an assistant prosecutor for both Lake County and the City of Eastlake. In the early 1990s, following practice in a law firm setting, Leo began practicing law as a solo practitioner, handling both criminal and civil matters in which capacity he currently practices. (Stip. ¶2). In recognition of his ability and integrity, this Honorable Court appointed Leo to serve a three-year term as a member of the Board of Commissioners on Character and Fitness of the Supreme Court of Ohio. The late Chief Justice Thomas J. Moyer, in recognition of his exemplary service, subsequently re-appointed Leo for an additional three years on that board.

In addition to practicing law, Leo has utilized his ability to fluently speak, read and write the Finnish language to work as both an escort interpreter for the United States Department of

State in Washington, D.C. and as a translator and interpreter for the Berlitz School of Languages. Leo has, also, been a very active and valued community volunteer. He has served as a Commissioner on the Board of the Lake County Metroparks, the Painesville Township Board of Education, and the Lake County Board of Mental Retardation. Further, Leo has served his community as a lecturer in government for eight years at local high schools in Lake County.

A. The Michelle Topazio Matter

Michelle Topazio hired Leo on June 4, 2008 to appeal a May 2008 Judgment Entry in which the Cuyahoga County Juvenile Court gave custody of Ms. Topazio's minor children to their biological father. (Stip. ¶9). The next day, Ms. Topazio delivered \$15,000.00 to Leo, but due to Leo's confusion concerning the definition of the term retainer, and his failure to memorialize their legal relationship in a written fee agreement, the parties had a miscommunication about the scope and specifications of Leo's fee. (Stip. ¶10-11). Leo intended and believed the \$15,000.00 was a flat fee to prosecute the appeal, but he continuously and mistakenly referred to it as a retainer, which, as we know, indicates the deposit for fees and expenses that the lawyer charges against and removes from his or her trust account as the fees are earned and expenses are incurred.

It was not until undersigned counsel explained the true meaning of "retainer," as a term of art, that Leo fully comprehended the accurate definition of the word in the context of accepting money from a client and that classifying his fee as a retainer with the intention that it is a flat fee is an irreconcilable idea.

In June 2008, Leo filed a Notice of Appeal in the Eighth District Court of Appeals and advised Ms. Topazio that he would obtain a transcript of the trial court proceedings, but that she would be responsible for the resulting transcription fee. (Stip. ¶12). Leo sent Ms. Topazio a

letter which informed her of the costs for the transcripts for the appeal; however, she insisted that she would contact the court reporter directly and arrange for the transcript to be prepared. After this conversation with Ms. Topazio, Leo, as directed by his client, contacted the court reporter to advise that Ms. Topazio desired to make all arrangements for preparation of the trial court transcript on her own behalf. Ms. Topazio did not follow through and pay for a transcript of the proceedings and, in absence of payment, the court reporter did not transcribe the record. Without a transcript of the trial proceedings, Leo was unable to prepare a brief and, due to this disability, did not file an appellate brief on Ms. Topazio's behalf. (Stip. ¶13).

With no brief filed, the appellate court dismissed, sua sponte, Ms. Topazio's appeal on September 29, 2008. (Stip. ¶14). Approximately two weeks later, Ms. Topazio terminated Leo as her attorney and requested a refund, via e-mail correspondence, of \$13,500.00, which Ms. Topazio believed represented the unused portion of the \$15,000.00 given to Leo in June 2008. (Stip. ¶16-17). Leo disagreed and determined that he owed Ms. Topazio \$10,000.00, but, having been contacted by the guardian ad litem in the trial court who asserted Ms. Topazio owed him fees, Leo did not forward a refund to the client. (Stip. ¶19).

Approximately six months later, as a result of a motion filed by the guardian ad litem, the Lake County Court of Common Pleas ordered Leo to immediately deposit \$10,000.00 with the Clerk of Courts. (Stip. ¶20-21). Pursuant to that order, Leo deposited \$10,000.00 from his First Merit IOLTA account with the Clerk of Courts, although Leo did not hold any of Ms. Topazio's funds in either IOLTA account. (Stip. ¶22-23).

B. The Jeffrey Homkes Matter

In 2008, Mr. Homkes hired Leo to represent him in a personal injury matter for which Mr. Homkes agreed to pay Leo a one-third contingent fee for his services. (Stip. ¶24-25). In

April 2009, Leo obtained a \$33,000.00 settlement for Mr. Homkes. (Stip. ¶26). Leo received the settlement check on April 30, 2009 and deposited the funds into his First Merit IOLTA account. (Stip. ¶29).

Leo disbursed \$11,325.41 to Mr. Homkes, and withdrew his one-third fee of \$11,000.00 from the First Merit IOLTA account on May 6 and May 7, 2009, respectively. (Stip. ¶31). Leo never had Mr. Homkes sign a closing statement. (Stip. ¶32). After paying litigation expenses associated with Mr. Homkes' case, Leo used some of the funds belonging to Mr. Homkes inappropriately. (Stip. ¶35, 37).

As for the remaining funds belonging to Mr. Homkes, Mr Talikka retained possession of that balance because he and the client agreed that Leo would utilize the money as a fee for two contract-related matters for which Mr. Homkes desired representation. However, Mr. Homkes did not pursue those matters, and Leo never disbursed the remaining \$8,674.59 of the settlement funds to Mr. Homkes. (Stip. ¶38).

Leo cannot account for the funds paid to Mr. Homkes and admits that he has neither maintained a ledger of Mr. Homkes's funds within the his IOLTA account nor reconciled his IOLTA account on a monthly basis. (Stip. ¶39).

C. The Theresa Waclawski Matter

In June 2008, Ms. Waclawski hired Leo to represent her in a personal injury matter for which Ms. Waclawski agreed to pay Leo a one-third contingent fee for his services. (Stip. ¶40-41).

Throughout his representation of Ms. Waclawski, Leo had failed to maintain records of money used on behalf of Ms. Waclawski and had improperly commingled funds belonging to her with funds belonging to other clients, himself and his law firm. On November 28, 2008, Leo

filed a civil lawsuit in Lake County Court of Common Pleas, bearing case number 08CV003740, on Ms. Waclawski's behalf. (Stip. ¶42). During the representation of Ms. Waclawski, in October 2009, Leo used funds in his First Merit IOLTA account on Ms. Waclawski's behalf, despite that account not holding any funds belonging to Ms. Waclawski. (Stip. ¶43). In November of that same year, Leo obtained a \$70,000.00 settlement for Ms. Waclawski, which he deposited into his First Merit IOLTA account. (Stip. ¶44, 47).

