

**BEFORE THE BOARD OF PROFESSIONAL CONDUCT
OF THE SUPREME COURT OF OHIO**

In re:

Case No. 2014-107

Complaint against

**Jesse Jackson, Jr.
Attorney Reg. No. 0086184**

**Recommendation of the Board
Board of Professional Conduct
of the Supreme Court of Ohio**

Respondent

Disciplinary Counsel

Relator

DISCIPLINE BY CONSENT

{¶1} This matter was submitted to the hearing panel pursuant to a consent to discipline agreement filed by the parties on April 21, 2015. An amended consent to discipline agreement was subsequently filed on May 8, 2015.

{¶2} The hearing panel consisted of David E. Tschantz, Jeff M. Davis, and David L. Dingwell, chair.

{¶3} The panel finds that this agreement was filed on a timely basis and conforms to the requirements of Gov. Bar R. V, Section 16. The panel recommends acceptance of the agreement including the statement of facts and the violation of the following provisions of the Ohio Rules of Professional Conduct:

- Prof. Cond. R. 1.1 (a lawyer shall provide competent representation to a client) [Counts One and Three];
- Prof. Cond. R. 1.3 (a lawyer shall act with reasonable diligence and promptness in representing a client) [Count One];
- Prof. Cond. R. 1.5(a) (a lawyer shall not charge a clearly excessive fee) [Count One];
- Prof. Cond. R. 1.5(c)(1) (each contingency fee agreement shall be in a writing

signed by the client and the lawyer) [Count Two];

- Prof. Cond. R. 1.5(d)(3) (a lawyer shall not enter into an arrangement for a fee denominated as “nonrefundable” unless it is in writing that the client may be entitled to a refund) [Count Five];
- Prof. Cond. R. 1.8(h) (a lawyer shall not make an agreement prospectively limiting the lawyer’s liability) [Count Three];
- 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 when the attorney-client relationship commenced) [Count Five];
- Prof. Cond. R. 1.15(a)(2) (requiring a lawyer to maintain a record for each client that sets forth the name of the client; the date, amount, and source of all funds received on behalf of the client; the date, amount, payee, and purpose of each disbursement made on behalf of the client; and the current balance for each client) [Count Six];
- Prof. Cond. R. 1.15(a)(3) (requiring a lawyer to maintain a record for each bank account that sets forth the name of the account; the date, amount, and client affected by each credit and debit; and the balance in the account) [Count Six];
- Prof. Cond. R. 1.15(a)(4) (requiring a lawyer to maintain all bank statements, deposit slips, and canceled checks for each bank account) [Count Six];
- Prof. Cond. R. 1.15(a)(5) (requiring a lawyer to perform and retain monthly reconciliation of the items contained in divisions (a)(2), (3), and (5) of Rule 1.15) [Count Six];
- Prof. Cond. R. 1.15(b) (a lawyer may deposit the lawyer’s own funds in an IOLTA for the sole purpose of paying or obtaining a waiver of bank service charges on that account, but only in an amount necessary for that purpose) [Count Six];
- Prof. Cond. R. 1.15(c) (a lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance to be withdrawn only as fees are earned or expenses incurred) [Count Six];
- Prof. Cond. R. 1.15(d) (upon request by a client, a lawyer shall promptly render a full accounting) [Count Four];
- Prof. Cond. R. 1.16(d) (a lawyer shall promptly deliver all papers and property to a client upon termination of representation) [Counts Four and Five];
- Prof. Cond. R. 8.1(b) and Gov. Bar R. V, Section 4(G) (failure to cooperate) [Count Six];

- Prof. Cond. R. 8.4(b) (an illegal act that reflects on the lawyer's honesty or trustworthiness) [Count One];
- Prof. Cond. R. 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation) [Counts One and Two];
- Prof. Cond. R. 8.4(d) (conduct that is prejudicial to the administration of justice) [Counts One, Two, Three, Four, and Five]; and
- Prof. Cond. R. 8.4(h) (conduct that adversely reflects on his fitness to practice law) [Count Three]. In the consent agreement, the parties reference Respondent's attempts to avoid a grievance in exchange for money as evidence of egregiousness. *Disciplinary Counsel v. Bricker*, 137 Ohio St.3d 35, 2013-Ohio-3998.

{¶4} In the amended agreement filed on May 8, 2015, Relator agreed to dismiss the following rule violations alleged in the complaint:

- Prof. Cond. R. 1.5(a) (a lawyer shall not charge a clearly excessive fee) [Count Three];
- Prof. Cond. R. 3.3(a) (knowingly make a false statement of fact to a tribunal) [Counts One and Two]; and
- 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 when the attorney-client relationship commenced) [Count Four].

{¶5} The panel further concurs in the agreed sanction of a two-year suspension, with no portion stayed, followed by two years of monitored probation. Reinstatement is further conditioned upon Respondent's payment of restitution in the amount of \$15,329.77.

{¶6} The parties cited case law to support the agreed sanction. The case law cited by the parties did not include violations involving an attorney engaging in illegal conduct or engaging in sexual relations with a client. Therefore, those cases may be distinguishable.

{¶7} The panel reviewed the following cases:

Dayton Bar Assn. v. Swift, 2014-Ohio-4835. Two-year suspension, one year stayed on conditions of restitution and probation. Overbilling for work performed as a court-appointed attorney in the juvenile and general courts for four separate counties. The Court found violations of Prof. Cond. R. 3.3(a)(1), Prof. Cond. R.

