

THE SUPREME COURT OF OHIO

CLEVELAND METROPOLITAN BAR
ASSOCIATION,

Relator,

vs.

TASSO PARIS (0038609),

Respondent.

) CASE NO. 2015-2009

)

)

) **RELATOR'S ANSWER TO**
) **RESPONDENT'S OBJECTIONS TO**
) **THE BOARD OF PROFESSIONAL**
) **CONDUCT'S RECOMMENDATION**
) **REGARDING SANCTION**

)

)

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Relator Cleveland Metropolitan Bar Association answers as follows to the objections submitted by Respondent Tasso Paris to the recommendation of the Board of Professional Conduct that the sanction for Paris's stipulated misconduct be a six-month suspension of his license to practice law in Ohio.

I. INTRODUCTION

There is only one issue at stake at this point in this disciplinary matter, and that is the sanction to be imposed on Respondent Tasso Paris. Paris has already stipulated to violations of Rules 1.8(j) and 1.3 of the Rules of Professional Conduct. He stipulated that he repeatedly solicited his client, Jennifer Cook, to engage in sexual activity, and he stipulated that he failed to show up for Ms. Cook's sentencing hearing, to tell her he wasn't going to be there, or to find substitute counsel.

In a sense, Paris's failure to appear at the sentencing hearing was a good thing. When the Cleveland Municipal Court Judge handling the case asked Ms. Cook at the hearing if she had an attorney, Ms. Cook responded that she had one, but that he hadn't shown up. She wasn't surprised, she told the judge, because she had been having a problem with him and all he had been doing was "trying to get into [her] pants." (Stipulation 9.¹) This unsolicited moment of candor ultimately gave rise to Ms. Cook's grievance against Paris, which has led us to where we are today.

In the Stipulations, Relator and Respondent recommended to the Board of Professional Conduct ("Board") that Paris's sanction be a six-month stayed suspension of his license to practice law. The Board has now recommended to this Court that Paris be suspended

¹ The Stipulations are attached as Appendix A.

for six months, period.² For the reasons stated below, Relator agrees with the Board's recommendation.

II. THE BOARD'S REASONING

The Board recommended a sanction stronger than that recommended by Relator "because of Respondent's additional misconduct, his failure to acknowledge the wrongful nature of his conduct, and the lack of evidence of good character and reputation." (Board Recommendation at ¶ 36.) Most importantly, the Board was concerned that Paris "does not actually understand and accept the wrongful nature of his conduct." (*Id.* at ¶ 26.)

Paris stipulated to his misconduct. At a cost of \$1,000, Jennifer Cook retained Paris to represent her in criminal proceedings in the Cleveland Municipal Court arising out of Cook's arrest on March 17, 2013, when she was charged with driving under the influence, driving while under suspension, and not showing full time and attention to her driving. (Stips. 3-4.) During the course of the representation, she endured Paris referring to her as his "beautiful Irish girl," asking her several times to go out with him, and being invited on more than one occasion to join Paris in his hot tub. (Stip. 5.) Cook didn't know what to do, fearing that if she said anything to Paris it would impact the quality of Paris's representation. (Stip. 6.)

Ms. Cook ultimately pled guilty to driving under suspension and lack of physical control, and was ordered to appear for sentencing on August 29, 2013. (Stip. 7.) Respondent did not show up for this hearing, did not tell Ms. Cook that he wouldn't be there, and failed to obtain substitute counsel. (Stip. 8.) Her colloquy with the judge at the sentencing hearing regarding Paris's wanting to "get in [her] pants" led to the judge vacating Cook's plea and recusing herself.

² The Board's December 14, 2015 Findings of Fact, Conclusions of Law, and Recommendation is attached as Appendix B.

A public defender took up Ms. Cook’s case, and she ultimately pled guilty to operating an unsafe vehicle. (Stips. 9-10.)

The Board quoted extensively from Ms. Cook’s hearing testimony regarding how Paris’s conduct impacted her. Ms. Cook testified that, having discussed the matter with her fiancé, she had decided to just go out with Paris if he asked her again, lest her failure to do so cause him to throw in the towel on her representation. She decided that she “would do whatever [Paris] wanted.” (Board Recommendation at ¶ 12.) Fortunately, it never came to that.

