IN THE SUPREME COURT
STATE OF MISSOURI

IN RE:	)	
	)	
ANISSA FAY WHITTLE BLUEBAUM	)	**Supreme Court #SC93706**
	)	
Respondent.	)	

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

Respondent Bluebaum was admitted to the Bar in 2004. In 2012, she practiced in law offices located in Republic and Ozark, Missouri. **App. 29 (T. 90-91)**. Respondent has no disciplinary history.

Count I

In November of 2011, Respondent's law firm consisted of herself, an associate attorney, and two administrative assistants. **App. 14 (T. 30).** On Monday, November 21, 2011, Respondent held a six-hour meeting with her staff. She talked about how they were heading into a slow business time of the year. She emphasized the importance of marketing the firm, collecting receivables, and generating income. **App. 11 (T. 20-21)**.

The following day, Tuesday the 22nd, at approximately 9:30 p.m., Respondent sent her staff an e-mail as a follow-up to the previous day's meeting. The e-mail in its entirety appears in the Appendix at pages 43-44. A portion of the e-mail is transcribed below:

> HANG OUT AT THE COURTHOUSE AND LOOK FOR LOST PEOPLE, PEOPLE LOST IN THE COURTHOUSE AND LOOKING FOR THE CLERKS OFFICE ARE TRYING TO REPRESENT THEMSELVES. ASK THEM IF YOU CAN HELP THEM FIND THE CLERK'S OFFICE, YOU ARE BEING A GOOD SAMARITAN, YOU ARE THE HERO POINTING THE WAY FOR THEM, THEY NEED

YOU, THEY WILL TALK TO YOU, THEY WILL TELL YOU HOW LOST THEY ARE, THEY WILL ASK "ARE YOU A LAWYER???" YOU RESPOND OF COURSE (I AM) (I WORK FOR A LAWYER) WHAT DO YOU HAVE THERE??? THEY ARE DESPERATE YOU LOOK AT WHAT THEY HAVE AND OFFER FREE ADVICE (TELL THEM YOUR LAWYER WOULD BE HAPPY TO GIVE THEM SOME FREE ADVICE)!!! THEY LOVE YOU AND FOLLOW YOU TO THE OFFICE WHERE THEY WILL PROCEED TO GIVE US MONEY.

Respondent repeatedly emphasized the importance of bringing in money (specifically, $20,000.00) to the firm over the next several days. She reminded them that the "[b]ottom line is the ONLY PRIORITY FOR THE NEXT 8 DAYS IS BRINGING IN $18,189. NOTHING ELSE MATTERS PUT DOWN WHAT YOUR WORKING ON AND BRING IN MONEY" (punctuation and spelling unchanged from original). **App. 44**.

The Thanksgiving holiday fell on November 24 and 25, 2011. The following Monday morning, November 28, Respondent's secretary resigned from her job. **App. 12 (T. 23)**. She filed a complaint against Respondent with the Office of Chief Disciplinary Counsel on December 9, 2011. **App. 46-48**. The November 22 e-mail was attached to her complaint. **App. 15 (T. 35)**.

After Respondent received a copy of the secretary's complaint, she testified that she met with the remaining staff to make sure there was no misunderstanding because she

did not want them to act unethically. **App. 15 (T. 34)**. She clarified to them that they should not approach individuals at the courthouse who had been told by a judge to hire a lawyer "because that would be unethical." **App. 12 (T. 25)**.

Count II

Respondent began representing Paul Dunn in a variety of legal matters in 2010. **App. 65**. She opened seven different files in the course of representing Dunn between 2010 and early 2012. **App. 36 (T. 118)**. At the time of the disciplinary hearing, Mr. Dunn was a self-employed handyman. **App. 16 (T. 39)**. Several of the cases Respondent was retained to handle for Dunn involved mechanic's liens. **App. 16 (T. 41)**.

