

**IN THE SUPREME COURT
STATE OF MISSOURI**

IN RE:

DANIEL LEE SAYLE

Respondent.

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Supreme Court #SC93781

INFORMANT'S BRIEF

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STATEMENT OF JURISDICTION

Jurisdiction over attorney discipline matters is established by Article 5, Section 5 of the Missouri Constitution, Supreme Court Rule 5, this Court's common law, and Section 484.040 RSMo 2000.

STATEMENT OF FACTS

Background and Disciplinary History

Respondent is Daniel Lee Sayle, who was licensed as an attorney in Missouri on September 15, 1984. **App. 2.**¹ Respondent has no prior disciplinary history. **App. 172.**

Respondent maintains two banking accounts with Regions Bank (“Regions”). **App. 109.** One account is Respondent’s trust account (“trust account”) and the other is Respondent’s operating account (“operating account”). **App. 109.**

On December 27, 2011, Informant received notice from Regions that Respondent had overdrafted his trust account. **App. 173.** Respondent contacted Informant by telephone after receiving the initial request for information and provided a statement to Kelly Dillon, Informant’s paralegal investigator, admitting that he had deposited personal funds into his trust account and that he had made payments from his trust account for personal expenses because his operating account was “messed up.” **App. 173.**

Ms. Dillon’s examination determined that activity in Respondent’s trust account was very limited. There was no activity during the first six months of 2011. On December 19, 2011, Respondent deposited personal funds into his trust account and paid

¹ The facts contained herein are drawn from the allegations in the Information admitted in the Respondent’s Answer, Joint Stipulation of Facts and Conclusions of Law entered into between Respondent and Informant, and Informant’s Response to Court Order Requesting Additional Information. Citations to the record are denoted by the appropriate Appendix page, for example “**App. ____**”.

his office rent from that deposit. The rent check cleared his trust account prior to the deposit, however, thereby creating the overdraft of his trust account. **App. 173.**

Upon Informant's review of Respondent's trust account records, his operating account records, and the supporting documentation provided, Informant determined that Respondent (a) deposited personal funds into his trust account (July 26, 2011 - \$1,000.00); (b) deposited client funds into his trust account (December 19, 2011 - \$54.00 for client, Lanzone); (c) utilized his trust account five times to pay Respondent's personal expenses (August 19, 2011 - \$704.00 to Maryland Park, rent; August 19, 2011 - \$107.22 to Schnucks; December 16, 2011 - \$694.00 to Maryland Park, rent and December 28, 2011 - \$153.03 for wine and cheese, Christmas); (d) deposited advanced fee payments from clients into his operating account on multiple occasions in 2011 and (e) failed to maintain and preserve complete records of his trust account for a period of 5 years. **App. 109.**

Upon further investigation, Informant determined that no clients were financially harmed as a result of the alleged misconduct on the part of the Respondent. Accordingly, Informant concluded that no clients were owed any reimbursement by Respondent. **App. 173-174.**

In the course of the investigation, Respondent delivered to Informant copies of requested documents printed on recycled paper on the backs of which contained, as confirmed by Respondent, information relating to the representation of Respondent's clients, without their informed consent, and having nothing to do with the investigation. **App. 110.**

Informant filed true and correct copies of the documents containing the unauthorized information under seal with the Advisory Committee. The documents were ordered sealed by the Advisory Committee pursuant to Rule 5.31 on March 14, 2012. **App. 105-106.** Redacted versions of the sealed documents are contained in the Supplemental Record Part 1 (filed under seal)² (“SRP1”) and consist of the following: an Entry of Appearance **SRP1 at 171a**, page 3 of an Alcohol Influence Report **SRP1 at 177a**, page 2 of an Alcohol Influence Report **SRP1 at 178a**, page 1 of an Alcohol Influence Report **SRP1 at 179a**, MapQuest directions **SRP1 at 180a**, page 1 of a DWI Incident Report **SRP1 at 181a**, a Notice of Suspension/Revocation **SRP1 at 182a**, a copy of a driver’s license **SRP1 at 183a**, page 2 of an Arrest Report with fingerprints **SRP1 at 184a**, page 1 of an Arrest Report **SRP1 at 185a**, page 4 of an Arrest Report **SRP1 at 186a**, an Evidence Ticket **SRP1 at 187a**, a Certificate of Analysis **SRP1 at 188a**, a Datamaster Maintenance Report **SRP1 at 189a**, an Evidence Ticket **SRP1 at 190a**, a Police Department Citation **SRP1 at 191a**, page 4 of an Offense/Incident Report **SRP1 at 192a**, page 3 of an Offense/Incident Report **SRP1 at 193a**, page 2 of an Offense/Incident Report **SRP1 at 194a**, unidentifiable documents **SRP1 at 195a-197a**, page 2 of an Arrest Report **SRP1 at 198a**, page 1 of an Arrest Report **SRP1 at 199a**, page 6 of an Offense/Incident Report **SRP1 at 200a**, page 5 of an Offense/Incident Report **SRP1 at**