Based on Paris’s testimony at the hearing, the Board found that, despite these stipulations, Paris “refuse[d] to acknowledge . . . the wrongful nature of his conduct during the representation of Cook” and that Ms. Cook “was a vulnerable client who was harmed by Respondent’s misconduct.” (*Id.* at ¶ 27.) After a thorough analysis of the relevant law, the Board then recommended that Paris be suspended from the practice of law for six months.

III. THIS COURT SHOULD, AT A MINIMUM, IMPOSE THE BOARD’S RECOMMENDED SANCTION OF A SIX-MONTH SUSPENSION

Paris was given every opportunity in the Stipulations and at the hearing of this matter to do precisely what the Board found he never did—demonstrate that he understood and appreciated the wrongful nature of his conduct during his representation of Ms. Cook. Having failed to do so twice, Paris could have at least taken the opportunity to do so in his unsupported objections and in his improper attempt to supplement the record with an affidavit. He did not.

To begin with, there is nothing in the record to substantiate the recitation of irrelevant events recited in paragraphs 1-6 of Respondent’s Opposition. Most importantly, there is no support in the record for the statement attributed to Relator’s counsel in paragraph 5 that “in the vast majority of cases” the Board would accept the recommendation regarding the sanction. And even if Relator’s counsel—opposing counsel—had made any such statement, it was

incumbent upon Respondent to research and understand the law. A recommendation is just that, a recommendation. It was Respondent's obligation to know the law regarding the import of the parties' recommendation and of the Board's authority to accept or reject it.

In paragraph 7 of his Objections, Respondent addresses the Board's assessment that he never acknowledged that his conduct toward Ms. Cook had been inappropriate. Respondent maintains that he demonstrated his acceptance of responsibility by signing the Stipulations and acknowledging "that his conduct *may* have been *mistakenly* taken by" Cook. (Emphasis added.) This is in fact the opposite of acceptance of responsibility. Respondent has already stipulated that there is nothing about his conduct that may have been mistakenly taken by Ms. Cook. Respondent stipulated that he called Ms. Cook his "beautiful Irish girl," asked Ms. Cook out several times and on more than one occasion invited her to join him in his hot tub. In stipulating to the violation of Rule 1.8(j), Paris stipulated that he solicited Ms. Cook to engage in sexual activity with him. There is nothing that Ms. Cook may have been mistaken about here.

Whatever effort Paris was trying to make to demonstrate to this Court that he does indeed understand and appreciate his misconduct fares no better in his improper attempt to bolster the record in this case with the affidavit he submitted with his Objections. First, just as the Board noted he had done at the hearing, in his affidavit Paris cannot help himself from attacking Ms. Cook. There is nothing in the record to support his statements in paragraph 4 regarding any other OVI charges against Ms. Cook, or that she had prior convictions for driving under suspension, all of which are not in any way relevant to the analysis here regarding the appropriate sanction for Paris's misconduct. Trying to make Ms. Cook look bad does not make Paris look better.

Paris seems in paragraphs 6-8 and 11 of his affidavit to be pushing the blame for the outcome here on his attorneys and on his own ignorance of the disciplinary process. He did

not know he was to present mitigation evidence. He believed that the Stipulations had resolved the matter, but somehow was not aware of the Board's authority to accept or reject Relator's recommendation as to the sanction. This was a "first impression matter" for his counsel, his father and brother.

In paragraph 10 of his affidavit Paris states that, had he had the opportunity to do so at the hearing before Ms. Cook left, he would have apologized to Ms. Cook, not by looking her in the eye, but by looking "at least in her general direction." He would have apologized for asking her out to dinner and for "mentioning" his hot tub. And in paragraph 16 the best he can muster is to say that he is "sorry for any perceived and/or actual misconduct." The problem is that he didn't just innocently ask Ms. Cook out or "mention" his hot tub, and his misconduct was not merely "perceived." In stipulating to violating Rule 1.8(j), Paris stipulated to soliciting sexual activity from Ms. Cook. Nowhere in his Objections or affidavit does he apologize for having done so, or even attempt to. And nowhere in his Objections or affidavit does he apologize for abandoning Ms. Cook when she appeared for sentencing.