Leo disbursed \$23,331.33 to Ms. Waclawski and disbursed the same amount to himself as his fee for the matter. (Stip. ¶48). Although none of Ms. Waclawski's funds were in Leo's Northwest Savings IOLTA account, he used a total of \$3828.99 from that account on Ms. Waclawski's behalf to cover certain litigation expenses in December 2009. (Stip. ¶50). By December 2009, Leo still held \$18,303.60 of the \$70,000.00 settlement funds that belonged to Ms. Waclawski. (Stip. ¶52). However, records indicate that from November 19, 2009 until January 8, 2010, Leo converted \$8,824.71 of Mr. Homkes' settlement funds for unrelated purposes. (Stip. ¶53). Leo closed this IOLTA account on January 8, 2010 and transferred the \$9,478.89 balance to the Northwest IOLTA account. (Stip. ¶54).

On April 28, 2010, Leo disbursed \$7,910.01 to Ms. Waclawski from his Northwest IOLTA account. (Stip. ¶55). Following that disbursement, Leo retained \$10,393.59 of the \$70,000.00 settlement funds belonging to Ms. Waclawski. (Stip. ¶55). Approximately two months later, Leo disbursed \$10,425.92 from the Northwest IOLTA account to the Ohio Department of Job and Family Services on Ms. Waclawski's behalf. (Stip. ¶56).

Leo never had Ms. Waclawski sign a closing statement. (Stip. ¶49). Leo is unable to account for the funds he used to disburse to Ms. Waclawski. Further, Leo admitted that he failed

to properly maintain a client ledger of the funds in his IOLTA accounts and failed to reconcile the IOLTA accounts properly. (Stip. ¶58).

D. The Dana Kooyman Matter

In early 2008, Leo agreed to represent Ms. Kooyman on an hourly basis in her divorce from her then husband. (Stip. ¶59). Ms. Kooyman delivered \$2,000.00 in cash to Leo. (Stip. ¶60). At one point during representation, Ms. Kooyman delivered an additional \$2,000.00 in cash to Leo. (Stip. ¶64). On May 6, 2008, Leo filed a complaint for divorce on behalf of Ms. Kooyman in the Lake County Court of Common Pleas, bearing case number 08DR000261. (Stip. ¶63). Leo successfully obtained, for Ms. Kooyman, one-half of her husband's 401K account, amounting to \$25,045.83. (Stip. ¶65-66). After receiving the funds, Leo deposited the full amount into his First Merit IOLTA account. (Stip. ¶68).

Leo withdrew his attorney fees in the amount of \$14,500.00 from the First Merit IOLTA, paid some of Ms. Kooyman's expenses, and on July 23, 2009, he disbursed \$16,053.85 to Ms. Kooyman. (Stip. ¶70-72). The latter disbursement to Ms. Kooyman was an overpayment of \$4,496.96 as only \$11,556.89 in Leo's First Merit IOLTA account belonged to her. (Stip. ¶72). Thus, Leo used other clients' funds to pay Ms. Kooyman. (Stip. ¶73). Leo neither maintained a client ledger of Ms. Kooyman's funds nor properly reconciled his IOLTA account. (Stip. ¶75).

E. The Timothy Price Matter

Mr. Price hired Leo on April 6, 2009 to represent him in an employment-related matter under a one-third contingency fee agreement. (Stip. ¶76-77). Leo had a long, personal and professional relationship with members of Mr. Price's family. Mr. Price's claim required an expert evaluation, report and testimony to appropriately prosecute the claim and avoid a dismissal by the court – a fact Leo made clear to Mr. Price before agreeing to represent Mr. Price

– and Mr. Price assured Leo that he would provide the necessary funds for an expert so that he could maintain his cause of action. Leo never received any funds for procurement of an expert and, thus, no expert was retained.

Leo filed a complaint on Mr. Price's behalf on December 21, 2009 in Lake County Court of Common Pleas under case number 09CV4108. (Stip. ¶78). In February, the case was removed to United States District Court for the Northern District of Ohio, upon motion of the defendants, and assigned case number 1:10CV214. (Stip. ¶79).

The defendants in Mr. Price's case filed a motion to dismiss some of the claims, as well as a motion for judgment on the pleadings for the remaining claims, to which Leo did not file a response. (Stip. ¶81, 84). Leo's failure to respond to these pleadings, by way of explanation and not as an excuse, was that Leo, despite the mutual understanding since the inception of the representation that an expert needed to be hired, did not have an expert report to support the claims and Leo was convinced that, without an expert report, response to the motions would be a vain act. By September 2011, all of Mr. Price's claims were dismissed. (Stip. ¶83, 86).

On September 19, 2011, Mr. Price filed a legal malpractice action against Leo in the Lake County Court of Common Pleas under case number 11CV002494. The legal malpractice matter has since been dismissed with prejudice after Leo's professional liability insurance carrier offered, and Mr. Price accepted, a settlement in the amount of \$12,500.00. (See Respondent's March 26, 2012 Proffer for the Record). Further, Mr. Price sent a letter to the Lake County Bar Association, stating that the differences between Leo and himself had been resolved and that he is satisfied with the outcome, despite previously feeling that Leo had been deficient in his representation. (See Respondent's May 24, 2012 Proffer for the Record).

F. The Fran Cantrell Matter

In October 2009, Ms. Cantrell retained Leo to investigate whether or not a motion for judicial release should be filed and, further, to attempt to convince the Department of Corrections to transfer Ms. Rowles, Ms. Cantrell's daughter, to a penal facility closer to Ms. Cantrell's home. (Stip. ¶90). In exchange for his services, Ms. Cantrell paid Leo a flat fee of \$1,500.00. (Stip. ¶90).