² The Supplemental Record Part 1 (filed under seal) contains both the front and back of each offending document; the front with a bates stamp number and the back with the same bates stamp number followed by the letter “a”.

201a, page 4 of an Offense/Incident Report **SRP1 at 202a**, page 3 of an Offense/Incident Report **SRP1 at 203a**, page 2 of an Offense/Incident Report **SRP1 at 204a**, page 1 of an Offense/Incident Report **SRP1 at 205a**, a Municipal Court Information **SRP1 at 206a**, an Evidence Ticket **SRP1 at 207a**, an Evidence Ticket **SRP1 at 208a**, a Petition regarding a custody matter **SRP1 at 210a**, a letter to the Prosecuting Attorney's Office **SRP1 at 212a**, a Petition regarding driving privileges **SRP1 at 214a**, page 1 of an Indictment **SRP1 at 215a**, page 2 of an Indictment **SRP1 at 216a**, and MapQuest directions **SRP1 at 217a**.

Disciplinary Proceeding

Following the completion of its investigation, Informant found probable cause to issue an Information against Respondent. Informant served the Information on Respondent on February 8, 2013. **App. 2**. Respondent's Answer to the Information was received on March 11, 2013. **App. 103**. The Chair of the Missouri Supreme Court Advisory Committee appointed a Disciplinary Hearing Panel ("panel") in this case on March 18, 2013.

Informant and Respondent entered into a Joint Stipulation of Facts and Conclusions of Law dated August 20, 2013 ("Joint Stipulation"). **App. 107-118**. No hearing was held in this matter. The panel adopted the Joint Stipulation as its unanimous decision (the "DHP Decision") with the decision issuing on September 27, 2013. **App. 119-131**.

As a result of adopting the Joint Stipulation as its decision, the Panel concluded that Respondent:

- a. failed to maintain and preserve complete records of his trust account for a period of 5 years in violation of Rule 4-1.15(d), effective January 1, 2010;
- b. commingled personal and client funds in his trust account, thus failing to hold property of clients or third parties separate from Respondent's own property in violation of Rule 4-1.15(c), effective January 1, 2010;
- c. misappropriated client funds in his trust account in violation of Rule 4-8.4(c);
- d. deposited and misappropriated advanced legal fees in his operating account in violation of Rule 4-8.4(c);
- e. revealed confidential information relating to the representation of his clients without the clients giving informed consent in violation of Rule 4-1.6(a); and
- f. engaged in conduct which was prejudicial to the administration of justice in violation of Rule 4-8.4(d).

The Panel found the following as an aggravating factor:

- a. Respondent engaged in conduct involving a pattern of misconduct with multiple offenses regarding Respondent's mishandling of his trust account and business finances.

The Panel found the following as a mitigating factor:

- a. Respondent is remorseful for his actions and recognizes his need for training to properly supervise the appropriate handling of his client and business funds.

Based on the foregoing findings and conclusions as a result of adopting the Joint Stipulation as the DHP Decision, the Panel recommended that Respondent receive an indefinite suspension, with leave to apply for reinstatement in six months, with the suspension being stayed, together with probation for one year. **App. 119-131.**

Informant accepted the DHP Decision by letter dated October 1, 2013. **App. 132.** Respondent accepted the DHP Decision by letter dated October 8, 2013. **App. 133.** On November 13, 2013, The Statement of Acceptance of Disciplinary Hearing Panel Decision was filed with this Court on November 13, 2013. **App. 134-170.**

On January 28, 2014, the Court issued an Order requesting Informant provide additional information to assist the Court in the resolution of this matter. According to the Order, such additional information should include, but not be limited to, information regarding any prior disciplinary history, the manner in which the alleged violations came to the attention of the Informant, whether any clients were harmed as result of the conduct, whether any reimbursement to clients were owed, and if so, whether paid. **App. 171.**

On February 3, 2014, Informant filed its Response to Court Order Requesting Additional Information. **App. 172-174.** The factual information in the Response is recited in the Statement of Facts, *supra* p. 4.