Paris referred to Ms. Cook at the hearing as an "Irish chick." (Hearing Tr. at 39.) That is how he saw her, and that is how he treated her, unapologetically. As recommended by the Board, Paris's license to practice law should be suspended for six months. An actual suspension is warranted because, as the Board found, Paris's unwelcome advances had caused Cook to lose her trust in him as her attorney, to the point where she almost gave in to those advances in an effort to ensure that he continued to represent her appropriately. *Disciplinary Counsel v. Fowerbaugh*, 74 Ohio St.3d 187, 190, 1995-Ohio-261 (an attorney who violates the trust on which the attorney-client relationship is based "will be actually suspended from the practice of law for an appropriate period of time"). An actual suspension is also warranted because, as discussed above, Paris has

shown no remorse for his conduct, never apologized to Ms. Cook, and continues to cast aspersions on Ms. Cook's character. *See, e.g., Cleveland Metropolitan Bar Ass'n v. Sleibi*, 144 Ohio St.3d 257, 2015-Ohio-2724, at ¶¶ 23-24 (actual suspension longer than that recommended by Board justified in part because attorney who engaged in sexual relations with several clients blamed his victims, failed to apologize, and during the disciplinary process continued to assert "unflattering information" about the clients he had stipulated to having harmed). Ms. Cook was a vulnerable client for whom, as the Board noted, the \$1,000 fee she paid Paris was a meaningful sum. She expected and deserved an attorney who would fight for her. Not one who would repeatedly ask her out, and repeatedly invite her to join him in his hot tub. *See, e.g., Disciplinary Counsel v. Detweiler*, 135 Ohio St.3d 447, 2013-Ohio-1747, at ¶ 20 (attorney suspended for one year for escalating sexual advances to client, including texting nude photograph).

IV. CONCLUSION

For all of the reasons stated above, this Court should, at a minimum, impose against Respondent Tasso Paris the sanction recommended by the Board of Professional Conduct. At a minimum, Paris's license to practice law in Ohio should be suspended for six months.

Respectfully submitted,

/s/ Thomas L. Anastos

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CERTIFICATE OF SERVICE

I certify that on January 21, 2016, a copy of the foregoing was sent by email to Thomas Paris (parislegal@yahoo.com), attorney for Respondent Tasso Paris.

/s/ Thomas L. Anastos
One of the Attorneys for Relator

APPENDIX A

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

TASSO PARIS (0038609),) CASE NO. 15-005

Respondent,)

) **STIPULATIONS**

v.)

CLEVELAND METROPOLITAN BAR)
ASSOCIATION,)

Relator.)

The parties submit the following stipulations for consideration by the Panel and by the Board of Commissioners on Grievances and Discipline.

1. Respondent Tasso Paris is an attorney-at-law duly licensed and admitted to the practice of law in the State of Ohio.
2. Respondent was admitted to the practice of law in Ohio on November 16, 1987. His Ohio Supreme Court Attorney Registration Number is 0038609.
3. Respondent was engaged to represent an individual named Jennifer Cook with respect to criminal proceedings in the Cleveland Municipal Court arising out of Ms. Cook's arrest on March 17, 2013, charging her with driving under the influence, driving under suspension, and full time and attention.
4. Respondent requested a fee of \$1,000 to represent Ms. Cook and that fee was paid by or on behalf of Ms. Cook.
5. During the course of the representation, Respondent called Ms. Cook his "beautiful Irish girl," asked her several times to go out with him, and on more than one occasion invited Ms. Cook to go back to his house to join him in his hot tub.
6. Ms. Cook was scared to do anything about Respondent's conduct out of fear that it would impact his representation.
7. At a hearing in Ms. Cook's criminal proceedings on August 6, 2013, Ms. Cook plead guilty to two counts, driving while under suspension and physical control. She was ordered to appear for sentencing at 9:30 a.m. on August 29, 2013.