On February 23, 2012, a court granted Respondent Bluebaum's motion to withdraw from a case in which she represented Dunn. By the time the attorney client relationship ended, Respondent had billed Dunn some $10,000.00 in fees that were unpaid. She testified that an unpaid fee for $10,000.00 was "a huge hit for my business." **App. 35-36 (T. 117-118)**. Mr. Dunn disputed how much he owed Respondent. **App. 22 (T. 69)**. Dunn telephoned Respondent's office on February 27, 2012, requesting his files. **App. 17 (T. 43-44), 27 (T. 83)**. He spoke to Respondent's assistant, who told him Respondent had the file and the secretary would let her know Dunn wanted it. **App. 17 (T. 44)**.

Still without his files, on July 11, 2012, Dunn filed a pro se motion in one of his pending legal matters asking the court to order Respondent to release his files to him as she had refused to do so. **App. 84**. Mr. Dunn sent a copy of his pro se pleading, along

with a letter again requesting the files, to Respondent by certified mail, which Respondent received on July 16, 2012. **App. 18 (T. 46), 85.** Dunn needed the file to amend a mechanic's lien. **App. 16 (T. 42-43)**. Neither Respondent nor anyone on her behalf contacted Dunn from February 27, 2012, through July 16, 2012, about his files. **App. 17 (T. 44)**. Dunn received no response from Respondent after her receipt of the July 16 certified mailing. **App. 18 (T. 48)**.

In mid-August, 2012, Dunn filed a complaint against Respondent with the Office of Chief Disciplinary Counsel. **App. 18 (T. 48)**. Respondent's secretary thereafter called Dunn and told him he could pick up his files the last Friday in August of 2012. **App. 18 (T. 49)**. Dunn retrieved the files in late August, but telephoned Respondent's office on September 11 when he realized that some documents he needed were not in the files. **App. 19 (T. 50), 28 (T. 89)**.

Not long after Mr. Dunn contacted Respondent's office about the missing documents, he received an invoice charging him for such activities as the August 15 telephone call about returning the file ($20.00), the August 16 work done to prepare the file for pickup ($1,450.00), and the August 17 preparation of a release to be signed when Dunn picked up the file ($80.00). In all, the invoice charged Dunn $1,810.00 for work done on August 15, 16, and 17 preparatory to the return of his file. **App. 19 (T. 51-53)**, 86. Respondent later took the invoice charges off Dunn's bill. **App. 37 (T. 124)**.

Disciplinary Hearing Panel Decision

On July 20, 2013, a hearing was conducted before a disciplinary hearing panel. The panel concluded Respondent violated all the charged rules. **App. 89-91**. The panel recommended Respondent's license be indefinitely suspended, that the suspension be stayed, and that Respondent be placed on probation for two years on condition she comply with the rules and other laws, and pay costs. **App. 91**. Respondent rejected the decision pursuant to Rule 5.19(d).

POINTS RELIED ON

I.

THE SUPREME COURT SHOULD DISCIPLINE RESPONDENT BECAUSE SHE VIOLATED MULTIPLE RULES IN THAT SHE ATTEMPTED IN-PERSON SOLICITATION OF LEGAL BUSINESS, SHE KNOWINGLY INDUCED OTHERS TO ENGAGE IN IN-PERSON SOLICITATION OF LEGAL BUSINESS, SHE DIRECTED NON-LAWYER ASSISTANTS TO ENGAGE IN CONDUCT THAT VIOLATED THE RULES, AND SHE WAS DECEITFUL AND ENGAGED IN CONDUCT PREJUDICIAL TO THE ADMINISTRATION OF JUSTICE BY INSTRUCTING HER EMPLOYEES TO ACT AS IF THEY WERE ASSISTING PEOPLE AT THE COURTHOUSE WHEN THE REAL PURPOSE WAS TO SOLICIT BUSINESS.