On February 25, 2014, the Court ordered that Informant file the complete record on or before March 27, 2014 and thereafter brief the cause pursuant to Rule 84.24(i). **App. 175.** On March 27, 2014, Informant filed the Record with the Court. On March 31, 2014, Informant filed a Motion for Leave to Supplement Record and a Motion to File Supplement under Protective Order. **App. 177-182.** On March 31, 2014, the Court sustained the motions. **App. 183.**

POINTS RELIED ON

I.

RESPONDENT VIOLATED THE RULES OF PROFESSIONAL CONDUCT BY:

- (A) FAILING TO MAINTAIN AND PRESERVE COMPLETE RECORDS OF THE TRUST ACCOUNT FOR A PERIOD OF 5 YEARS, IN VIOLATION OF RULE 4-1.15(d), EFFECTIVE JANUARY 1, 2010;**
- (B) COMMINGLING PERSONAL AND CLIENT FUNDS IN HIS TRUST ACCOUNT AND PAYING PERSONAL EXPENSES FROM HIS TRUST ACCOUNT IN VIOLATION OF RULE 4-1.15(c), EFFECTIVE JANUARY 1, 2010;**
- (C) DEPOSITING ADVANCED LEGAL FEES INTO HIS OPERATING ACCOUNT IN VIOLATION OF ADVISORY COMMITTEE FORMAL OPINION 128 AND RULE 4-1.15(f);**
- (D) REVEALING INFORMATION RELATING TO THE REPRESENTATION OF A CLIENT WITHOUT THE CLIENT GIVING INFORMED CONSENT IN VIOLATION OF RULE 4-1.6(a); AND**

**(E) ENGAGING IN CONDUCT PREJUDICIAL TO THE
ADMINISTRATION OF JUSTICE IN VIOLATION OF
RULE 4-8.4(d).**

Rule 4-1.15, effective January 1, 2010

Rule 4-1.6

Rule 4-8.4

Advisory Committee Formal Opinion 128

POINTS RELIED ON

II.

THIS COURT SHOULD SUSPEND RESPONDENT'S LICENSE INDEFINITELY, WITH NO LEAVE TO APPLY FOR REINSTATEMENT FOR AT LEAST SIX MONTHS, WITH THE SUSPENSION STAYED AND IN LIEU OF ENFORCEMENT THEREOF, PLACE RESPONDENT ON PROBATION FOR ONE YEAR FROM THE EFFECTIVE DATE OF ANY DISCIPLINARY ORDER ISSUED BY THIS COURT IMPOSING DISCIPLINE.

A.B.A. Standards for Imposing Lawyer Sanctions (1991 ed.)

In re Wiles, 107 S.W.3d 228 (Mo. banc 2003)

In re Coleman, 295 S.W.3d 857 (Mo. banc 2009)

ARGUMENT

I.

RESPONDENT VIOLATED THE RULES OF PROFESSIONAL CONDUCT BY:

- (A) FAILING TO MAINTAIN AND PRESERVE COMPLETE RECORDS OF THE TRUST ACCOUNT FOR A PERIOD OF 5 YEARS, IN VIOLATION OF RULE 4-1.15(d), EFFECTIVE JANUARY 1, 2010;**
- (B) COMMINGLING PERSONAL AND CLIENT FUNDS IN HIS TRUST ACCOUNT AND PAYING PERSONAL EXPENSES FROM HIS TRUST ACCOUNT IN VIOLATION OF RULE 4-1.15(c), EFFECTIVE JANUARY 1, 2010;**
- (C) DEPOSITING ADVANCED LEGAL FEES INTO HIS OPERATING ACCOUNT IN VIOLATION OF ADVISORY COMMITTEE FORMAL OPINION 128 AND RULE 4-1.15(f), EFFECTIVE JANUARY 1, 2010;**
- (D) REVEALING INFORMATION RELATING TO THE REPRESENTATION OF A CLIENT WITHOUT THE CLIENT GIVING INFORMED CONSENT IN VIOLATION OF RULE 4-1.6(a); AND**