8. Ms. Cook appeared for the sentencing on August 29, 2013. Respondent failed to attend this hearing and failed to notify Ms. Cook that he would not be attending the sentencing, and failed to request that another attorney attend on his behalf.
9. When asked by the court at the August 29, 2013 sentencing hearing whether she was represented by counsel, Ms. Cook responded that Respondent had not shown up, that she did not expect him to, that she had been having a problem with him, and the “[h]e’s being doing nothing but trying to get in my pants.”
10. ~~The Court then vacated the plea that had been entered on August 6, 2013, and recused herself.~~ Ms. Cook’s case was reassigned to another judge, and a public defender took over the representation of Ms. Cook. Ms. Cook ultimately plead guilty to operating an unsafe vehicle and was fined \$200.
11. On March 17, 2014, Ms. Cook filed a grievance against Respondent with the Cleveland Metropolitan Bar Association.
12. Ms. Cook’s allegations of professional misconduct were investigated by the CMBA and by an investigator working on behalf of the CMBA.
13. The CMBA filed this action on December 31, 2014. The Complaint contains four counts: (1) Solicitation of Client for Sexual Activity, in violation of Ohio Rule 1.8(j) of Professional Conduct; (2) Failure to Competently Represent Client, in violation of Ohio Rule 1.1 of Professional Conduct; (3) Failure to Act with Reasonable Diligence in violation of Ohio Rule 1.3 of Professional Conduct; and (4) Failure to Deliver Entire File to Client upon Termination of Representation in violation of Ohio Rule 1.16(d) of Professional Conduct.
14. The CMBA stipulates to the dismissal of Counts 2, and 4 on the grounds that there is insufficient evidence to prove the violation by clear and convincing evidence.
15. Based on, among other things, his conduct in asking Ms. Cook out and inviting her to his hot tub, Respondent stipulates to a violation of Ohio Rule 1.8(j) of Professional Conduct.
16. Respondent stipulates that he did not attend the August 29, 2013 sentencing hearing, that he did not inform Ms. Cook that he would not be attending, and that he did not request that another attorney appear in his absence. Accordingly, Respondent stipulates to a violation of Ohio Rule 1.3 of Professional Conduct.
17. Aggravating factors: selfish motive; multiple offenses.
18. Mitigating factors: absence of a prior disciplinary record; cooperating with the investigation.

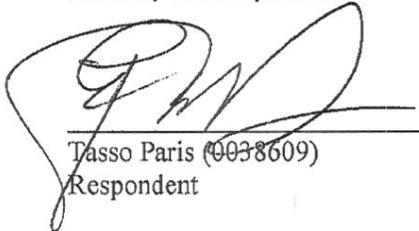
19. The CMBA recommends, and Respondent agrees, that an appropriate sanction for Respondent's conduct would be a six-month suspension of his license to practice law, stayed, on the condition that he commit no further misconduct. This sanction is supported by *Disciplinary Counsel v. Hubbell*, 2015-Ohio-3426 (six-month stayed suspension for violation of Rule 1.8(j)); and *Disciplinary Counsel v. Quatman*, 2006-Ohio-1196 (one-year stayed suspension for violation of Rule 1.8(j) that involved actual sexually-explicit contact).
20. Respondent further agrees that he will refund Ms. Cook's \$1,000 payment for his services.
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Respectfully submitted,

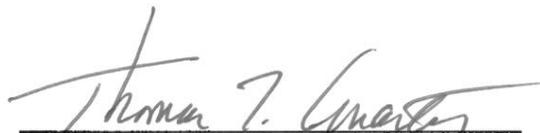


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APPENDIX B

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

In re:

Case No. 2015-005

Complaint against

**Tasso Paris
Attorney Reg. No. 0038609**

Respondent

Cleveland Metropolitan Bar Association

Relator

**Findings of Fact,
Conclusions of Law, and
Recommendation of the
Board of Professional Conduct
of the Supreme Court of Ohio**

OVERVIEW

{¶1} This matter was heard on September 30, 2015 in Cleveland before a panel consisting of Alvin R. Bell, Robert Fitzgerald, and Roger S. Gates, chair. None of the panel members resides in the district from which the complaint arose or served as a member of the probable cause panel that reviewed the complaint pursuant to Gov. Bar R. V, Section 11.

{¶2} Respondent was present at the hearing, represented by Thomas Paris. Thomas L. Anastos and Heather M. Zirke appeared on behalf of Relator.

{¶3} Based on Respondent's representation of Jennifer Cook on criminal charges arising from an automobile accident on March 17, 2013, Relator filed a complaint containing four counts alleging misconduct for violations of the following Rules of Professional Conduct:

- Prof. Cond. R. 1.8(j) [sexual activity with a client];
- Prof. Cond. R. 1.1 [competence];
- Prof. Cond. R. 1.3 [diligence]; and
- Prof. Cond. R. 1.16(d) [failure to deliver to client upon termination of representation all property and papers to which the client is entitled].

{¶4} In the stipulations provided at the hearing, Relator requested the dismissal of the charged violations of Prof. Cond. R. 1.1 and Prof. Cond. R. 1.16(d). By separate entry dated October 22, 2015, the panel dismissed those charges.

{¶5} In addition to the submitted stipulations, Respondent and Cook testified at the hearing.