After his investigation into Mr. Cantrell's daughter's matter, Leo discovered that Ms. Rowles was not legally eligible for judicial release under Ohio law because Ms. Rowles had not served the required portion of her sentence permitting her to attempt to successfully petition the court for judicial release. By July 2011, Leo had not filed anything on behalf of Ms. Rowles and Ms. Cantrell discharged Leo. (Stip. ¶92). Ms. Cantrell, subsequently hired Attorney David Patterson who filed the motion for judicial release on July 15, 2011. (Stip. ¶93).

On behalf of Ms. Cantrell, attorney Patterson requested a refund of the funds she paid to Leo. (Stip. ¶94). On July 25, 2011, Leo sent Ms. Cantrell and Attorney Patterson an invoice which stated that Leo dedicated 8.2 hours, valued at \$1,640.00, of his legal services on behalf of Ms. Cantrell and, thus, that she was not entitled to a refund. (Stip. ¶95).

G. The Diana Montagino Matter

Ms. Montagino hired Leo on May 21, 2009 to represent her as a plaintiff in a personal injury case on a one-third contingency fee basis. (Stip. ¶98). Mistakenly believing that the statute of limitations on Ms. Montagino's personal injury claim was two years, Leo indicated to Ms. Montagino that he would file a complaint on her behalf before May 2010. (Stip. ¶99). In fact, the statute of limitations for the claim had expired before Ms. Montagino first contacted Leo. Leo filed her claim in April 2010 and it was dismissed by the court in August of the same

year pursuant to the defendants' motion for summary judgment. (Stip. ¶100). Approximately one year later, Leo met with Ms. Montagino and advised her that her case had been dismissed. (Stip. ¶107).

H. The John Ingram Matter

Mr. Ingram hired Leo on December 7, 2006 to represent him as a plaintiff in a personal injury case for a one-third contingency fee pursuant to a written fee agreement. (Stip. ¶109-110). Leo filed a complaint in Lake County Court of Common Pleas on behalf of Ingram, which Leo ultimately settled for \$300,000.00. (Stip. ¶111-112). Leo deposited the entire amount into his Northwest IOLTA account. (Stip. ¶112). Leo subsequently disbursed \$100,000.00 each to Mr. Ingram and himself. (Stip. ¶113). After paying certain expenses related to Mr. Ingram's case, Leo disbursed another \$59,598.42 to Mr. Ingram. (Stip. ¶113-114). Leo used portions of the remaining funds owed to Mr. Ingram for purposes unrelated to Mr. Ingram's matter. (Stip. ¶115). Leo currently owes \$39,196.70 to Mr. Ingram, which represents the remaining portion of the settlement funds in his case. (Stip. ¶116).

III. LAW AND ARGUMENT

Leo has acknowledged the wrongful nature of his misconduct. While Leo is in the twilight of his career as an attorney he, nevertheless, is prepared and extremely motivated to carry out the remainder of his career as an attorney just as he practiced – zealously and passionately representing the members of the public that desire his services. Leo has expressed to counsel that he will do all that is necessary to accomplish this end, as it relates to curing the wrongs he committed against the public he has dedicated his life to serving including, but not limited to, paying full restitution to Mr. Homkes, Ms. Cantrell and Mr. Ingram. In light of this Honorable Court's oft stated purpose of the attorney disciplinary system being to protect the

public and *not to punish* the offending attorney, Leo respectfully requests that this Honorable Court afford him the opportunity to once again serve the public as he has since 1968 by permitting him to re-enter the practice of law after a one-year actual suspension rather than effectively deprive the public of his talent and abilities by, in essence, terminating his career, which the imposition of the proposed sanction would cause.

A. Mitigation

As this Honorable Court is well aware, the Ohio Rules for Government of the Bar provide in pertinent part:

Each disciplinary case involves unique facts and circumstances. In striving for fair disciplinary standards, consideration will be given to specific professional misconduct and to the existence of aggravating or mitigating factors. Ohio Rev. Code Ann. Gov. Bar R., Appendix II, §10(A) (Baldwin 2009) (emphasis added).

Although disbarment is the presumptive sanction for an attorney's misappropriation of funds, a lesser sanction may be given to an attorney whose case involves evidence of mitigation. *Columbus Bar Assoc. v. Hamilton* 88, Ohio St.3d 330, 332, 2000-Ohio-349, 725 N.E.2d 1116. Two of the mitigating factors identified in Appendix II, §10(B)(2) of the Ohio Rules of the Government of the Bar are present here and should be considered in favor of recommending a less severe sanction including, but not limited to:

- 1. Leo has no prior disciplinary record in his forty-year legal career.** See Stip. ¶128; Ohio Rev Code Ann Gov Bar R, Appendix II, §10(B)(2)(a) (Baldwin 2009).
- 2. Leo has good character and reputation.** See Stip. ¶128; Ohio Rev. Code Ann. Gov. Bar R., Appendix II, §10(B)(2)(a) (Baldwin 2009).

Leo's outstanding character and reputation, in counsel's view, militates the imposition of a less severe sanction. Ohio Rev. Code Ann. Gov. Bar R., Appendix II §10(B)(2)(e) (Baldwin 2009). As the members of this Honorable Court are aware, the practice of law, particularly a

practice which is litigation oriented, carries with it a necessary interaction with not only other members of the Bar, but also judges. While the following testimonial letters do not speak directly to the matters which form the basis of the instant action, they speak to the overall character and value of Leo as a professional whose actions have left a lasting impression upon the judges who have had the opportunity to observe Leo throughout his career. (See Stip. Exh. 61, which includes testimonial letters from Judge Thomas D. Lambros, Judge Ronald W. Vettel, Judge Michael A. Cicconetti, Judge Charles G. Hague, and Judge Alfred W. Mackey).

Those testimonials are uniform in their characterization of Leo as an attorney possessing the utmost integrity and professionalism as exemplified in the quality of his representation, his demeanor when inside the courtroom setting, and his concern for his clients' matters. The most striking aspect of these testimonials, in counsel's view, is the overriding opinion of each judge submitting these letters all of whom speak of Leo's honest and tenacious, yet, compassionate approach to serving his clients and to his dealings with other members of our profession and the public. The letters further note Leo's value to the public by highlighting his contributive nature toward the public interest. It is this endearing and zealous conduct, while perhaps not traits possessed by a number of currently practicing attorneys, that are precisely the qualities which best serve the public in the highest tradition of our profession.

