

ORIGINAL

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

In re: : 14-1394
Complaint against : Case No. 2013-050
Jalal Tamer Sleibi : AMENDED Findings of Fact,
Attorney Reg. No. 0076633 : Conclusions of Law, and
Respondent : Recommendation of the
Cleveland Metropolitan Bar Association : Board of Commissioners on
Relator : Grievances and Discipline of
 : the Supreme Court of Ohio
 :
 :

OVERVIEW

{¶ 1} This matter was heard on May 28 and 29, 2014, in Cleveland before a panel consisting of Roger S. Gates, Alvin R. Bell, and Lawrence R. Elleman, chair. None of the panel members resides in the district from which the complaint arose or served as a member of a probable cause panel that reviewed the complaint pursuant to Gov. Bar R. V, Section 6(D)(1).

{¶ 2} R. Jeffrey Pollock and Jennifer D. Armstrong appeared on behalf of Relator. Respondent was represented by Richard S. Koblentz and Bryan L. Penvose.

{¶ 3} This case involves a practicing attorney who had intimate sexual relations with four separate female clients. The parties submitted written stipulations in which Respondent admitted that a sexual relationship did not exist with any of the clients when the attorney-client relationship commenced, and that Respondent engaged in prohibited sexual activity with each of the four clients during the time period covered by the attorney-client relationship. The panel

FILED
AUG 16 2014
CLERK OF COURT
SUPREME COURT OF OHIO

finds that each of the four clients was a willing participant in the sexual activity with Respondent.

{¶ 4} The parties further stipulated that Respondent violated Prof. Cond. R. 1.8(j) [a lawyer shall not solicit or engage in sexual activity with a client unless a consensual sexual relationship existed between them when the client-lawyer relationship commenced] and Prof. Cond. R. 8.4(h) [conduct that adversely reflects on the lawyer's fitness to practice law]. The panel accepts the stipulated violations and recommends that Respondent be suspended from the practice of law for two years with one year stayed on conditions.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 5} Respondent was admitted to the practice of law in the state of Ohio on November 10, 2003. Respondent is a graduate of Case Western Reserve University School of Law. Respondent is currently 38 years old and is married with two children. Respondent is currently practicing as a sole practitioner in the Cleveland area, focusing primarily on individual bankruptcies, criminal misdemeanors, and traffic offenses.

{¶ 6} Respondent is subject to the Rules for the Government of the Bar of Ohio and the Rules of Professional Conduct.

{¶ 7} Respondent submitted 45 character letters from lawyers, judges, clients, friends, and colleagues, including his 12-step sponsor, that attest to his excellent character and reputation for honesty and integrity, as well as his professional competence and ability. In addition, two character witnesses testified at length as to their opinion of his excellent reputation and his excellent character, except for the misconduct that is the subject of this proceeding.

{¶ 8} Since Respondent's marriage to his wife in 2004 and up until March 2011, Respondent engaged in many sexual relationships with women in addition to the four clients.

However since March 2011, Respondent has been in continuous and extensive therapy and a self-help program in order to address his sexual problems and has successfully avoided relapsing into his former sexual behavior.

{¶ 9} Respondent's misconduct is set forth in detail in paragraphs 2 through 23 of the agreed stipulations, which the panel adopts and incorporates into its findings of fact to the extent not inconsistent with the findings below.

HW- Client No. 1

{¶ 10} In February 2008, Respondent began representing HW in connection with two separate criminal misdemeanor proceedings pending before the Oberlin Municipal Court. The charges arose out of two traffic incidents regarding drug and alcohol driving offenses. HW was potentially subject to significant fines and jail time. Respondent had full knowledge that HW was only 18 years of age at the time. Stipulations 2, 5, 8; Hearing Tr. 522.