Ohralik v. Ohio State Bar Ass'n, 436 U.S. 447, 98 S.Ct. 1912, 56 L.Ed.2d 444 (1978)

In re Woodward, 300 S.W.2d 385 (Mo. banc 1957)

In re Downs, 363 S.W.2d 679 (Mo. banc 1963)

POINT RELIED ON

II.

THE SUPREME COURT SHOULD DISCIPLINE RESPONDENT BECAUSE SHE VIOLATED RULE 4-1.16(d) IN THAT SHE FAILED OVER A SIX MONTH PERIOD TO RETURN A CLIENT'S FILES.

In re Cupples, 952 S.W.2d 226 (Mo. banc 1997)

In re Lim, 210 S.W.3d 199 (Mo. banc 2007)

Supreme Court Advisory Committee Formal Opinion #115

POINT RELIED ON

III.

THE SUPREME COURT SHOULD ORDER A STAYED SUSPENSION AND PLACE RESPONDENT ON PROBATION BECAUSE PROBATION IS APPROPRIATE IN THAT RESPONDENT'S MISCONDUCT MAY BE REMEDIATED BY CONDITIONS SUGGESTED IN THE PROPOSED TERM AND CONDITIONS OF PROBATION.

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

In re Ehler, 319 S.W.3d 443 (Mo. banc 2010)

ARGUMENT

I.

THE SUPREME COURT SHOULD DISCIPLINE RESPONDENT BECAUSE SHE VIOLATED MULTIPLE RULES IN THAT SHE ATTEMPTED IN-PERSON SOLICITATION OF LEGAL BUSINESS, SHE KNOWINGLY INDUCED OTHERS TO ENGAGE IN IN-PERSON SOLICITATION OF LEGAL BUSINESS, SHE DIRECTED NON-LAWYER ASSISTANTS TO ENGAGE IN CONDUCT THAT VIOLATED THE RULES, AND SHE WAS DECEITFUL AND ENGAGED IN CONDUCT PREJUDICIAL TO THE ADMINISTRATION OF JUSTICE BY INSTRUCTING HER EMPLOYEES TO ACT AS IF THEY WERE ASSISTING PEOPLE AT THE COURTHOUSE WHEN THE REAL PURPOSE WAS TO SOLICIT BUSINESS.

Before there were billboards, websites, and continuously running electronic signs touting attorneys' winning cases and telephone numbers, there was in-person solicitation. Respondent's e-mail to her office staff is an exhortation to engage in old fashioned in-person solicitation. "Hang out at the courthouse and look for lost people … offer free advice … they [will] love you and follow you to the office where they will proceed to give us money."

In-person solicitation is, with some exceptions, prohibited by the Rules of Professional Conduct. "A lawyer may not initiate the in-person, telephone, or real time electronic solicitation of legal business under any circumstances, other than with an existing or former client, lawyer, close friend, or relative." Rule 4-7.3(a). Nothing in Ms. Bluebaum's e-mail suggests that the courthouse contacts she encouraged be limited in a way to fall within the exceptions to the rule.

The United States Supreme Court, in *Ohralik vs. Ohio State Bar Ass'n*, 436 U.S. 447, 98 S.Ct. 1912, 56 L.Ed.2d 444 (1978), held that a state may discipline a lawyer for soliciting clients in-person for pecuniary gain, under circumstances likely to pose dangers the state has a right to prevent. In *Ohralik,* the lawyer went to a hospital after a vehicular accident and solicited business from two teenage girls involved in the wreck. The Court found that in-person solicitation by a lawyer of remunerative employment is a business transaction in which speech is an essential, but subordinate, component. 98 S.Ct. at 1919.