When considering the judges' testimonials above as well as Leo's 40 years of practicing law without incident prior to the instant matter, one can reasonably conclude that Leo's misconduct occurred during an isolated period of time that was not representative of his entire career as an attorney. During that period, Leo experienced difficulty acknowledging and accepting the fact that, with his multiple health problems and increasing age, he was incapable of handling as heavy a work load as he could in his younger days. (See Respondent's July 27, 2012

Proffer for the Record wherein Robert Kaplan, Ph.D. provides his Psychological Report of Leo). Although Dr. Kaplan found that Leo did not possess any mental or substance abuse disorder, he did state that his testing of Leo indicated that:

[H]e is an individual who is reluctant to admit to having any limitations. During the mental status examination and counseling sessions, he appeared to be a proud individual, who, in spite of significant health problems, which included prostate cancer, thought he was, “invincible,” in the realm of legal matters. He admitted that he took on large caseloads and thought that he “could handle anything that comes down the pike.” He opened too many files and did not have the time to be as thorough as he had usually been in the management of his law practice * * * Leo adamantly insisted that he was entirely responsible for these errors, since it was his choice to do the extra work. (See Kaplan Rep. p.2)

Counseling has since shed light on the issues that Leo has had difficulty admitting have, in the recent past, plagued his professional life. Through entering counseling with Dr. Kaplan, as well as entering into and complying with his OLAP contract, Leo has been able to understand these issues, which can and do afflict the older members of our profession, and equip himself with the necessary tools to avoid violating the professional rules that bind him and allow him to appropriately continue his exemplary service to the public. (See July 27, 2012 Proffer for the Record).

B. ~~This Honorable Court Should Reject the Recommended Sanction of the Board – an Indefinite Suspension – and Impose the Sanction to Which the Parties Stipulated – a Two-Year Suspension with the Second Year Stayed Upon Certain Conditions.~~

Every disciplinary case is unique. *Disciplinary Counsel v. Meehan*, Slip Opinion No. 2012-Ohio-3894, ¶6 (See Appendix B). Therefore, factors such as Dr. Kaplan’s findings are extremely relevant to this Honorable Court’s determination of an appropriate sanction to be considered along with the duties violated, the sanctions imposed in other cases, and all other factors this Court may, in its discretion, also find relevant. *Disciplinary Counsel v. Taylor*, 120 Ohio St.3d 366, 2008-Ohio-6202, 899 N.E.2d 955, citing BCGD Proc.Reg. 10(B); *Stark Cty. Bar*

Assn. v. Buttacavoli, 96 Ohio St.3d 424, 2002-Ohio-4743, 775 N.E.2d 818. This Court has also relied upon the sanction recommended by Disciplinary Counsel as a guiding factor when deciding the imposition of an appropriate sanction. *Meehan*, at ¶14. Finally, it bears reiteration that this Court's determination is guided by the seminal principle, dating back to the days of Blackstone, that the primary purpose of imposing sanctions on lawyers is not to punish the lawyer, but to protect the public. *Cincinnati Bar Assn. v. Schwieterman*, 115 Ohio St.3d 1, 2007-Ohio-4266, 873 N.E.2d 810, ¶34, citing *Disciplinary Counsel v. O'Neil*, 103 Ohio St.3d 204, 2004-Ohio-4704, 815 N.E.2d 286, ¶53.

In light of the evidence including the facts, and the mitigation discussed above, Leo, through counsel and the recommendation of Disciplinary Counsel, posits that the recommendation of the Board is overly punitive and does not serve in the best interest of the public of the State of Ohio. This Honorable Court, through a number of recent cases, has provided precedent which supports a two-year suspension with one year stayed as an appropriate sanction in the instant matter, which precedent was relied upon by both Relator and respondent in formulating their stipulation.

Leo's case is most comparable to *Disciplinary Counsel v. Folwell*, in which the respondent faced a seven count complaint and the parties, who stipulated the entire case, jointly recommended a two-year suspension with the second year stayed upon certain conditions. 129 Ohio St.3d 297, 2011-Ohio-3181, 951 N.E.3d 775, ¶1-3. There, the respondent admitted to conversion of his clients' funds for unrelated purposes, multiple instances of accepting money from clients for his legal services, but never carrying out what he agreed to do, and failing to return client funds upon termination of the client's matter. *Id.* at ¶10, 12-13, 17-20, 25-27.

As aggravating factors, the parties stipulated to a pattern of misconduct, multiple offenses, and the board found that the respondent acted with a dishonest or selfish motive. *Id.* at ¶33. As mitigating factors, the parties stipulated that the respondent experienced 20 years of practicing law with no disciplinary action taken against him and that he cooperated with the disciplinary proceedings. *Id.* The board accepted the recommended sanction of a two-year suspension with one year stayed and recommended an additional condition that respondent commit no further misconduct. This Honorable Court found that such a sanction was supported by the record and imposed a sanction that the parties posit is appropriate in the instant matter. *Id.* at ¶39.

According to its recommendation, the Board's concern in the present matter stemmed from the extensive nature of Leo's misconduct as it impacted numerous individual clients. (Bd. Op. p.6). The respondent's misconduct in *Folwell* similarly affected numerous clients and resulted in the same sanction – two years suspended with one year stayed – that the Panel recommended and the Board rejected. Moreover, although Leo's misconduct affected one more client than that of Mr. Folwell, Leo has approximately 20 more years of practicing law without disciplinary incident. In light of committing similar misconduct and possessing similar aggravating factors, as well as possessing enhanced mitigating factors, the parties submit Leo should receive a similar sanction to that received by the respondent in *Folwell*.

Other cases, which merit this Honorable Court's attention, support the argument that an indefinite suspension is not warranted in the present matter; *Toledo Bar Assoc. v. Scott*, 129 Ohio St.3d 479, 2011-Ohio-4185, 953 N.E.2d 831 and *Cleveland Bar Assoc. v. Mishler*, 118 Ohio St.3d 109, 2008-Ohio-1810, 886 N.E.2d 818. In *Scott*, the lawyer's conversion of his client's funds was especially egregious and resulted in a two-year suspension from the practice

of law with one year stayed upon certain conditions. *Id.* at ¶3. The respondent, taking advantage of his client by means of a power of attorney he caused his client to execute in his favor, used his client's ATM card to make seven withdrawals of \$500.00 each, none of which were deposited into a trust account. *Id.* at ¶4. The respondent further proceeded to empty his client's retirement account and deposit all of the \$24,456.00 into his business account before earning any type of fee. *Id.* at ¶5. Additionally, the respondent gained access to his client's home, through the power of attorney, while his client was in jail and stole a pair of Cleveland Browns football tickets which he used to attend the game with a friend, and then respondent fraudulently induced his client to transfer title of his client's Porsche and Cadillac to himself. *Id.* at ¶5-7.