{¶ 11} Respondent was able to negotiate the dismissal of most of the charges against HW in return for a plea of no contest to the charges of under-aged consumption and operating a vehicle after under-aged consumption. HW received a suspended jail sentence, probation, driver's license suspension, and the imposition of a \$250 fine and costs. Stipulations 2, 5, 8; Relator's Ex. 1; Hearing Tr. 208-210, 214.

{¶ 12} A consensual sexual relationship did not exist between Respondent and HW when the attorney-client relationship between them commenced. However in February 2008, they began an intense consensual sexual relationship, which concluded around June 2008. Stipulations 3, 4; *Id.* 529. At the time, HW regarded the relationship as a romantic relationship. Hearing Tr. 204.

{¶ 13} During the course of the relationship, Respondent and HW exchanged hundreds of telephone calls and text messages. As with two of his other clients, Respondent sent HW numerous text messages with highly graphic and explicit sexual content. *Id.* 202, 203, 539-542.

{¶ 14} An attorney-client relationship is often inherently unequal because of the client's dependence on the lawyer and the client's unfamiliarity with the legal system and procedures. HW was particularly vulnerable to Respondent's sexual advances because of her youth and the fact that she was dependent on Respondent to protect her from potential fines and jail time. Now six years later, HW believes that Respondent exploited the attorney-client relationship with her and that such exploitation has taken an emotional toll on her. *Id.* 213.

{¶ 15} HW did not file a grievance. After Client No. 4 and later Client No. 3 filed grievances, Respondent disclosed to Relator as part of Relator's investigation that he had also had a sexual relationship with HW. Stipulation 9; Hearing Tr. 500-502.

PA- Client No. 2

{¶ 16} During Relator's investigation of the grievances filed by Client No. 4 and Client No. 3, Respondent disclosed to Relator that he had had a sexual encounter with PA. PA did not testify at the hearing despite being subpoenaed to appear. However, Respondent admitted his sexual encounter with PA in the agreed stipulations and in his testimony. Stipulations 10, 11, 12, 13; Hearing Tr. 501-505, 531.

{¶ 17} In or around March 2010, PA hired Respondent to represent her in connection with the filing of a bankruptcy petition, which was filed on March 16, 2010. A consensual sexual relationship did not exist between Respondent and PA at the time when the attorney-client relationship between them commenced. They engaged in a one-time intimate sexual encounter during the course of the representation. Stipulations 11, 12; Hearing Tr. 503, 531.

SM- Client No. 3

{¶ 18} In 2010, SM and her husband hired Respondent to represent them in connection with the filing of a bankruptcy petition, which was filed on July 29, 2010. Shortly thereafter, SM disclosed to Respondent that she was considering a divorce and inquired as to whether or not Respondent could represent her in that proceeding. Respondent was never retained in connection with a divorce, and SM is still married to her husband. Stipulation 14; Hearing Tr. 42.

{¶ 19} Respondent sent SM numerous text messages containing explicit and lewd sexual content. *Id.* 46, 53, 75, 76, 539-542.

{¶ 20} A consensual sexual relationship did not exist between Respondent and SM when the attorney-client relationship between them commenced. However in or around October 2010, Respondent and SM began an intimate sexual relationship, which continued through about January or February 2011. SM was a willing participant in the numerous sexual encounters, all of which occurred in Respondent's office pursuant to pre-arrangement between SM and Respondent. Stipulations 15, 16; Hearing Tr. 46-58, 70, 71, 99, 100, 477.

{¶ 21} In January 2011, SM told Respondent that she was pregnant. There was an argument between Respondent and SM about abortion, but eventually SM claims to have miscarried. Hearing Tr. 54-56, 433, 434, 480.

{¶ 22} After the sexual relationship ceased, SM continued to attempt to contact Respondent. As a result, Respondent's attorney instructed her not to contact Respondent. Ultimately, Respondent contacted the local police. SM was charged and pleaded no contest to attempted telephone harassment. *Id.* 61-66, 483-497; Respondent's Ex. 61(E).