The potential dangers, or harms, inherent in the kind of solicitation Respondent urged on her lawyer and non-lawyer assistants are the same as those identified by the Supreme Court in *Ohralik.* Such solicitation may exert pressure on potential consumers of legal services and demands immediate response, without giving the individual an opportunity for comparison or reflection. It allows the solicitor to present a one-sided sales pitch and encourages speedy, but perhaps uninformed decisionmaking. Other members of the bar and persons close to the solicited individual are denied the opportunity to counsel the individual. "In-person solicitation is as likely as not to

discourage persons needing counsel from engaging in a critical comparison of the 'availability, nature, and prices' of legal services," thereby disserving societal interests in facilitating informed and reliable decisionmaking. 98 S.Ct. at 1919. People walking around a courthouse looking "lost" are vulnerable to the same danger of hiring legal representation without opportunity for reflection or comparison as those recovering from personal injuries, if not more so.

Solicitation of legal business, either directly by the attorney herself or by her agents, has long been a basis for discipline by this Court. The facts in *In re Woodward*, 300 S.W.2d 385 (Mo. banc 1957), are particularly apposite to the conduct urged by Respondent Bluebaum in this case. It was Mr. Woodward's practice to arrive first thing in the morning at the Municipal Courts Building in St. Louis, where he would approach and ask individuals questions to initiate his sales pitch. He would then identify himself as a lawyer and suggest that he could represent them; that he could have their case called early "on a preferential list," which would save the person from waiting all day.

Woodward argued that if a person at the courthouse spoke to him first, asking for casual information, it was proper for him to identify himself as a lawyer and offer to assist them in their matters. He also believed it was appropriate for him to initiate a casual conversation, and if the person disclosed he was at the courthouse to answer a charge or summons, Woodward could tender his services. 300 S.W.2d at 389.

This Court disagreed with Mr. Woodward "in both particulars." The Court concluded Woodward initiated contact with individuals with the purpose and intent of

procuring employment from them, in violation of the rule proscribing solicitation of business by personal communications or interviews, not warranted by personal relations. 300 S.W.2d at 392. Ms. Bluebaum's assertion that the contact she was urging her staff to make at the courthouse was merely an effort to be helpful is as disingenuous now as when Woodward made it more than fifty years ago.

In another solicitation case, *In re Downs*, 363 S.W.2d 679 (Mo. banc 1963), the Respondent paid others to bring him clients. He hired individuals, frequently law students, to procure business for him by contacting individuals who had suffered personal injuries and urging them to contact Mr. Downs. Downs met the students' ethical objections by telling them that the practice of law is a business, and that a lawyer has to procure business any way he can get it. He told them that even if his methods were unethical, "everybody does it." 363 S.W.2d at 682-83.

Part of the ethical charges against Downs rested on his attempts to hire law students to bring him cases. Several of the individuals "never agreed to carry out Respondent's proposals." One who did "never brought in a case." 363 S.W.2d at 690. Downs, therefore, argued there was no accomplishment, or completion, of the charged misconduct. Likewise, Ms. Bluebaum urges this Court to impose no discipline here because there is no evidence anyone carried out her instructions. The Court in *Downs* refuted that contention.

> Counsel seems to miss the ultimate and essential nature of a violation of the Canons of Ethics. The acts and words of Respondent <u>in</u> <u>themselves</u>

constitute the violation, demonstrating both the desire and an attempt to commit the prohibited things and demonstrating, as well, an unfit attitude and mind.

363 S.W.2d at 690 (emphasis in original).

Respondent Bluebaum denied that any of her employees actually solicited business at the courthouse or anywhere else between the time she sent the e-mail and when the secretary quit and brought the e-mail to light. The *Downs* Court anticipated the modern Rules by finding that an attempt to violate the rules was sufficient to constitute a violation of the rules. The modern Rules of Professional Conduct explicitly provide that it is professional misconduct for a lawyer to attempt to violate the Rules of Professional Conduct and to knowingly induce others to do so. Rule 4-8.4(a).