(E) **ENGAGING IN CONDUCT PREJUDICIAL TO THE
ADMINISTRATION OF JUSTICE IN VIOLATION OF
RULE 4-8.4(d).**

Standard of Review of Disciplinary Hearing Panel Decision

It is well-settled that a Disciplinary Hearing Panel's recommendations are advisory in nature. *In re Crews*, 159 S.W.3d 355, 358 (Mo. banc 2005). In a disciplinary proceeding, this Court reviews the evidence *de novo*, independently determining all issues pertaining to credibility of witnesses and the weight of the evidence, and draws its own conclusions of law. *Id.* Discipline will not be imposed unless professional misconduct is proven by a preponderance of the evidence. *Id.* Where misconduct is proven by a preponderance of the evidence, violation of the Rules of Professional Conduct by an attorney is grounds for discipline. *In re Shelhorse*, 147 S.W.3d 79, 80 (Mo. banc 2004).

A. **Respondent failed to maintain and preserve complete trust account records in violation of Rule 1.15(d), effective January 1, 2010.**

Informant's audit of Respondent's trust account records determined that Respondent failed to maintain and preserve complete trust account records for 5 years as required by law. Respondent stipulated to this fact. **App. 109.**

Based upon the foregoing, Respondent violated Rule 4-1.15(d), effective January 1, 2010 by failing to maintain and preserve complete trust account records for 5 years.

B. Respondent's commingled personal and client funds in his trust account and paid for personal expenses from his trust account in violation of Rule 4-1.15(c), effective January 1, 2010.

Respondent stipulated that he deposited both personal funds (July 26, 2011 - \$1,000.00) and client funds (December 19, 2011 - \$54.00 for client, Lanzone) into his trust account. **App. 109.** In addition, the audit revealed that Respondent paid personal expenses from his trust account on five occasions (August 19, 2011 - \$704.00 to Maryland Park, rent; August 19, 2011 - \$107.22 to Schnucks; December 16, 2011 - \$694.00 to Maryland Park, rent; and December 28, 2011 - \$153.03 for wine and cheese, Christmas). **App. 109.**

In the stipulation, the parties mistakenly characterized Respondent's conduct as "misappropriation" and in violation of Rule 4-8.4(c). In fact, there was no evidence that Respondent's conduct was willful theft or involved dishonesty, fraud, deceit, or misrepresentation. In its Response to the Court Order Requesting Additional Information, Informant clarified that no clients are owed any reimbursement by Respondent. **App. 172-174.** There was no evidence that Respondent's trust account balance ever fell below the amount belonging to the client.

However, Respondent's conduct did constitute improper commingling according to Rule 4-1.15(c), effective January 1, 2010, which requires a lawyer to hold property of clients in a lawyer's possession in connection with a representation separate from the lawyer's own property.

Based upon the foregoing, Respondent violated Rule 4-1.15(c), effective January 1, 2010, by commingling personal funds with client funds in his trust account and using his trust account for paying personal expenses.

C. Respondent deposited advanced legal fees into his operating account in violation of Advisory Committee Formal Opinion 128 and Rule 4-1.15(f), effective January 1, 2010.

Respondent stipulated that on several occasions he deposited advanced legal fees directly into his operating account and used them before completing the legal work. **App. 109.**

In the stipulation, the parties mistakenly characterized Respondent's conduct as "misappropriation" and in violation of Rule 4-8.4(c). In fact, there was no evidence that Respondent's conduct was willful theft or involved dishonesty, fraud, deceit, or misrepresentation. In its Response to Court Order Requesting Additional Information, Informant clarified that no clients are owed any reimbursement by Respondent. **App. 172-174.** There was no evidence that Respondent later failed to earn the advanced fees or owed a refund to any client.

However, Respondent's conduct was a violation of Advisory Committee Formal Opinion 128 which disallows treating legal fees for future service as earned upon receipt, as that is directly at odds with Rule 4-1.15(f), effective January 1, 2010, which states: "A lawyer shall deposit into a client trust account legal fees and expenses that have been paid

in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.³ Advisory Committee Formal Op. 128 (2010).

Based upon the foregoing, Respondent violated Advisory Committee Formal Opinion 128 and Rule 4-1.15(f), effective January 1, 2010, by depositing advanced fees directly into his operating account before completing the legal work.