{¶ 23} SM was vulnerable to Respondent's advances. She was at the time experiencing severe financial problems and contemplating divorce. She admits to having been flattered by

Respondent's initial attentions: "I never received that type of attention from anybody. * * * Things in my life were a little bit in turmoil at that point and I was surprised and just kind of taken off guard by it." Hearing Tr. 47.

{¶ 24} Disclosure of the affair that SM engaged in with Respondent caused emotional harm to SM and to her family. *Id.* 97, 98.

LF- Client No. 4

{¶ 25} In 2010, Respondent agreed to represent LF in connection with the filing of a bankruptcy petition, which was filed with the United States Bankruptcy Court on January 6, 2011.¹ Stipulation 17.

{¶ 26} A sexual relationship did not exist between Respondent and LF when the attorney-client relationship commenced. Almost immediately, they began text messaging each other. Some of the content of those messages sent by Respondent to SM are in the record at Relator's Ex. 8, 9. Respondent admits that some of his language, which LF allegedly quoted as part of Exhibit 9, was accurate and that this type of language was used in his text messages not only to LF, but also to Clients No. 1 and 3. Relator's Ex. 8, 9; Hearing Tr. 228, 229, 460, 461, 531-533, 539-542.

{¶ 27} On December 30, 2010, Respondent engaged in an intimate sexual encounter with LF at her apartment where he had gone to pick up documents relating to the bankruptcy. LF denies that the sexual encounter on December 30, 2010 was consensual and on or about March 22, 2011 she filed a police report alleging that Respondent raped her. Respondent denied the rape allegation. Following a lengthy investigation, Respondent was not charged with or indicted

¹ There were technical defects in the bankruptcy petition that caused the petition to be dismissed. At the request of LF or her brother, Respondent later returned the legal fee he had received from LF in full. *Id.* 234, 235, 471, 472, 474, 475.

for rape or any other criminal violation arising from the December 30, 2010 sexual encounter with LF. Stipulations 20, 21, 22, 23; Respondent's Ex. 66, p. 4.

{¶ 28} Relator failed to prove by clear and convincing evidence that the December 31, 2010 sexual encounter was non-consensual.² LF invited Respondent back to her house one week later on January 6, 2011 to pick up certain documents relating to the bankruptcy. No one else was present at her home on January 6, 2011, except for Respondent and Relator. LF provided no credible explanation as to why she would have invited Respondent back to her apartment for a private meeting to pick up documents if she had been forced to have sex with Respondent just one week previously at the same apartment or that she had been fearful of him.³ Hearing Tr. 232, 247-251, 537.

{¶ 29} Based on LF's demeanor on the witness stand, the panel concludes that she is now extremely emotionally fragile and was probably especially vulnerable to Respondent's sexual advances.

Other Factual Matters

{¶ 30} The complaint alleges that SM (Client No. 3) suffers from mental health issues, including bipolar disorder, and further, that LF (Client No. 4) is mentally handicapped and has been diagnosed with a variety of mental illnesses, including bipolar disorder, and depression.

The panel concludes that Relator failed to establish by clear and convincing evidence that

² At the hearing, Respondent proffered testimony from a polygraph examiner retained by Respondent's counsel in order to corroborate Respondent's assertion that the sexual activity with LF was entirely consensual. The panel sustained Relator's motion *in limine* to preclude the testimony of the polygraph examiner and the related exhibits based on the Supreme Court's opinion in *State v. Souel*, 53 Ohio St.2d 123, 372 N.E. 2d 1318 (1978). However, the panel allowed reference to the mere fact that he volunteered to take the test to corroborate his cooperation with the authorities and Relator. Also, numerous of the character letters which were offered and admitted into evidence state that Respondent told the authors of the letters that he had taken and passed a polygraph test. The panel has placed no evidentiary value on the fact Respondent told these people that he passed a lie detector test.

³ LF testified that she couldn't just mail the documents to Respondent because she had no postage stamps and no money to buy stamps. However, she admitted that Respondent's office was only about a ten minute walk away from her apartment and that there were public places in the neighborhood where she could have met Respondent to deliver the documents.