The gravamen of Respondent Bluebaum's response to the Count I charges is that the subject e-mail was not an exhortation to her subordinates to drum up business at the courthouse or anywhere else they could find it, but rather, was a reminder to them to be helpful, friendly, and "available." The e-mail itself, in the context of being sent after a six-hour office meeting wherein all staff were made aware, apparently in six-hours' worth of detail, of the firm's immediate need to bring in money, dispels Respondent's contention.

The e-mail repeatedly references a goal of bringing $20,000.00 to the firm coffers within nine days. It talks about "closing the deal," prodding people, collecting on existing files, payment plan options, and extracting money from people. Absolutely

nowhere in the e-mail is there any mention of providing quality legal services. The only reference to specific services was to how much money a service would bring the firm in accordance with The Plan (to bring in money). Respondent's altruistic pretentions dissolve in the garish glow of the e-mail's harsh sales pitch.

Indeed, Respondent was charged, and a disciplinary hearing panel concluded, that she engaged in deceitful conduct (Rule 4-8.4(c) (engage in dishonest, deceitful conduct)) by urging her subordinates to "act as if they are helping" people when solicitation was the obvious objective. Similarly, Respondent was charged, and the disciplinary hearing panel concluded, that Respondent violated Rule 4-8.4(d) (engage in conduct prejudicial to the administration of justice) by urging that the solicitation occur in the courthouse. And finally, Respondent was charged, and the disciplinary hearing panel concluded, that she violated Rule 4-5.3(c) by directing her subordinates to act in a way contrary to the Rules of Professional Conduct.

The foregoing rule violations, along with the violations of Rules 4-8.4(a) (attempt to violate rules or induce others to do so) and Rule 4-7.3(a) (in-person solicitation), merit discipline from this Court.

ARGUMENT

II.

THE SUPREME COURT SHOULD DISCIPLINE RESPONDENT BECAUSE SHE VIOLATED RULE 4-1.16(d) IN THAT SHE FAILED OVER A SIX MONTH PERIOD TO RETURN A CLIENT'S FILES.

The evidence is undisputed that Respondent's former client, Paul Dunn, made a telephone request to Respondent on February 27, 2012, asking for the return of multiple files. It is undisputed that Mr. Dunn did not have his files by mid-July, prompting him to file a pro se request in a pending case (a copy of which he sent to Respondent) asking a judge to order Respondent to give him his files. It is also undisputed that it was only after Dunn filed a complaint with disciplinary counsel in mid-August that Respondent clearly communicated with Dunn, telling him when and where he could pick up the files.

An attorney's refusal to return a client's file is a very common complaint heard by disciplinary authorities. Such disputes are almost always quickly resolved by telephone calls and under some circumstances, an admonition. This case is different than the run of the mill file return complaint because an unrelated complaint file was pending against Ms. Bluebaum at the time Mr. Dunn's complaint was filed, i.e., it was not a stand alone instance of minor misconduct that was easily resolved with a phone call. Additionally, Respondent's action in billing Mr. Dunn for more than $1,800.00 of alleged file return expenses heightened the misconduct.

Missouri disciplinary authorities have long relied on the Advisory Committee's Formal Opinion #115, which states unequivocally that "a lawyer shall promptly deliver to the client or third person any … property that the client is entitled to receive" (emphasis added). The client is entitled to receive, promptly, the file because "the file belongs to the client, from cover to cover," with exceptions not relevant to this case. See also *In re Cupples*, 952 S.W.2d 226, 234 (Mo. banc 1997) (client files belong to the client).

It is noted that Ms. Bluebaum has not taken the position that Mr. Dunn's files did not belong to him. The failure to return the files for six months seems to have resulted not from a dispute over ownership, but from a lack of commitment and effort by Respondent to get it done. Although Respondent offered evidence that her administrative assistant attempted to contact Dunn to tell him the files were ready to be picked up, Mr. Dunn staunchly denied receiving those messages. In considering the credibility of Respondent's evidence as to efforts made to return the files, it is telling that it was only after Dunn filed the complaint that Respondent's office successfully contacted Dunn with a specific date and location where he could retrieve the files. It is likewise telling that Respondent's invoice to Dunn references work started on August 16, 2012, to prepare the file for pick up. And, it is telling that the September 2012 invoice was mailed to the same address Dunn had provided Respondent's office in early February of 2012, refuting Respondent's contention that Dunn was difficult to contact.