The respondent's multiple offenses, dishonest or selfish motive, and submission of false bills and documentation during the disciplinary process were found by the panel to be aggravating factors. *Id.* at ¶12. As mitigating factors, the panel noted that the respondent acknowledged his wrongful conduct, made a timely good-faith effort at restitution, and had no prior disciplinary record throughout his near ten-year legal career. *Id.* at ¶13.

Similarly in *Mishler*, the respondent failed to account for his clients' funds, failed to return funds to which clients were entitled and either refused or was unable to offer an explanation for his actions. 118 Ohio St.3d 109, 2008-Ohio-1810, 886 N.E.2d 818, ¶2, 15. Further, and unlike Leo, the respondent accepted a settlement offer without his client's knowledge, procured settlement proceeds with forged client endorsements, which prompted this Court to state that, in general, the respondent failed to represent his clients with honesty and integrity. *Id.* at ¶2, 40. Over the relator's objection, which was premised upon the idea that disbarment is the presumptive sanction for lawyers who misappropriate client funds, this Court

rejected imposing an indefinite suspension and instead imposed a two-year suspension from the practice of law with the second year stayed upon certain conditions. *Id.* at ¶2, 43.

The mitigating factors of no prior disciplinary record throughout 30 years of practicing law, letters evidencing the respondent's honest and good character, and a delayed refund of money to his clients until just before the panel hearing were outweighed by the aggravating factors that respondent acted out of self-interest, committed multiple offenses, and engaged in a pattern of misconduct. *Id.* at ¶41.

A sanction in line with those mentioned above is warranted here. Prior to these grievances being filed, respondent practiced law without incident for approximately 40 years – far and away greater than the duration of time served at the bar by any of the previously mentioned lawyers who committed similar misconduct. Leo has represented thousands of clients and has conducted nearly 400 trials and 200 appellate arguments on behalf of his clients in both civil and criminal matters. According to the testimonial letters provided by the various judges, as well as the report provided by Dr. Kaplan, Leo is still very capable of providing a benefit to the public and the Ohio justice system through his legal services, and the public should be afforded the opportunity to utilize those services, which goal can be accomplished through a partially stayed suspension and Leo's fulfillment of certain conditions.

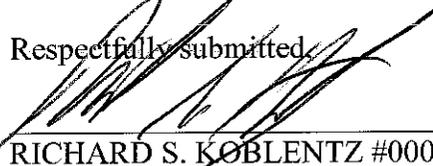
A two-year suspension with one year stayed on certain conditions provides sufficient protection for the public while an indefinite suspension of Leo's law license acts to severely punish him and deprive the public by effectively ending Leo's legal career. A two-year suspension with one year stayed on conditions strikes the right balance between the interests of the respondent and the public and is consistent with this Honorable Court's precedent.

It is respectfully submitted that, in consideration of the stipulated violations, the mitigation evidence presented under the conditions set forth above, and the foregoing precedent, the Recommendation of the Board is both inconsistent with prior precedent and overly harsh and, thus, should be modified by this Honorable Court.

IV. CONCLUSION

In light of the foregoing facts and precedent, Respondent Leo J. Talikka respectfully requests that this Honorable Court duly consider his Objections to the Board's Recommendation and modify the Findings of Fact, Conclusions of Law and Recommendation of the Board of Commissioners on Grievances & Discipline of the Supreme Court of Ohio by imposing a two-year suspension from the practice of law, with the second year of the suspension stayed on conditions that: 1) he commit no further misconduct; 2) he not be reinstated until he makes restitution to Jeffery Homkes in the amount of \$8,674.59, to Fran Cantrell in the amount of \$1,000.00, and to John Ingram in the amount of \$39,196.70; and 3) he, upon reinstatement, completes one year of probation and be monitored by an attorney appointed by Relator in accordance with Ohio Rev. Code Ann. Gov. Bar R., V§9(B).

Respectfully submitted,


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Attorneys for Respondent Leo J. Talikka, Esq.

CERTIFICATE OF SERVICE

A copy of the foregoing has been sent via regular U.S. mail to Jonathan E. Coughlan and Philip A. King, Disciplinary Counsel, Office of Disciplinary Counsel of the Supreme Court of Ohio, 250 Civic Center Drive, Suite 325, Columbus, Ohio 43215-5454 on this 31st day of August, 2012.



RICHARD S. KOBLENTZ
BRYAN L. PENVOSE
KEVIN R. MARCENZA

KOBLENTZ & PENVOSE, LLC

APPENDIX "A"

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

In Re:	:	
Complaint against	:	Case No. 11-009
Leo Johnny Talikka Attorney Reg. No. 0006613	:	Findings of Fact, Conclusions of Law and Recommendation of the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio
Respondent	:	
Disciplinary Counsel	:	
Relator	:	

OVERVIEW

{¶1} The parties waived a hearing and submitted this matter to the panel on stipulations of fact, violations, matters in mitigation and aggravation, and a recommended sanction.

{¶2} The members of the panel assigned to hear this case were the Honorable Arlene Singer, Martha Butler Clark, and David E. Tschantz, chair. None of the panel members resides in the district from which the complaint arose and none of the panel members served as a member of the probable cause panel that certified the matter to the Board. Respondent was represented by Richard S. Koblentz and Bryan L. Penvose, and Relator was represented by Philip A. King.

{¶3} Based on its review of the stipulated facts, the panel agrees with the parties and finds, by clear and convincing evidence that Respondent engaged in professional misconduct. After consideration of the parties' stipulated matters in mitigation and aggravation and the parties' recommendation of the sanction of a two-year suspension with the second year stayed

on conditions, and the parties' joint brief for sanction, the panel agrees with the parties and recommends the sanction of a two-year suspension, with one year stayed on conditions, but is modifying the conditions in its recommendation.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶4} Having considered the stipulations jointly filed by the parties, which are incorporated herein by reference, the panel accepts the stipulations, and adopts them as its findings of fact. The panel therefore finds by clear and convincing evidence that Respondent committed the following violations set forth below.