Respondent was aware of any mental handicaps of either of these two clients. Also at the hearing, the three clients who testified each accused Respondent of certain bad acts which were not pleaded in the complaint and were, in any event, not proven by clear and convincing evidence. The panel has therefore specifically excluded this evidence from its analysis and from the findings of fact, conclusions of law, and the recommendations contained in this report.

{¶ 31} The panel concludes that Relator has proven by clear and convincing evidence that Respondent's conduct violated Prof. Cond. R. 1.8(j) by having sexual relations with four separate clients, as stipulated by the parties.

{¶ 32} The panel concludes that Relator has proven by clear and convincing evidence that Respondent's conduct also violated Prof. Cond. R. 8.4(h) as stipulated by the parties. According to the recent holding in *Disciplinary Counsel v. Bricker*, 137 Ohio St.3d 35, 2013-Ohio-3998, a violation of Prof. Cond. R. 8.4(h) occurs if there is clear and convincing evidence that the lawyer has engaged in misconduct that adversely reflects on a lawyer's fitness to practice law, even though that conduct is not specifically prohibited by the Rules, or alternatively, that there is proof that the conduct giving rise to a specific rule violation is so egregious as to warrant an additional finding that it adversely reflects on the lawyer's fitness to practice law. In this case, having sexual relations with four separate clients and sending sexually explicit and lewd messages to at least three of those clients constitutes egregious unprofessional conduct that warrants a finding of a violation of Prof. Cond. R. 8.4(h).

AGGRAVATION, MITIGATION, AND SANCTION

Framework of Analysis

{¶ 33} Among the factors considered by the panel in making its recommended sanction are the ethical duties violated, the injuries caused by the misconduct, the mental state of

Respondent at the time of the misconduct, the aggravating and mitigating factors, the necessity to protect the public, and the sanctions imposed by the Supreme Court in similar cases.

Ethical Duties Violated and Injuries Caused

{¶ 34} The prohibition against sexual relationships with clients is based in large part on the fact that the attorney-client relationship is inherently unequal. It places a lawyer in the position of dominance over a potentially vulnerable and dependent client. *Disciplinary Counsel v. Booher*, 75 Ohio St.3d 509, 1996-Ohio-248; Prof. Cond. R. 1.8, Comment 17.

{¶ 35} The *Booher* case involved a lawyer, who engaged in sexual relations with his client while she was in jail. The Supreme Court explained the rationale for the prohibition regarding sex with clients as follows: “The client’s reliance on the ability of her counsel in a crisis situation has the effect of putting the lawyer in a position of dominance and the client in a position of dependency and vulnerability. The more vulnerable the client, the heavier is the obligation upon the attorney not to exploit the situation for his own advantage. Whether a client consents to or initiates sexual activity with the lawyer, the burden is on the lawyer to ensure that all attorney-client dealings remain on a professional level.” *Booher, supra*, at 510.

{¶ 36} The evidence establishes that the client’s position of vulnerability and dependency upon the lawyer is not limited to defendants who are charged with crimes. One of Respondent’s character witnesses at the hearing, a bankruptcy lawyer who practices extensively in the same court as Respondent, testified that “bankruptcy is something that is very emotional and very traumatic for people. You’re dealing with people who are not sophisticated frankly, who have not had legal matters....” Hearing Tr. 350.

Respondent's Mental State

{¶ 37} Respondent admits that at the time of the misconduct, he knew his behavior violated the Rules of Professional Conduct, but he did not have a clear understanding as to the reasons for the prohibition regarding sex with clients. Now that he has undergone 39 months of sexual therapy, he understands that the lawyer-client relationship is “inherently * * * unequal from the beginning” and that clients are, therefore, sometimes vulnerable to sexual advances. *Id.* 560, 561.