4.1(a), Prof. Cond. R. 8.4(b), Prof. Cond. R. 8.4(c), Prof. Cond. R. 8.4(d), and Prof. Cond. R. 8.4(h). The Board found aggravating factors of dishonest or selfish motive, a pattern of misconduct, multiple offenses, and failure to make restitution. Mitigating factors of cooperative attitude, no prior discipline, and evidence of good character were also found.

Disciplinary v. Kraemer, 126 Ohio St.3d 163, 2010-Ohio-3300. Two-year suspension, one year stayed on conditions. Respondent failed to remit agreed percentage of cases to his firm and pled guilty to a fifth degree felony. Parties stipulated and the Board agreed to violations of Prof. Cond. R. 8.4(b), Prof. Cond. R. 8.4(c), Prof. Cond. R. 8.4(d), and Prof. Cond. R. 8.4(h).

Disciplinary Counsel v. Gonzalez, 138 Ohio St.3d 320, 2014-Ohio-851. Two-year suspension. Seven count complaint. Prior discipline - public reprimand. The Court found violations of Prof. Cond. R. 1.2(a), Prof. Cond. R. 1.3, Prof. Cond. R. 1.4(c), Prof. Cond. R. 1.15(a)(2), Prof. Cond. R. 1.15(a)(5), Prof. Cond. R. 1.15(c), Prof. Cond. R. 1.16(c), Prof. Cond. R. 8.1(b), Prof. Cond. R. 8.4(c), Prof. Cond. R. 8.4(d), and Prof. Cond. R. 8.4(h). Board recommended indefinite suspension.

Disciplinary Counsel v. DeGidio, 135 Ohio St.3d 407, 2013-Ohio-1509. Two-year suspension, one year stayed on conditions. Commingling of personal and client funds in his client trust account, using that account to pay personal expenses, and failing to cooperate in the ensuing disciplinary investigation. Violations of Prof. Cond. R. 1.15(a), Prof. Cond. R. 8.1(b), Prof. Cond. R. 8.4(d), Prof. Cond. R. 8.4(h), and Gov. Bar R. V, Section 4(G).

Disciplinary Counsel v. Cantrell, 125 Ohio St.3d 458, 2010-Ohio-2114. Indefinite suspension. Nine count complaint for various activities involving misuse of her IOLTA account and the misappropriation of client funds while on inactive status. The Court found violations of Prof. Cond. R. 1.15(a), Prof. Cond. R. 5.5(a), Prof. Cond. R. 1.3, Prof. Cond. R. 1.5(a), Prof. Cond. R. 8.4(b), Prof. Cond. R. 8.4(c), Prof. Cond. R. 8.4(d), Prof. Cond. R. 8.4(h), DR 1-102(A)(6) [Prof. Cond. R. 8.4(h)], DR 1-102(A)(4) [Prof. Cond. R. 8.4(c)], DR 1-102(A)(5) [Prof. Cond. R. 8.4(d)], DR 7-101(A)(1) [Prof. Cond. R. 1.2(a)], DR 7-102(A)(5) [Prof. Cond. R. 3.3(a)], and DR 7-101(A)(3). One aggravating factor of a pattern of misconduct involving multiple offenses and one mitigating factor of no prior discipline were found.

Columbus Bar Assn. v. Troxell, 129 Ohio St.3d 236, 2011-Ohio-3178. Indefinite suspension; motion for default. Three count complaint involving neglect of client matters and failure to account for and deliver client funds. The Court found violations of Prof. Cond. R. 1.1, Prof. Cond. R. 1.3, Prof. Cond. R. 1.4, Prof. Cond. R. 1.15(d), Prof. Cond. R. 8.1(b), Prof. Cond. R. 8.4(b), Prof. Cond. R. 8.4(h), and Gov. Bar R. V, Section 4(G). Aggravating factors included dishonest or selfish motive, engaged in multiple offenses, failed to cooperate in the disciplinary process, refused to acknowledge the wrongful nature of his conduct,

caused harm to vulnerable clients, and failed to make restitution. The respondent had no prior discipline.

Disciplinary Counsel v. Weiss, 133 Ohio St.3d 236, 2012-Ohio-4564. Indefinite suspension. Failure to distribute settlement proceeds to client; commingling of accounts. Violations included: DR 9-102(B)(4) [Prof. Cond. R. 1.15] [requiring a lawyer to promptly pay or deliver funds and property to which a client is entitled], DR 1-102(A)(6) [Prof. Cond. R. 8.4(h)] [prohibiting a lawyer from engaging in conduct that adversely reflects on the lawyer's fitness to practice law], Prof. Cond. R. 1.15(d), Prof. Cond. R. 1.4(a)(4), Prof. Cond. R. 8.1(b), Prof. Cond. R. 8.4(c), Prof. Cond. R. 8.4(h), and Gov. Bar R. V, Section 4(G).

{¶8} Following a review of the violations stipulated to in the consent agreement, and considering the relevant authority, the panel believes the stipulated sanction with conditions is appropriate.

BOARD RECOMMENDATION

Pursuant to Gov. Bar R. V, Section 12, the Board of Professional Conduct of the Supreme Court of Ohio considered this matter on June 12, 2015. The Board voted to accept and adopt the agreement entered into by Relator and Respondent and recommends imposition of the agreed sanction of a two-year suspension from the practice of law, with reinstatement conditioned on Respondent's payment of restitution in the amount of \$15,329.77. Upon reinstatement, the Board recommends that Respondent be required to serve a two-year period of monitored probation pursuant to Gov. Bar R. V, Section 21. The Board further recommends that Respondent be ordered to pay the costs of these proceedings.

**Pursuant to the order of the Board of Professional
Conduct of the Supreme Court of Ohio, I hereby certify
the foregoing recommendation as that of the Board.**



RICHARD A. BOVE, Director