{¶6} Relator has proven, by clear and convincing evidence, that Respondent violated Prof. Cond. R. 1.8(j) by repeatedly soliciting Cook to engage in a sexual relationship and Prof. Cond. R. 1.3 by failing to appear for Cook's sentencing hearing, failing to notify Cook that he would not be attending the hearing, and failing to obtain substitute counsel in his absence. As a result of this misconduct and considering the aggravating and mitigating factors, the panel recommends that the appropriate sanction is a six-month suspension from the practice of law.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶7} Respondent was admitted to the practice of law in the state of Ohio on November 16, 1987 and is subject to the Rules of Professional Conduct and the Rules for the Government of the Bar of Ohio.

{¶8} Respondent was hired to represent Cook with respect to criminal proceedings in the Cleveland Municipal Court. Cook had been arrested following an automobile accident on March 17, 2013 and charged with driving under the influence, driving under suspension, and full time and attention. Stipulations ¶3.

{¶9} Respondent received \$1,000 from Cook's fiancé to represent Cook. Stipulations ¶4; Hearing Tr. 38.

{¶10} While Respondent stipulated that he referred to Cook as his "beautiful Irish girl" (Stipulations ¶5), he testified that he referred to her as a "red haired Irish girl, coming out of an

Irish bar, in Cleveland, Ohio on March 17th” only in the context of telling her that no one was going to believe her claim to have had only one drink before the accident. Hearing Tr. 39.

{¶11} Respondent stipulated that over the course of several meetings with Cook he asked her several times to go out with him, and on more than one occasion invited Cook to go back to his house to join him in his hot tub. Stipulations ¶5. Although he never denied the truth of this stipulation, Respondent volunteered during his testimony that except for one meeting Cook’s fiancé was present each time he met with Cook. Hearing Tr. 36.

{¶12} The parties stipulated that Cook was scared to do anything about Respondent’s conduct out of fear that it would impact his representation. Stipulations ¶6. Cook testified that Respondent’s behavior “very much” impacted her ability to be comfortable with Respondent’s representation. Cook stated:

* * * Actually my fiancé, he and I actually had discussed -- I was afraid that he wasn’t going to represent me. I was just going to end up kind of floating around, doing whatever.

Me and him actually discussed just go out with him. Just go out with him because maybe he will represent you better, you know. Maybe he’ll do his job then, you know. Just do what you’ve got to do, don’t worry about me, go ahead, go out with him. I couldn’t do it. It seems like after me and him finally decided I would just go out with him, maybe he would fight for me then, that I decided – he just started getting real nasty. Like he just didn’t care, you know what I mean? He didn’t care about me no more. We wasn’t charging me enough.

I never actually told him no, I wouldn’t go out with him. I always said we’ll see, we’ll see. We will talk about it. He asked me how serious me and Joe were, my fiancé. I was like we’re pretty serious, we live together and stuff. Stuff like that. After that, I mean he just didn’t care. This thing I was going through, I was innocent of. I wanted somebody who was going to fight for me.

It was almost to the point where I’m like forget it, I’ll just -- if it’s going to make things better, I’ll do whatever he wants. I really didn’t care. I wanted it all to be over with. This case had gone on way too long as it is. I mean for something like this, it should have been done a long time ago. So I was willing to do whatever.

Then after me and Joe had decided if he asks again, then I would just do it. I would do whatever he wanted. But after that he just kind of like he got sick of hearing

we'll see, we'll see, you know. He wanted to hear yes. That was not -- I don't know. That is just how I felt it was.

Hearing Tr. 18-19.

{¶13} On August 6, 2013, Cook pled guilty to driving while under suspension and physical control. Cook was ordered to appear for sentencing on August 29, 2013 at 9:30 a.m. Stipulations ¶7.

{¶14} Although Cook appeared as ordered for the sentencing hearing, Respondent stipulated that he failed to attend the sentencing hearing, failed to notify Cook that he would not be attending the hearing, and failed to request that another attorney attend on his behalf. Stipulations ¶8.

{¶15} Despite this stipulation, Respondent testified that he asked his father, Thomas Paris, to attend Cook's sentencing hearing, that he thought his father attended the hearing, and that his father "came back and said it's sent to another judge." Hearing Tr. 45. Although he had not been called as a witness, Respondent's father (Thomas Paris) even stated during his closing argument that Respondent had in fact asked him to attend the sentencing hearing and that he was present at the scheduled time for the sentencing hearing. See, Hearing Tr. 59-61.