{¶ 38} Respondent's primary therapist and coordinator of his treatment, Candice Risen, testified at length concerning Respondent's mental state. Risen is an eminently qualified, accredited and licensed social worker, who has extensive background and experience in the field of sex therapy and research over many years. She is currently the co-owner of the Center for Marital and Sexual Health (aka Levine Risen and Associates, Inc.) located in Beechwood, Ohio.

{¶ 39} Risen testified that she first saw Respondent on March 2, 2011. She assembled a team of professionals on her staff, including Dr. James Pallas, a psychiatrist, and Dr. Marvin Wasman, a Ph.D. psychologist. Risen's clinical observations were that Respondent was significantly depressed and quite anxious. At her request, Dr. Pallas saw Respondent and confirmed the diagnosis of dysthymia (depression), anxiety, and sexual disorder (not otherwise specified). Dr. Wasman's psychological tests on Respondent were consistent with this diagnosis. Risen opined in writing that Respondent's chronic depression and anxiety dated back to adolescence and appeared to center around poor body image and a preoccupation with whether females find him sexually attractive. She testified that Respondent used sexual behavior to self-medicate or self-soothe his ongoing anxiety and depression, focused specifically on his preoccupation with his self-worth. Sexual behavior became a compulsion for Respondent.

Although this pattern of behavior is widely known as “sexual addiction,” there is arguably no recognized condition of that name; instead, the sexual activity in which Respondent engaged with his clients is a symptom of the depression and anxiety clinically diagnosed by Risen and her team. During his testimony, Respondent confirmed that he was most attracted to women who made him feel attractive and important. Respondent’s Ex. 2, 3, 4, 5, 6; Hearing Tr. 115-150, 551, 552.

Aggravating Factors

{¶ 40} At the conclusion of the hearing, Respondent stipulated as aggravating factors that Respondent acted with a selfish motive, that he committed multiple offenses, that he engaged in a pattern of misconduct, and that the clients were vulnerable.⁴ *Id.* 573.

Mitigating Factors

{¶ 41} The parties have stipulated as mitigating factors that Respondent has no prior disciplinary record and that he has exhibited a cooperative attitude toward these proceedings. Stipulations 27, 28.

{¶ 42} The panel finds as an additional mitigating factor, that Respondent made a full and free disclosure of his misconduct, including the disclosure of the names of two clients with whom he had sexual relations, even though they had filed no grievances. *See, supra*, ¶¶ 15-16.

{¶ 43} The panel finds, as a further mitigating factor, that Respondent possesses an excellent professional and personal reputation for honesty, integrity, and professional competence.

⁴ Relator argues as an additional aggravating factor that Respondent failed to make a good faith effort to rectify the consequences of his misconduct because he has not apologized to the clients. The panel rejects this argument because of the impracticality of issuing apologies while the criminal proceedings and this disciplinary case were in progress. Respondent can never completely rectify the consequences of his past conduct.

{¶ 44} Respondent has expressed remorse for his misconduct to Risen, to his SLAA sponsor, to his other character witness, and during his hearing testimony. Respondent in no way appears to blame the victims for his own misconduct. *See, e.g.*, Hearing Tr. 173, 174, 344, 345, 350, 351, 383, 384, 561.

{¶ 45} The panel finds, as a mitigating factor, that Respondent has a mental disability and that the requirements of BCGD Proc. Reg. 10(B)(2)(g) have been met.