Count 1—Topazio Matter

{¶5} Prof. Cond. R. 1.3 [diligence]; Prof. Cond. R. 1.15(a) [a lawyer shall keep client funds in the lawyer's possession separate from the lawyer's funds]; Prof. Cond. R. 1.15(a)(2) [a lawyer shall maintain a record for each client on whose behalf funds are held]; Prof. Cond. R. 1.16(e) [a lawyer who withdraws from employment shall promptly refund any unearned fee]; Prof. Cond. R. 8.4(c) [conduct involving dishonesty, fraud, deceit, or misrepresentation]; Prof. Cond. R. 8.4(d) [conduct that is prejudicial to the administration of justice]; and Prof. Cond. R. 8.4(h) [conduct that adversely reflects on the lawyer's fitness to practice law].

Count 2—Homkes Matter

{¶6} Prof. Cond. R. 1.5(c)(2) [a lawyer who is entitled to compensation under a contingent-fee agreement shall not fail to prepare a closing statement and provide it to the client at the time of or prior to the lawyer's receiving compensation]; Prof. Cond. R. 1.15(a)(2); Prof. Cond. R. 1.15(a)(5) [a lawyer shall not fail to perform and retain a monthly reconciliation of the funds in his trust account]; Prof. Cond. R. 1.15(d) [a lawyer shall not fail to promptly deliver

funds or other property that the client is entitled to receive], Prof. Cond. R. 8.4(c); and Prof. Cond. R. 8.4(h).

Count 3—Waclawski Matter

{¶7} Prof. Cond. R. 1.5(c)(2); Prof. Cond. R. 1.15(a)(2); Prof. Cond. R. 1.15(a)(5); Prof. Cond. R. 1.15(d); Prof. Cond. R. 8.4(c); and Prof. Cond. R. 8.4(h).

Count 4—Kooyman Matter

{¶8} Prof. Cond. R. 1.15(a)(2); Prof. Cond. R. 1.15(a)(5); Prof. Cond. R. 8.4(c); and Prof. Cond. R. 8.4(h).

Count 5—Price Matter

{¶9} Prof. Cond. R. 1.3; Prof. Cond. R. 1.4(a)(3) [a lawyer shall keep a client reasonably informed about the status of a legal matter]; and Prof. Cond. R. 8.4(h).

Count 6—Cantrell Matter

{¶10} Prof. Cond. R. 1.3; Prof. Cond. R. 1.16(e); and Prof. Cond. R. 8.4(h).

Count 7—Montagino Matter

{¶11} Prof. Cond. R. 1.4(a)(3); Prof. Cond. R. 1.4(a)(4) [a lawyer shall not fail to comply as soon as practicable with reasonable requests for information from the client]; and Prof. Cond. R. 8.4(h).

Count 8—Ingram Matter

{¶12} Prof. Cond. R. 1.5(c)(2); Prof. Cond. R. 1.15(a)(2) Prof. Cond. R. 1.15(a)(5); Prof. Cond. R. 1.15(d); Prof. Cond. R. 8.4(c); and Prof. Cond. R. 8.4(h).

AGGRAVATION AND MITIGATION

{¶13} With regard to the factors in aggravation that may be considered in favor of a more severe sanction for professional misconduct listed in BCGD Proc. Reg. 10(B)(1), the

parties stipulated that Respondent clearly acted with a dishonest or selfish motive, demonstrated a pattern of misconduct, committed multiple offenses and has failed to make restitution. The panel accepts the aggravating factors stipulated and finds that they were proven by clear and convincing evidence.

{¶14} The parties did not stipulate, but the panel finds by clear and convincing evidence, based on the stipulated facts, the additional aggravating factor that Respondent's victims were vulnerable and harm to them resulted.

{¶15} With regard to the factors in mitigation that may be considered in favor of less severe sanctions for professional misconduct listed in BCGD Proc. Reg. 10(B)(2), the parties stipulated and the panel finds by clear and convincing evidence that Respondent has no prior disciplinary violations and has shown evidence of good character.

RECOMMENDED SANCTION

{¶16} In their stipulations and joint brief for sanction, Relator and Respondent recommended the sanction of a two-year suspension with one year stayed on the following conditions:

- Respondent commit no further misconduct;
- Respondent not be reinstated until he makes restitution to Jeffrey Homkes in the amount of \$8,674.59; to Fran Cantrell in the amount of \$1,000; and to John Ingram in the amount of \$39,196.70;
- Respondent, upon reinstatement, complete one year of probation and be monitored by an attorney appointed by Relator in accordance with Gov. Bar R. V, Section 9(B).

{¶17} In considering the appropriate sanction to recommend to the Board, the panel is mindful of the Court's opinion that "taking retainers and failing to carry out contracts of employment is tantamount to theft of the fee from the client," and permanent disbarment is the

“presumptive disciplinary measure for such acts.” *Cincinnati Bar Assn. v. Weaver*, 102 Ohio St.3d 264, 2004-Ohio-2683.

{¶18} However, Respondent in this case, unlike the respondents in other similar cases reviewed by the panel, displayed the mitigating factors of no prior disciplinary violations and evidence of good character.

{¶19} The panel also reviewed the case of *Disciplinary Counsel v. Claflin*, 107 Ohio St.3d 31, 2005-Ohio-5827 in regard to the parties’ recommendation of the payment of restitution as a condition of Respondent’s reinstatement, and agrees with the parties that this should be a condition of said reinstatement. The panel notes, however, that there is no mention of interest on what clearly is the clients’ money and believes that interest on the restitution paid, as was ordered in *Claflin*, is appropriate in this case.