{¶16} When asked by the court at the sentencing hearing whether she was represented by counsel, Cook responded that Respondent had not shown up, that she did not expect him to, that she had been having a problem with him, and that "[h]e's being doing nothing but trying to get in my pants." Stipulations ¶9.

{¶17} Based on Cook's statement, the court vacated the plea that had been entered on August 6, 2013 and the judge recused herself. Cook's case was reassigned to another judge, and a public defender was appointed to represent Cook. Stipulations ¶10.

{¶18} Cook ultimately pled guilty to operating an unsafe vehicle and was fined \$200. *Id.*

{¶19} Cook filed a grievance with Relator on March 17, 2014. Relator filed its complaint on December 31, 2014 and Respondent filed an answer on February 9, 2015. After a prehearing telephone conference on March 4, 2015, the matter was scheduled for a formal hearing to be held in Cleveland on September 30 and October 1, 2015.

{¶20} The parties jointly submitted their stipulations at the commencement of the hearing on September 30, 2015. During his testimony, Respondent admitted that he had signed the stipulations and that, prior to signing, he understood that he was admitting to everything in the stipulations. Hearing Tr. 15-16.

{¶21} Based on, among other things, his conduct in asking Cook out and inviting her to his hot tub, Respondent stipulated to a violation of Prof. Cond. R. 1.8(j). Stipulations ¶15.

{¶22} Based upon his stipulated failure to attend Cook's sentencing hearing, his failure to inform Cook that he would not be attending the sentencing hearing, and his failure to request another attorney to appear in his absence, Respondent stipulated that he violated Prof. Cond. R. 1.3. Stipulations ¶16.

{¶23} After considering the parties stipulations and the testimony presented at the hearing, the panel concludes that Relator has proven, by clear and convincing evidence, that Respondent's conduct in representing Cook violated Prof. Cond. R. 1.3 and Prof. Cond. R. 1.8(j).

AGGRAVATION, MITIGATION, AND SANCTION

{¶24} When recommending sanctions for attorney misconduct, the panel must consider all relevant factors, including the ethical duties the Respondent violated and the sanctions imposed in similar cases. *Stark Cty. Bar Assn. v. Buttacavoli*, 96 Ohio St.3d 424, 2002-Ohio-4743, ¶16. The panel must also weigh evidence of the aggravating and mitigating factors now listed in Gov. Bar R. V, Section 13. *Disciplinary Counsel v. Broeren*, 115 Ohio St.3d 473, 2007-Ohio-5251, ¶21. However because each disciplinary case is unique, the panel is not limited to the factors

specified in the rule, but may consider any factor relevant to determination of the sanction to be imposed. *Disciplinary Counsel v. Zapor*, 127 Ohio St.3d 372, 2010-Ohio-5769.

Aggravating Factors

{¶25} Based upon the stipulations, the panel finds the aggravating factors of selfish motive and multiple offenses. Stipulations ¶17.

{¶26} Although Respondent agreed to stipulations concerning his misconduct, the panel is not convinced that Respondent actually understands and accepts the wrongful nature of his conduct. Throughout his testimony at the hearing, Respondent repeatedly made statements which can only be interpreted as an attack on Cook's credibility. These include Respondent's statements that:

- If he was "hitting on" Cook, why did she refer one of her female friends to him for representation after the termination of his representation of Cook. Hearing Tr. 53.
- Cook's fiancé was present during all but one of their meetings. Hearing Tr. 36.
- He referred to Cook as a "red haired Irish girl, coming out of an Irish bar, in Cleveland, Ohio on March 17th" only in the context of telling her that no one was going to believe her claim to have had only one drink before the accident. Hearing Tr. 38-39.
- He asked his father to attend Cook's sentencing hearing and that he thought his father did attend the hearing. Hearing Tr. 45.

{¶27} While the panel understands that a respondent may, for a variety of reasons, elect to stipulate to factual allegations supporting the charges in a disciplinary matter, the panel may still consider whether the evidence supports a conclusion that the respondent acknowledges the wrongful nature of the stipulated misconduct. Based upon Respondent's conduct at the hearing, the panel concludes that even though he elected not to challenge Cook's allegations in the instant proceeding, Respondent still refuses to acknowledge, for any other purpose, the wrongful nature of his conduct during his representation of Cook.

{¶28} The panel further concludes that Cook was a vulnerable client who was harmed by Respondent's misconduct.

{¶29} The panel also concludes that Respondent demonstrated a selfish motive by his repeated unwelcome solicitation of Cook to engage in a sexual relationship.