- There has been a diagnosis of mental disability of dysthymia (depression) and anxiety, and a pattern of compulsive behavior known as sexual addiction by the team of professionals at the Center for Marital and Sexual Health. *See, supra*, ¶ 39.
- The evidence establishes that Respondent's mental disability contributed to the cause of the misconduct. Respondent used sex as a means of self-medication to alleviate his ongoing anxiety and depression resulting from his poor self image. Respondent's Ex. 2; Hearing Tr. 135, 136, 149, 150.
- The evidence establishes that Respondent has experienced a sustained period of successful treatment. Respondent has consulted with Risen for the last 39 months. In the beginning, he met with her every two weeks, now it is once per month. Respondent has continued with his drug therapy prescribed by Dr. Pallas. Respondent remains an active participant in the 12-step program known as Sex and Love Addiction (SLAA). Respondent's SLAA sponsor testified at length as to how the program has helped both Respondent and the sponsor himself. Respondent completed a three-year OLAP contract and has just signed another. Respondent has been successful and has avoided a relapse to his former sexual behavior outside his marriage.⁵ Respondent's Ex. 2, 4, 6, 8, 68, 69, 70; Hearing Tr. 150-157, 163, 164, 175, 176, 381-387, 435-457, 513-515.
- Risen has provided a written prognosis and has testified that Respondent will be able to return to the ethical practice of law as long as he continues treatment programs outlined above.⁶ Relator's Ex. 2, 4, 6; Hearing Tr. 166, 167, 188-192.

⁵ Relator called David J. Ley, Jr., Ph.D. to testify that the label "sex addiction" is not based on sound scientific reasoning and that 12-step programs for sexual misbehavior are generally not efficacious. He has never met or treated Respondent. On cross-examination, he admitted that there is currently a debate among professionals about whether sex addiction is a diagnosable condition; that individuals, particularly men, who are depressed sometimes, use sexual behaviors as a means to cope with depression; and that 12-step programs can be effective and useful for some clients. *Id.* 297-307.

⁶ Risen noted in her reports that Respondent could benefit from a tutorial or continuing education seminar that addresses the ethical boundary dilemmas that present themselves over a professional career. At the hearing, she testified about programs in which he has participated in Cleveland for physicians, but she is not aware of any such programs for lawyers. It does not appear that Risen intended this statement to detract from her opinion that Respondent is able to abide by ethical boundaries regarding sexual behavior. The panel recommends that her

The Need to Protect the Public

{¶ 46} The Court has repeatedly held that the primary purpose of the sanction imposed in attorney discipline matters is not to punish the offender, but to protect the public. *See, e.g., Disciplinary Counsel v. O'Neill*, 103 Ohio St.3d 204, 2004-Ohio-4707 and *Disciplinary Counsel v. Broeren*, 115 Ohio St.3d 473, 2007-Ohio-5251. The Court has recently stated that the purpose of the sanction is also to protect the courts and the legal profession. *Disciplinary Counsel v. Dann*, 134 Ohio St.3d 68, 2012-Ohio-5337, quoting *In re Lieberman*, 163 Ohio St. 35, 41, 125 N.E. 2d 328 (1955). The panel, therefore, has taken into account the likelihood that Respondent will reoffend, the effect of a sanction on the reputation of the legal profession as a whole, and the possible effect of the Court's decision on other lawyers' behavior.

{¶ 47} The panel is convinced by the testimony that Respondent is unlikely to engage in further ethical misconduct of the type involved in this case. However as Risen testified, there are no sure things in cases of this type. A relapse is always possible, even if unlikely. Hearing Tr. 187-190. Therefore, any sanction should be conditioned in such a way as to further reduce the likelihood of Respondent reoffending.

Sanctions Imposed in Similar Cases

{¶ 48} Relator recommends a sanction of an indefinite suspension relying primarily on *Disciplinary Counsel v. Sturgeon*, 111 Ohio St.3d 285, 2006-Ohio-5708 and *Cleveland Metro. Bar Assn. v. Lockshin*, 125 Ohio St.3d 529, 2010-Ohio-2207. For the reasons set forth below, the panel finds these cases to be unpersuasive for such a harsh sanction in this case.

suggestion be taken into account in crafting the conditions to Respondent's reinstatement following the period of his actual suspension. *Infra*, ¶ 59.