D. Respondent revealed information relating to the representation of a client without informed consent in violation of Rule 4-1.6(a).

In his response to the ethics complaint, Respondent used recycled paper on the backs of which contained, as stipulated to by Respondent, information relating to the representation of Respondent's clients, without their informed consent, and having nothing to do with the investigation. Rule 4-1.6(a) states that: A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is permitted by Rule 4-1.6(b). Comment 15 adds that a lawyer must act competently to safeguard information relating to the representation of a client against inadvertent or unauthorized disclosure by the lawyer.

Many of the documents produced by Respondent disclosed actual confidential information, including the alcohol influence reports, arrest reports, offense/incident reports, and evidence reports.

³ This provision of the safekeeping property rule was moved to Rule 4-1.15(c) as part of the amendment to the trust accounting rules that became effective on July 1, 2013.

Fortunately for Respondent, his unauthorized disclosures did not seep beyond the confines of the confidential investigation by the Informant. The backs of the documents which contained the unauthorized disclosures were sealed by order of the Advisory Committee and are part of the Supplemental Record Part 1 (filed under seal) which is covered under the Court's Protective Order.

Based upon the foregoing, Respondent violated Rule 4-1.6(a) by revealing information relating to the representation of a client without the client's informed consent.

F. Respondent engaged in conduct prejudicial to the administration of justice by mishandling his personal and client funds and revealing information related to the representation of a client without informed consent in violation of Rule 4-8.4(d).

Respondent stipulated that his conduct regarding his trust and operating accounts and his unauthorized disclosures of client information was prejudicial to the administration of justice. **App. 109-110.**

Based upon the foregoing, Respondent violated Rule 4-8.4(d) by engaging in conduct prejudicial to the administration of justice.

II.

THIS COURT SHOULD SUSPEND RESPONDENT’S LICENSE INDEFINITELY, WITH NO LEAVE TO APPLY FOR REINSTATEMENT FOR AT LEAST SIX MONTHS, WITH THE SUSPENSION STAYED AND IN LIEU OF ENFORCEMENT THEREOF, PLACE RESPONDENT ON PROBATION FOR ONE YEAR FROM THE EFFECTIVE DATE OF ANY DISCIPLINARY ORDER ISSUED BY THIS COURT IMPOSING DISCIPLINE.

This Court has relied on the American Bar Association’s Standards for Imposing Lawyer Sanctions (“ABA Standards”) to determine the appropriate discipline to be imposed in attorney discipline cases. *See, e.g., In re Crews*, 159 S.W.3d 355, 360-61 (Mo. banc 2005); *In re Warren*, 888 S.W.2d 334 (Mo. banc 1994); *In re Griffey*, 873 S.W.2d 600 (Mo. banc 1994); *In re Oberhellman*, 873 S.W.2d 851 (Mo. banc 1994). Therefore, the suspension guidelines included within the ABA Standards are instructive. Based upon an analysis of the ABA Standards and Missouri case law, an indefinite suspension with leave to apply for reinstatement after six months, with the suspension stayed, is the appropriate sanction in this case. The analysis of the ABA Standards and Missouri case law further supports that in lieu of enforcement of the suspension, Respondent should be placed on probation for one year from the effective date of any disciplinary order issued by this Court imposing discipline.

According to the ABA Standards, suspension is appropriate in various circumstances, including, (a) in matters involving the failure to preserve client’s property,

when a lawyer knows or should have known that he or she is dealing improperly with client property and causes injury or potential injury to a client (Section 4.12 of the ABA Standards), and (b) when a lawyer engages in conduct that is a violation of a duty owed to the profession and causes injury or potential injury to a client, the public, or the legal system (Section 7.2 of the ABA Standards). Respondent's mishandling of his client's and personal money inside and outside of the trust account, along with his breach of client confidentiality, is conduct prejudicial to the administration of justice and had the potential to cause injury to his clients and the legal profession. Therefore, suspension is the appropriate sanction.