Mitigating Factors

{¶30} Based upon the stipulations, the panel finds the mitigating factors of absence of a prior disciplinary record and Respondent's cooperation with Relator's investigation. Stipulations ¶18.

{¶31} Respondent presented no evidence of any other mitigating factors.

Recommended Sanction

{¶32} The parties jointly recommended a sanction of a six-month suspension, all stayed on the condition that Respondent engage in no further misconduct. Respondent further agreed to refund Cook's \$1,000 payment for his services. The parties cited as support for their recommendation the Court's decisions in *Disciplinary Counsel v. Hubbell*, 2015-Ohio-3426 and *Disciplinary Counsel v. Quatman*, 108 Ohio St.3d 389, 2006-Ohio-1196.

{¶33} In regard to the prohibition established in Prof. Cond. R. 1.8(j) against a lawyer's sexual conduct involving a client, the Court recently stated in its decision in *Cleveland Metro. Bar Assn. v. Sleibi*, 2015-Ohio-2724, ¶12:

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 dependence and vulnerability." *Disciplinary Counsel v. Booher*, 75 Ohio St.3d 509, 510, 1996-Ohio-248. And this Court has placed the burden squarely on the lawyer to ensure that all attorney-client relationships remain on a professional level. *Id.* ("the obligation [is] on the attorney not to exploit the situation for his own advantage").

{¶34} See, also, *Disciplinary Counsel v. Bunstine*, 136 Ohio St.3d 276, 2013-Ohio-3681, ¶19 and *Cleveland Bar Assn. v. Feneli*, 86 Ohio St.3d 102, 103, 1999-Ohio-140.

{¶35} In its decision in *Disciplinary Counsel v. Detweiler*, 135 Ohio St.3d 447, 2013-Ohio-1747, the Court discussed the range of sanctions it has ordered in cases involving a lawyer's sexual conduct directed at one or more clients. Those sanctions ranged from a public reprimand "for developing sexual relationships with clients when the affairs are legal and consensual and have not compromised the client's interests," to indefinite suspension or permanent disbarment "for attorneys who have made unwelcome sexual advances toward their clients that included unwelcome physical contact." *Id.* at ¶¶17-19. The Court recognized that although these decisions may not involve conduct identical to that in a particular case, the decisions "provide a framework from which we can evaluate the severity of . . . [the lawyer's] conduct." *Id.* at ¶20.

{¶36} The Court's recent decision in *Hubbell* upon which the parties rely involved a consent to discipline agreement based upon an allegation that Hubbell violated Prof. Cond. R. 1.8(j) when he "attempted to initiate a romantic relationship with a client he was representing pro bono in a custody dispute." 2015-Ohio-3426, ¶1. The agreement included the relator's dismissal of an alleged violation of Prof. Cond. R. 8.4(h). Mitigating factors included "the absence of a prior disciplinary record, Hubbell's cooperative attitude toward the disciplinary proceedings and acceptance of responsibility for his misconduct, and his good character and reputation." *Id.* at ¶4. The only aggravating factor was the involvement of a vulnerable client. *Id.* While Respondent's conduct in violation of Prof. Cond. R. 1.8(j) may be factually similar to Hubbell's misconduct, the panel concludes that a stronger sanction is required because of Respondent's additional misconduct, his failure to acknowledge the wrongful nature of his conduct, and the lack of evidence of good character and reputation.

{¶37} In its decision in *Quatman*, the Court concluded that the respondent had violated DR 1-102(A)(6) [conduct adversely reflecting on a lawyer's fitness to practice] by making a lewd remark about a client's breasts and making contact with her breasts. Aggravating factors included

“that respondent had displayed a selfish motive by seeking personal gratification during his meeting with the client, had submitted false statements and engaged in deceptive practices during the disciplinary process, and had caused harm to a vulnerable victim.” *Quatman, supra*, 2006-Ohio-1196, ¶17. Mitigating factors included “the absence of a prior disciplinary record and respondent’s strong character evidence.” *Id.* at ¶18. Although the panel and the Board recommended the adoption of the relator’s recommendation for a six-month suspension, the Court concluded that “the multiple letters and testimony in the record attesting to respondent’s truthfulness and good character” justified a one-year stayed suspension and a two-year period of probation on the condition that the respondent participate in counseling for alcohol abuse and annually attend at least four hours of training on the prevention of sexual harassment.