{¶ 49} In *Sturgeon, supra*, the attorney had sexual intercourse with one female client and made crude unwanted sexual advances toward two others. The respondent was disbarred. The facts of *Sturgeon* are dramatically different than the facts of this case. The respondent lied repeatedly during the disciplinary process; his testimony was frequently evasive and argumentative; and he attempted to shift the blame to his client. In contrast, Respondent was open and honest during the hearing, and did not attempt to shift the blame to his clients. Respondent was remorseful for his misconduct and is taking steps to assure he does not repeat. Moreover, Respondent has been found to have suffered from a mental disability, which contributed to the cause of his misconduct, which he has submitted to extensive treatment for his disorder, and is able to return to competent, ethical practice under specified conditions. In contrast, *Sturgeon* made no such showing.

{¶ 50} The *Lockshin case, supra*, is also distinguishable from this case. In *Lockshin*, the attorney engaged in unwanted written and oral sexual communications and sometimes touching in an inappropriate manner, with five clients, one of whom was a minor, one who was incarcerated at the time, a potential witness, and a sergeant from the Sandusky County Sheriff's Department. The respondent received an indefinite suspension. This case is dissimilar to the current case. The respondent falsely denied some of the misconduct at the hearing, to OLAP, and to his clinician. He made misstatements to investigators, in depositions, and in court. He attempted to assign blame to others. He discontinued some of his treatment in violation of his OLAP contract. A clinician stated that his prognosis was poor due to the fact that he had "not gained the tools necessary to reduce the risk of re-offense." He failed to obtain a sexual-offender assessment as he had volunteered to the panel to do. The respondent was also found guilty of

neglect of a client matter. The facts of *Lockshin* bear no resemblance to the instant case. An indefinite suspension is not warranted under the facts of the instant case.

{¶ 51} Respondent recommends that he be suspended from the practice of law for 12 months with the entire suspension stayed on conditions that he remain compliant with his OLAP contract and commit no further misconduct. Respondent has provided an exhaustive list of case citations, but suggested at the hearing that the case of *Disciplinary Counsel v. Moore*, 101 Ohio St.3d 261, 2004-Ohio-734 is the closest on the facts to the instant matter. For the reasons set forth below, the panel disagrees.

{¶ 52} In *Moore, supra*, Respondent had an extramarital affair with a client for several months and made repeated and unwanted sexually explicit remarks to a second client. The Court suspended the respondent from the practice of law for one year, all stayed on condition that the respondent continue treatment and counseling by a medical professional approved by OLAP, allow his medical professional to make periodic reports to OLAP about the results of his treatment program, and that he “refuse appointment to defend female clients until the medical professional treating Respondent approves such representation.” The conduct of Respondent in this case is more egregious than the conduct in *Moore*, because this Respondent was a serial offender having sexual relations with four clients, instead of two, three of whom were especially vulnerable and one of whom was only 18 years old. Respondent’s misconduct warrants a more severe sanction than in *Moore*.

{¶ 53} In addition to the *Moore* case, Respondent cites other cases in support of a fully stayed suspension. *Disciplinary Counsel v. Siewert*, 130 Ohio St.3d 402, 2011-Ohio-5935 (six month stayed suspension for a consensual sexual relationship with a single client and an unrelated prior disciplinary record); *Disciplinary Counsel v. Hines*, 133 Ohio St.3d 166, 2012-

Ohio-3929 (six month stayed suspension for a romantic sexual relationship with a single client and abandonment of the client's legal matter at a critical time in the client's case); and *Disciplinary Counsel v. Quatman*, 108 Ohio St.3d 389, 2006-Ohio-1196 (one year stayed suspension for unwanted sexual talk and touching the client's breasts). Respondent's misconduct in this case is more egregious than the misconduct in these cited cases and warrants a more severe sanction that includes an actual suspension from the practice of law.

{¶ 54} The Supreme Court has imposed actual suspensions for especially egregious sexual misconduct with clients on several occasions. In *Disciplinary Counsel v. Booher, supra*, the Court suspended an attorney for one year for consensual sexual activity with his client while the client was in jail. The Court emphasized the special vulnerability of the client, who was in a crises situation because of the criminal charges pending against her. The privacy of the consultation room at the jail was available only because the attorney was acting as an officer of the court.