Imposition of this sanction is also consistent with Missouri case law. It is appropriate that the suspension be stayed when viewing the facts stipulated herein in light of *In re Wiles*, 107 S.W.3d 228 (Mo. banc 2003). In *Wiles*, the Respondent received an indefinite suspension with leave to apply for reinstatement after six months; the suspension was stayed and the Respondent placed on one year of probation. *Wiles* was a reciprocal discipline case from Kansas. The respondent's Kansas discipline had been for violations relating to diligence, communication, fees, safekeeping property and competence. *In re Wiles*, 58 P.3d 711 (Kan. 2002). Mr. Wiles had several prior Missouri admonitions, as noted by the Missouri Supreme Court when listing four diligence violations (4-1.3), five communication violations (4-1.4), one safekeeping of client property (4-1.15(b)) violation, and one violation for conduct prejudicial to the administration of justice (4-8.4(d)). *In re Wiles*, 107 S.W.2d at 229.

Similarly, Attorney Larry Coleman received a stayed suspension and was placed on probation for a year even though he had three prior incidents of discipline when he was found to have violated several rules of this Court, including Rule 4-1.15 for commingling client funds with his funds. *In re Coleman*, 295 S.W.3d 857 (Mo. banc 2009). Unlike *Wiles* and *Coleman*, however, Respondent does not have a disciplinary history. A similar disposition is appropriate, however, because Respondent's conduct was prejudicial to the administration of justice and had the potential to cause injury to his clients.

The ABA Standards provide that after misconduct has been established, aggravating and mitigating circumstances may be considered in determining an appropriate sanction. In the present action, Informant and Respondent have considered the pattern of misconduct and multiple offenses involving the mishandling of his client's and personal money inside and outside of the trust account and the unauthorized disclosures of client information and note that they could be considered aggravating factors. Respondent's lack of any disciplinary history, his remorse, and the fact that no client suffered actual injury could be considered mitigating factors.

Furthermore, in lieu of enforcement of the suspension, Respondent should be placed on probation for a period of one year. Mishandling of client and personal money inside and outside of the trust account and the unauthorized disclosures of client information are serious violations and should not be viewed lightly. However, the mitigating circumstances that exist in Respondent's case support placing Respondent on probation for one year. Specifically, Respondent lacks any disciplinary history and has

expressed remorse. There was no evidence in the record of willful misappropriation or conduct involving dishonesty, fraud, deceit, or misrepresentation. This Court found probation appropriate in both *Wiles* and *Coleman* despite those respondents' extensive disciplinary histories. Respondent's conduct did not result in any actual harm to any client. In fact, there were no client complaints filed against Respondent. Just as this Court found in *Coleman*, Respondent's conduct "needs to be monitored or limited rather than revoked". *Id.* at 87 (citing Section 2.7 of the ABA Standards Probation, Commentary). Based on the foregoing, probation is appropriate.

The terms of probation set forth in the DHP Decision include by way of example, but not of limitation, appointment of a probation monitor, quarterly reporting to the OCDC, compliance with the Rules of Professional Conduct, attendance at the Ethics School, periodic auditing of the trust account, and maintenance of legal malpractice insurance.

Given the totality of the violations, as well as the aggravating and mitigating circumstances, Informant concurs in the discipline recommended by the Panel and submits that the evidence, Missouri case law and the ABA Standards support such a disposition.

CONCLUSION

Respondent failed to keep and maintain trust account records for five years in violation of Rule 4-1.15(d), effective January 1, 2010. In addition, Respondent commingled personal funds and client funds in his trust account and used his trust account to pay personal expenses in violation of Rule 4-1.15(a), effective January 1, 2010. Further, Respondent deposited advanced fees into his operating account prior to performing the legal work in violation of Advisory Committee Formal Opinion 128 and Rule 4-1.15(f), effective January 1, 2010. Finally, Respondent revealed information relating to the representation of a client without informed consent in violation of Rule 4-1.6(a). The limited aggravating circumstances and presence of mitigating circumstances support the imposition of discipline as described herein.

Informant respectfully requests that this Court indefinitely suspend Respondent from the practice of law with leave to apply for reinstatement after six months, with said suspension stayed and in lieu of enforcement thereof, place Respondent on probation for a period of one year consistent with the probationary terms set forth in the DHP Decision.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of April 2014, the Informant’s Brief was sent through the Missouri Supreme Court e-filing system to Respondent’s attorney:

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Attorney for Respondent



Marc A. Lapp

CERTIFICATION: RULE 84.06(c)

I certify to the best of my knowledge, information and belief, that this brief:

1. Includes the information required by Rule 55.03;
2. Complies with the limitations contained in Rule 84.06(b);
3. Contains 4423 words, according to Microsoft Word, which is the word

processing system used to prepare this brief; and



Marc A. Lapp