{¶38} In its decision in *Akron Bar Assn. v. Miller*, 130 Ohio St.3d 1, 2011-Ohio-4412, the Court ordered that the respondent be suspended for six months, all stayed on conditions that the respondent serve a one-year period of probation and that he continue successful treatment by his doctor and his therapist during the probation period. The respondent was found to have violated Prof. Cond. R. 8.4(h) based on a single, early-morning telephone call which his client testified was “like being raped without being touched” and that the call made her feel like she were reduced to property. The Court concluded that the mitigating factors included a diagnosed and treated mental health disorder, evidence of character, a cooperative attitude, and no prior misconduct justified a six-month suspension stayed on condition of continued mental health treatment.

{¶39} In the instant matter, Cook was clearly relying on Respondent to assist her in a crisis situation. Respondent’s repeated unwanted solicitation of Cook to engage in a sexual relationship was an attempt to use his position of dominance to prey upon a vulnerable client. Cook’s fiancé had paid Respondent’s fee of \$1,000, which was a lot of money for him and Cook to pay. Cook was concerned that if she absolutely rebuffed Respondent’s improper overtures he

would not put forth his best effort to represent her. No client should be faced with the choice between either submitting to a lawyer's solicitation of sexual activity or terminating the lawyer-client relationship in order to have confidence that she will receive quality representation. Respondent clearly failed to perform his duty to ensure that his attorney-client relationship with Cook remained on a professional level.

{¶40} Even though Relator offered no evidence that Respondent's conduct was a part of a pattern of misconduct, there is likewise no evidence to assure the panel that it was an isolated event that is unlikely to reoccur. While the panel will never know what evidence would have been presented in a full hearing, the panel is unconvinced by the evidence presented that Respondent fully appreciates the wrongful nature of his conduct and the harm that he has caused to his client.

{¶41} Although Relator failed to establish a clear connection between Cook's failure to respond favorably to Respondent's overtures and Respondent's failure to appear for the sentencing hearing, Cook clearly perceived such a connection. While Respondent's violation of Prof. Cond. R. 1.3 standing alone would likely result in a public reprimand,¹ the panel must consider the multiple violations present in this case when recommending an appropriate sanction.

{¶42} The prohibition contained in Prof. Cond. R. 1.8(j) should not be difficult for any lawyer to understand. The panel is extremely concerned with lawyers who seek to gratify their own sexual desires at the expense of their vulnerable clients. A lawyer's involvement in or unwelcome solicitation of sexual conduct with a client seriously undermines the public's trust in the integrity of the legal profession. In its decision in *Disciplinary Counsel v. Fowerbaugh*, 74 Ohio St.3d 187, 1995-Ohio-261, the Court held that a lawyer who engages in a pattern of

¹ See, e.g., *Akron Bar Assn. v. Shenise*, 143 Ohio St.3d 134, 139, 2015-Ohio-1548, ¶¶24-25.

dishonesty with a client will be actually suspended from the practice of law for an appropriate period of time; the Court explained:

Such conduct strikes at the very core of a lawyer's relationship * * * with the client. Respect for our profession is diminished with every deceitful act of a lawyer. We cannot expect citizens to trust that lawyers are honest if we have not yet sanctioned those who are not.

Id. at 190.

{¶43} Likewise, a lawyer's repeated unwelcome solicitation of a client for sexual activity violates the trust that is at the very core of the attorney-client relationship. Cases involving this type of conduct are becoming far too numerous, and the public must be assured that such conduct will not be tolerated. Based upon the bright-line standard established in Prof. Cond. R. 1.8(j), the serious nature of conduct violating that standard, and the increasing frequency of cases involving this type of misconduct, the panel concludes that in the absence of significant mitigating factors an actual suspension should be the expected sanction for a lawyer who makes repeated unwanted solicitations of a sexual nature to a client.

{¶44} Based upon the stipulations, the evidence, the aggravating and mitigating factors, and the sanctions imposed in similar cases, the panel concludes that Respondent's misconduct requires a greater sanction than a fully-stayed suspension in order to protect the public. Therefore, the panel recommends that Respondent be suspended from the practice of law for six months and that he be ordered to pay the costs of this action.

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 December 11, 2015. The Board adopted the findings of fact, conclusions of law, and recommendation of the panel and recommends that Respondent, Tasso Paris, be suspended from the practice of law in Ohio for six months and 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 findings of fact, conclusions of law, and recommendation as those of the Board.



RICHARD A. DOVE, Director