{¶ 55} In *Cleveland Bar Assn. v. Feneli*, 86 Ohio St.3d 102, 1999-Ohio-140, the Court imposed an 18-month suspension with six months stayed for an attorney who engaged in a one-time sexual act with a client and then proposed that she barter sexual favors for the legal fees she owed him. In mitigation, the respondent submitted 12 letters from judges, attorneys, and lay persons commending his competence and skill as a lawyer, and three witnesses testified as to his excellent reputation for honesty and integrity.

{¶ 56} The attorney in *Akron Bar Assn. v. Williams*, 104 Ohio St.3d 317, 2004-Ohio-6588, was suspended for two years with the last 18 months stayed for engaging in a four-month sexual affair with a client, who testified that she understood the sexual favors to be in lieu of legal fees. The aggravating factors were the client's particular vulnerability due to her emotional

state and financial stress, and that the respondent initially lied under oath at his deposition, denying the sexual activity (but admitted it at the hearing). In mitigation, the Court found that the respondent had no previous record of misconduct, admitted his misconduct at the hearing, and apologized for his actions. As further mitigating evidence, the respondent provided many character letters.

{¶ 57} In *Disciplinary Counsel v. Krieger*, 108 Ohio St.3d 319, 2006-Ohio-1062, a female assistant public defender was given a two-year suspension with one year stayed on conditions for an improper sexual relationship with a 16 year-old male client. She also provided the client with financial support while representing him in various criminal and other matters in violation of the Code of Professional Responsibility. When the public defender began to have suspicions about the respondent's relationship with the client, the respondent misled her superiors to believe she was not having sex with him. The Court found as aggravating factors that the respondent had engaged in a pattern of misconduct by continuing in the sexual relationship with her client and financially supporting him for months, that the client was a vulnerable victim and was harmed as a result, and that the respondent acted with a selfish motive. The mitigating factors were that the respondent had no prior disciplinary record, had cooperated in the proceedings, expressed her extreme embarrassment, and apologized for her behavior.

{¶ 58} In the instant case, the mitigating factors weigh more heavily in Respondent's favor than in the cases discussed in ¶¶ 54-57 above, primarily because Respondent suffered from a mental disability that contributed to the cause of the misconduct, while the attorneys in those cases made no such showing. However, the aggravating factors in this case weigh more heavily

against Respondent than in the cases discussed above, because Respondent committed the same offense with four separate clients, which constituted a pattern of misconduct.

{¶ 59} After considering the ethical duties violated, Respondent's state of mind at the time of the misconduct, the aggravating and mitigating factors, the need to protect the public, and the sanctions imposed in similar cases, the panel recommends that Respondent be suspended from the practice of law for two years with one year stayed on the following conditions: (1) that Respondent continue to comply with his treatment plan as specified by Risen or a similar professional counselor approved by OLAP; (2) that he fully comply with his current OLAP contract and upon its expiration, execute a new contract if recommended by Risen or OLAP; (3) that he attend six hours of tutorial or continuing education that addresses the ethical boundary dilemmas for professionals as recommended or approved by Risen; and (4) that he commit no further misconduct. In addition, Respondent shall serve a probation period pursuant to Gov. Bar R. V, Section 9 for the period of the stayed suspension and for two years thereafter.

BOARD RECOMMENDATION

Pursuant to Gov. Bar R. V, Section 6, the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio considered this matter on August 8, 2014. The Board adopted the findings of fact, conclusions of law, and recommendation of the panel and recommends that Respondent, Jalal Tamer Sleibi, be suspended from the practice of law in Ohio for two years with one year stayed on the conditions contained in ¶59. 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.**

A handwritten signature in black ink, appearing to read "Richard A. Dove", written over a horizontal line.

RICHARD A. DOVE, Secretary