The obvious deterioration in the relationship between Respondent and her former client does not excuse Respondent's lack of effort to get the files back to Dunn. Six

months is not "prompt." Rule 4-1.16(d) required Respondent to take more affirmative action to return Dunn's files, particularly where, as here, Respondent's former client needed a file for pending litigation. Cf. *In re Lim*, 210 S.W.3d 199 (Mo. banc 2007) (lawyer's withholding of labor certification letter pending client payment of fees violated Rule 4-1.16(d)).

The fact that Respondent's office sent Mr. Dunn an invoice charging him $1,810.00 for alleged costs associated with returning the file requires discussion. Advisory Opinion 115 addresses who is responsible for paying costs associated with returning a former client's file to the client. The opinion states that if the "lawyer wishes to keep a copy of the file for his own use or protection, then the lawyer must bear the costs of copying the file." The opinion also states that attorney work product belongs to the client, as it results from services for which the client contracted. The Missouri Court of Appeals recently confirmed that the lawyer must bear the costs of copying a file being returned to its owner, the former client. *McVeigh v. Fleming*, 410 S.W.3d 287 (Mo. App. 2013).

Informant did not charge Respondent with any Rule violations specifically related to the invoice, which the evidence reflects was actually drafted by Respondent's associate attorney (although Respondent reviewed his work and his billings). Nevertheless, the fact that such clearly inappropriate charges were sent to the former client reflects poorly on Respondent.

ARGUMENT

III.

THE SUPREME COURT SHOULD ORDER A STAYED SUSPENSION AND PLACE RESPONDENT ON PROBATION BECAUSE PROBATION IS APPROPRIATE IN THAT RESPONDENT'S MISCONDUCT MAY BE REMEDIATED BY CONDITIONS SUGGESTED IN THE PROPOSED TERM AND CONDITIONS OF PROBATION.

Informant recommended to the disciplinary hearing panel that Respondent be suspended, with the suspension stayed and Respondent placed on probation for two years.[1] Here, Respondent Bluebaum was found to have committed two distinct types of misconduct – she failed promptly to return a client's files in violation of Rule 4-1.16(d), and she attempted in-person solicitation in violation of several different rules. When there are multiple acts of misconduct, the sanction imposed should be consistent with the

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[1] The disciplinary hearing panel's recommendation for discipline does not conform to the language used by this Court in its disciplinary orders. It is suggested that the recommendation should have read that Respondent be suspended from the practice of law and that no application for reinstatement be entertained for a period of two years from the date of the Court's entry of an order; that said suspension be stayed and Respondent placed on probation for a period of two years from the date of the Court's order.

sanction for the most serious instance of misconduct among the violations. *In re Ehler*, 319 S.W.3d 443, 451 (Mo. banc 2010); ABA Standards for Imposing Lawyer Sanctions (Theoretical Framework), p. 6 (1991 ed.).

Respondent's November 22, 2011, e-mail to her staff is shocking. Still, the record does not reflect that her unethical imprecations were implemented by any of her staff, thereby sparing the profession the ignominy had her staff followed through with her directions. While the content of the e-mail violated several professional rules, Informant believes the Rule 4-1.16(d) violation is the most serious instance of misconduct on this record. The Court, in *In re Coleman*, 295 S.W.3d 857 (Mo. banc 2009), discussed the importance of attorneys' Rule 4-1.16 obligation to take all reasonable steps to mitigate consequences of withdrawal and protect clients' interests by providing all information requested by clients upon termination of the attorney client relationship.