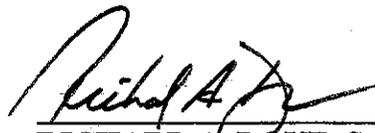
{¶20} In light of these factors, the panel recommends Respondent be suspended for a period of two years with one year stayed on the condition that Respondent commit no further misconduct. The panel further recommends that Respondent not be reinstated, regardless of whether or not the term of the above suspension is completed, until he makes restitution to Jeffrey Homkes in the amount of \$8,674.59, and interest at the statutory rate on that amount from May 6, 2009 to the date of payment; to Fran Cantrell in the amount of \$1,000, and interest at the statutory rate on that amount from July 15, 2011 to the date of payment; and to John Ingram in the amount of \$39,196.70, and interest at the statutory rate on that amount from November 30, 2011 to the date of payment.

{¶21} The panel further recommends that Respondent, upon reinstatement, complete one year of probation and be monitored during the probationary period by an attorney appointed by Relator in accordance with Gov. Bar R. V, Section 9(B).

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 August 3, 2012. The Board adopted the Findings of Fact and Conclusions of Law of the panel. Based on the extensive nature of Respondent's misconduct impacting on eight individual clients, the Board amended the sanction recommended by the panel and recommends that Respondent, Leo Johnny Talikka, be indefinitely suspended from the practice of law in Ohio with reinstatement subject to the payment of restitution to clients as set forth in ¶20 of this report. The Board further recommends that the costs 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 Recommendation as those of the Board.



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

APPENDIX "B"

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *Disciplinary Counsel v. Meehan*, Slip Opinion No. 2012-Ohio-3894.]

NOTICE

This slip opinion is subject to formal revision before it is published in an advance sheet of the Ohio Official Reports. Readers are requested to promptly notify the Reporter of Decisions, Supreme Court of Ohio, 65 South Front Street, Columbus, Ohio 43215, of any typographical or other formal errors in the opinion, in order that corrections may be made before the opinion is published.

SLIP OPINION NO. 2012-OHIO-3894

DISCIPLINARY COUNSEL v. MEEHAN

**[Until this opinion appears in the Ohio Official Reports advance sheets,
it may be cited as *Disciplinary Counsel v. Meehan*,
Slip Opinion No. 2012-Ohio-3894.]**

*Attorneys—Misconduct—Practicing law in violation of jurisdictional
regulations—Engaging in conduct prejudicial to the administration of
justice—Twenty-four-month suspension, stayed on conditions.*

(No. 2011-2045—Submitted January 18, 2012—Decided August 29, 2012.)

ON CERTIFIED REPORT by the Board of Commissioners on Grievances and
Discipline of the Supreme Court, No. 11-029.

Per Curiam.

{¶ 1} Respondent, Michael Patrick Meehan of Cleveland, Ohio, Attorney Registration No. 0059515, was admitted to the practice of law in Ohio in 1992. Relator, disciplinary counsel, filed a complaint in March 2011, charging Meehan with multiple violations of the Rules of Professional Conduct. After rejecting the parties' consent-to-discipline agreement, which recommended a 12-month stayed

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suspension, a panel of the Board of Commissioners on Grievances and Discipline conducted a hearing to consider disciplinary counsel's allegations of misconduct. At the conclusion of evidence, and upon consideration of the parties' agreed stipulations, the panel determined that there was clear and convincing evidence that Meehan had committed violations of three Rules of Professional Conduct. The panel recommended that Meehan be suspended from the practice of law for 24 months, with the entire suspension stayed on a number of stringent conditions. The board adopted the panel's report.

{¶ 2} We adopt the board's findings of fact and conclusions of law, and we adopt the board's recommendation that Meehan be suspended from the practice of law in Ohio for 24 months, with the entire suspension stayed on conditions.

Misconduct

{¶ 3} Meehan owns and operates Evergreen Title Agency, Ltd., and his legal practice is largely limited to eviction actions. This court administratively suspended Meehan from the practice of law, effective November 3, 2009, because he failed to renew his registration. Meehan admitted that he had received the letter notifying him of the suspension; however, he did not open any of his mail at that time, including the suspension letter, because he was experiencing a major depressive episode. Between November 2009 and May 2010, Meehan continued to practice law by filing eight eviction complaints in northern Ohio courts on behalf of his primary client, Midwest Properties, L.L.C., or its managing member. Neither the members of Midwest Properties nor the signatories on the deeds notarized by Meehan were aware of his suspension.

{¶ 4} Meehan became aware of his suspension in May 2010, when he accessed his Ohio attorney-registration records to determine the extent of his continuing-legal-education ("CLE") obligations. Upon discovering that he was suspended, Meehan immediately took all necessary steps and had his license

reinstated on May 18, 2010. During the short period of time between discovery and reinstatement, Meehan did not engage in any activities as an attorney.

{¶ 5} The parties stipulated, and the board concluded, that Meehan's conduct violated Prof.Cond.R. 5.5(a) (prohibiting a lawyer from practicing law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction) and 8.4(d) (prohibiting a lawyer from engaging in conduct that is prejudicial to the administration of justice), and (h) (prohibiting a lawyer from engaging in conduct that adversely reflects on the lawyer's fitness to practice law).

Sanction

{¶ 6} When imposing sanctions for attorney misconduct, we weigh evidence of the aggravating and mitigating factors listed in BCGD Proc.Reg. 10(B). *Disciplinary Counsel v. Broeren*, 115 Ohio St.3d 473, 2007-Ohio-5251, 875 N.E.2d 935, ¶ 21. In making a final determination, we consider a number of factors, including the ethical duties that the lawyer violated and the sanctions imposed in similar cases. *Stark Cty. Bar Assn. v. Buttacavoli*, 96 Ohio St.3d 424, 2002-Ohio-4743, 775 N.E.2d 818, ¶ 16. Because each disciplinary case is unique, we are not limited to the factors specified in the rule but may take all relevant factors into account in determining what sanction to impose. BCGD Proc.Reg. 10(B).

{¶ 7} The board found as aggravating factors that Meehan had engaged in a pattern of misconduct and committed multiple violations of the Rules of Professional Conduct. BCGD Proc.Reg. 10(B)(1)(c) and (d). However, because all the offenses committed during the pattern of misconduct arose from a major depressive episode, the board accorded a lesser weight to the aggravating factors than to the mitigating factors.