Respondent testified at the hearing that she knew that clients own their files. She testified she knew an attorney cannot retain a file pending payment of fees. The evidence supports the conclusion that Respondent Bluebaum deliberately dragged her feet, or delayed, in returning Dunn's files. The hearing record reflects that an acrimonious relationship had developed between Respondent and Dunn. There was evidence that Respondent believed that Dunn owed her $10,000.00 in unpaid fees, which she described as a "huge hit" to her "business." Respondent appears to have been unable to separate her role as a businesswoman from the fact she was an attorney and owed fiduciary duties to her former client. Dunn's pro se attempt, in July, to get a judge to order Respondent to

return his files is indicative of the harm done to Dunn by Respondent's failure to properly notify Dunn where and when he could pick up the files.

ABA *Sanctions* black letter rule 4.12 provides that "suspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client." The foregoing evidence reflects that Respondent knowingly delayed returning her client's files. She violated a duty she owed to a client and caused actual harm to the client as a consequence, inasmuch as he lacked the file materials he needed to amend a mechanic's lien. In mitigation, Respondent has no prior discipline. In aggravation, there are multiple offenses, Respondent's conduct evidences a selfish motive, and she has, to date, refused to acknowledge the wrongful nature of her conduct. ABA Standard 9.22(b)(d)(g).

Stayed suspension with probation was recommended to the disciplinary hearing panel and is recommended to the Court.[2] Informant recommends stayed suspension with probation because Respondent meets the eligibility requirements (Rule 5.225(a)(2)), and her misconduct is of a nature that Informant believes may be "fixed" or "improved" with

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[2] A proposed Term and Conditions of Probation has been made part of the Appendix, should the Court decide to place Respondent on probation. The proposed Term and Conditions of Probation was not presented to the panel at the hearing, and was not, therefore, part of the hearing record. It has been included in the Appendix for the Court's use should the Court deem it pertinent.

appropriate remedial conditions in a monitored probation. Even when an attorney commits "knowing" misconduct, probation may be appropriate if the conduct can be corrected while monitoring the lawyer's practice. *In re Coleman*, 295 S.W.3d 857, 871 (Mo. banc 2009). The thought was that a mentor attorney (Condition 8, App. 111), and attendance at Ethics School, along with a significant dose of continuing legal education courses focused on the subjects of ethics, practice development, and advertising, would help Respondent differentiate between a business and a profession. Quarterly reporting and the requirement of professional liability insurance should further provide protection to the public and profession should Respondent stray.

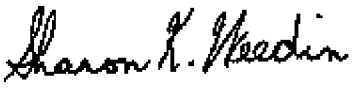
If the Court does not conclude that this is an appropriate case for probation, then Informant recommends an actual suspension with no leave to apply for reinstatement for six months.

CONCLUSION

Respondent Bluebaum violated multiple Rules of Professional Conduct, most seriously her failure to return promptly files to a former client in violation of Rule 4-1.16(d). Informant recommends that the Court suspend indefinitely Respondent's license to practice law with leave to file for reinstatement after two years, stay the suspension, and place Respondent on probation in accordance with the proposed Term and Conditions of Probation included in the Appendix.

Respectfully submitted,

ALAN D. PRATZEL #29141
Chief Disciplinary Counsel



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CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of December, 2013, a true and correct copy of the foregoing was served via the electronic filing system pursuant to Rule 103.08 on:

Peter Gabriel Bender
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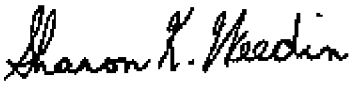
Attorney for Respondent



Sharon K. Weedin

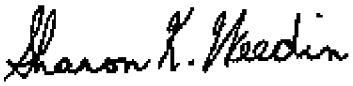
CERTIFICATION: RULE 84.06(c)

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 4,621 words, according to Microsoft Word, which is the word processing system used to prepare this brief.



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