{¶ 8} The board found as mitigating factors that Meehan had no record of professional misconduct, that he lacked any selfish or dishonest motive, that he provided full and free disclosure during disciplinary counsel's investigation, that

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he was cooperative during the disciplinary proceedings, and that he provided evidence of good character and reputation. BCGD Proc.Reg. 10(B)(2)(a), (b), (d), and (e). The board further found that Meehan was diagnosed with a mental disability (major depressive disorder) by a qualified healthcare professional, that he provided adequate proof that the disability contributed to his misconduct, that he has undergone a sustained successful period of treatment, and that he is capable of returning to competently and ethically practice law. BCGD Proc.Reg. 10(B)(2)(g).

{¶ 9} The board recommended that Meehan be suspended from the practice of law in Ohio for a period of 24-months, with all 24 months stayed on the condition that he (1) continue mental-health treatment and counseling throughout the 24-month period, (2) enter into an Ohio Lawyers Assistance Program (“OLAP”) contract and comply with all of its requirements during the period of the stayed suspension, (3) comply with all CLE requirements imposed by this court, (4) pay the cost of the present action, (5) not commit any further misconduct during the stayed suspension, and (6) submit to an additional two-year probationary period, monitored by disciplinary counsel, following the completion of the period of the stayed suspension. We adopt the board’s recommendation.

{¶ 10} In a classic instance of practicing law while under suspension, disbarment is appropriate. See *Akron Bar Assn. v. Thorpe*, 40 Ohio St.3d 174, 532 N.E.2d 752 (1988); *Disciplinary Counsel v. McDonald*, 71 Ohio St.3d 628, 646 N.E.2d 819 (1995); *Cincinnati Bar Assn. v. Shabazz*, 74 Ohio St.3d 24, 656 N.E.2d 325 (1995). In *Thorpe*, the attorney was aware that he had been indefinitely suspended from the practice of law, but he engaged in settlement negotiations on behalf of a client in conscious disregard of the suspension. *Thorpe* at 174. This court agreed with the board’s recommendation for permanent disbarment. *Id.* In *McDonald*, the attorney was publicly reprimanded for neglecting a legal matter and was later indefinitely suspended from the practice of

law for refusing to pay the court costs from the reprimand proceedings. *McDonald* at 628. The attorney disregarded the suspension order, continued to practice law, was convicted of operating a vehicle while under the influence of alcohol or drugs, neglected client matters, and stole client funds. This court rejected the recommended indefinite suspension and ordered permanent disbarment. *Id.* at 629. In *Shabazz*, the attorney had twice been suspended from the practice of law for multiple instances of misconduct. *Shabazz* at 24. The partial stay on the initial suspension was revoked when the attorney committed further misconduct, and he was suspended yet again after he committed additional misconduct. *Id.* at 24-25. The attorney practiced law in disregard of his suspension and used the name of another attorney without that attorney's authority. *Id.* This court rejected the recommendation of an indefinite suspension and ordered permanent disbarment. *Id.* at 25.

{¶ 11} Although disbarment is generally necessary “where previous sanctions have been ignored with relative impunity,” *McDonald* at 629, lesser sanctions may also be appropriate depending on the circumstances of the attorney's misconduct. See *Disciplinary Counsel v. Blackwell*, 79 Ohio St.3d 395, 683 N.E.2d 1074 (1997); *Disciplinary Counsel v. Carson*, 93 Ohio St.3d 137, 753 N.E.2d 172 (2001). We must keep in mind that “our primary purpose in imposing disciplinary sanctions is not to punish the offender but to protect the public.” *Toledo Bar Assn. v. Scott*, 129 Ohio St.3d 479, 2011-Ohio-4185, 953 N.E.2d 831, ¶ 16.

{¶ 12} In *Blackwell*, the attorney practiced for 15 months even though he had not completed his attorney registration for the biennium, failed to meet his CLE requirements for three reporting periods, and was suspended from the practice of law pending reinstatement after his third instance of failing to complete his CLE requirements. *Blackwell* at 395. The attorney failed to meet the requirements for reinstatement, failed to notify his clients of his suspension,

and continued to practice law for approximately three months before filing for reinstatement. *Id.* This court rejected the recommended sanction of an indefinite suspension and held that a two-year suspension with the second year stayed was appropriate because of “the specific facts and circumstances of this case, and particularly * * * the board's recommendation and the fact that most of respondent's violations occurred during a period when he was achieving a successful recovery from alcoholism.” *Id.* at 397.

{¶ 13} In *Carson*, the attorney practiced for approximately seven years while under suspension for noncompliance with CLE requirements. *Carson* at 137. The attorney had mistakenly believed that he could return to practice after paying various sanctions without reapplying for readmission. *Id.* at 138. This court agreed with the board’s recommended sanction of a two-year suspension with one year stayed, noting that the attorney’s noncompliance was inadvertent and was related to alcohol-dependence issues and that he had been working closely with OLAP to address those issues. *Id.*

{¶ 14} In the present case, Meehan’s misconduct is much more closely aligned with these latter cases than those cases in which permanent disbarment was warranted. Given the unique circumstances surrounding Meehan’s conduct, including the evidence of his treatment for depression, his immediate cessation of practice upon learning of his suspension, his complete cooperation during disciplinary proceedings, and disciplinary counsel’s repeated recommendation for a fully stayed suspension, we conclude that a stayed suspension is warranted. We therefore adopt the board’s recommendation.

{¶ 15} Meehan is suspended from the practice of law for a period of 24 months, with the entire suspension stayed, subject to the conditions requiring him to continue mental-health treatment and counseling throughout the 24-month period, enter into an OLAP contract and comply with all of its requirements during the stayed suspension, comply with all CLE requirements imposed by this

court, pay the cost of the present action, refrain from committing any further misconduct during the stayed suspension, and submit to an additional two-year probationary period, monitored by disciplinary counsel, following the completion of the period of the stayed suspension. If Meehan fails to comply with these conditions, the stay will be lifted, and he will be required to serve the entire two-year suspension. Costs are taxed to Meehan.

Judgment accordingly.

O'CONNOR, C.J., and PFEIFER, LUNDBERG STRATTON, O'DONNELL,
LANZINGER, CUPP, and MCGEE BROWN, JJ., concur.

Jonathan E. Coughlan, Disciplinary Counsel, for relator.

Koblentz & Penrose, L.L.C., and Richard S. Koblentz, for respondent.
