IN THE SUPREME COURT
STATE OF MISSOURI

IN RE:	)	
	)	
JOBY J. RAINES	)	**Supreme Court #SC94449**
	)	
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

Procedural History

This matter was heard by a disciplinary hearing panel on May 7, 2014, in Sedalia. The case was heard on a three count third amended information. **App. 3-9.** Count I charged Respondent with violating Rule 4-8.4(b) by driving while intoxicated. Count II charged Respondent with violating Rule 4-1.4(a) by not complying with a client's request for an accounting for services he rendered her and Rule 4-1.16(d) by not refunding, after the client discharged him, a portion of an advance fee the client paid him. Count III charged Respondent with violating Rule 4-8.1(c) for not responding to disciplinary counsel's requests for information.

Respondent admitted in his answer that he "committed professional misconduct under Rule 4-8.4(a) as a result of committing a class B misdemeanor of driving while intoxicated on February 10, 2012." **App. 12.**[1] Respondent denied his Count II conduct violated any rules. Respondent admitted he violated Rule 4-8.1(c) as alleged in Count III.

The disciplinary hearing panel concluded Respondent violated all of the charged rules. The panel recommended that Respondent's license be suspended without leave to apply for reinstatement for six months. **App. 18-25.**

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[1] Respondent's counsel agreed that his answer to the second amended information would stand in the place of an answer to the third amended information. **App. 26 (T.3).**

Disciplinary counsel accepted the panel's decision; Respondent did not. Accordingly, the record was thereafter filed with the Court.

Count I

Respondent Joby Raines was admitted to the Bar in September of 2003. **App. 38 (T.49).** His first job after graduation was at a law firm in Springfield. **App. 32-33 (T. 28-29).** On November 30, 2003, the Springfield Police Department issued Respondent a ticket for driving while intoxicated. **App. 84.**

On July 23, 2004, the Springfield Police Department ticketed Respondent for driving while intoxicated, driving while his license was suspended, and speeding on city streets. **App. 110-111.**

On October 25, 2004, in the case that was initiated on November 30, 2003, Respondent pled guilty to driving with a blood alcohol content over .08 percent. He was sentenced to one year of supervised probation (although Respondent does not recall ever having to report to a probation officer) and ordered to pay a fine. **App. 38 (T. 49-50); 86.**

On January 31, 2006, Respondent pled guilty to the July 23, 2004, DWI charge (the speeding on city streets and driving while revoked charges were dismissed). He was ordered to pay a fine and received a suspended sentence to serve ninety days in the Greene County Jail. In addition, he was placed on two years unsupervised probation, ordered to complete the SATOP program, and ordered to perform community service. **App. 38 (T. 50-51); 102-103.**

The remaining facts supporting Count I are continued on page 9.

Public Reprimand

After working in the Springfield law firm for less than three years, Respondent opened a solo practice in Springfield. He maintained that office until late 2007, when he moved back to his hometown of Marshall, Missouri. In Marshall Respondent went to work for the Saline County Prosecuting Attorney, Don Stouffer, as an assistant prosecuting attorney and as an associate in Mr. Stouffer's law firm. **App.33 (T. 30).**

Mr. Stouffer discharged Respondent after a year and a half of employment because Stouffer became aware that Respondent was dating the wife of a man Stouffer was representing in a dissolution. Respondent was aware when he started dating the wife that Stouffer was representing her husband in the dissolution of their marriage. **App. 33 (T. 31).**

In an order dated January 26, 2011, the Supreme Court reprimanded Respondent for the conduct related to dating his firm's divorce client's spouse. *In re Raines*, SC91463. **App. 39 (T. 54-55); 112-113.** At the disciplinary hearing held in the instant matter, Respondent testified that he did not know which rules he had violated in getting the reprimand but that he knew what he did was wrong. **App. 39 (T. 54).** Respondent acknowledged he was reprimanded for violating the rule on client confidentiality (4-1.6), conflict of interest with current clients (4-1.7), and the rule requiring responses to disciplinary authorities' requests for information (4-8.1(c)).

Respondent had not reported the 2003 BAC case or the 2004 DWI case to disciplinary authorities. **App. 39-40 (T. 55-57).** Consequently, neither of those drunk driving cases were part of the 2011 reprimand case.

<u>Count II</u>

After being discharged by Mr. Stouffer, Respondent started a solo practice in Marshall. He does mostly criminal defense work. **App. 34 (T. 33).**

In late August of 2010, Peace Tetteh hired Respondent to represent her in a dissolution involving child custody. Ms. Tetteh works at the Marshall Habilitation Center as an aide. **App. 26-27 (T. 4-5).** She paid Respondent the $2,500.00 he told her the representation would cost. **App. 27 (T. 5-6).**

Ms. Tetteh discharged Respondent on July 10, 2012, and picked up her file a few days later. She did not believe Raines had done enough work to earn the full $2,500.00 she had paid him, so asked him for an accounting for his services. **App. 27 (T. 6-8), 34 (T. 33); 115-116.** Raines would not discuss the subject with her. **App. 27 (T. 8).** He never provided Ms. Tetteh with any sort of accounting for the services he performed for her. **App.38 (T. 52).**

Ms. Tetteh called the Missouri Bar Fee Dispute Resolution Committee a few days after she picked up her file from Respondent. **App. 28-29 (T. 12-13).** She completed a form and sent it to them. Ms. Tetteh was notified just before Christmas in 2012 that Raines had agreed to refund $1,800.00 to her. **App. 28 (T. 9).** Respondent recalls being contacted by the Fee Dispute Committee and agreeing to refund $1,800.00 to Ms. Tetteh.

App. 34 (T. 33-34), 39 (T. 53). Ms. Tetteh got a check for $1, 800.00 from Respondent on May 29, 2013. **App. 28 (T. 9).** The several months delay in getting the check to Ms. Tetteh was because it fell through the cracks on Respondent's end of the process. **App. 40 (T. 60-61).**

<u>Count I Continued</u>

On February 10, 2012, a felony complaint was filed in Saline County charging Respondent, as a persistent alcohol offender, with driving while intoxicated on that same date. The case was transferred to Lafayette County on a change of venue. Respondent initially pled not guilty, but withdrew that plea on September 17, 2012, and offered to plead guilty on that same date. The court took the offer under advisement and referred Respondent to a court program. *State v. Raines*, 12SA-CR0083-02. **App. 4, 11-12.**

In October of 2012, while a Drug Court participant, Respondent's submission in response to a random urinalysis showed the presence of alcohol. Judge Harvey, who heads the Drug Court in Saline County, thereupon ordered Respondent to wear an ankle monitoring device for sixty days. **App. 35 (T. 39-40).**

Respondent Raines successfully completed Drug Court in February or March of 2014. **App. 36 (T. 42-43).** Respondent testified at the disciplinary hearing that he "would have to say that" he is an alcoholic. He testified he is down to attending AA meetings once every couple of weeks. **App. 40 (T. 59).** On May 5, 2014, Respondent pled guilty to the class D misdemeanor of driving while intoxicated. He was given a suspended imposition of sentence and placed on two years supervised probation.

Count III

On August 27, 2012, disciplinary authorities mailed Respondent a letter informing him that Ms. Tetteh had filed a complaint against him and requesting his response to the complaint by September 10, 2012. Respondent Raines did not respond to disciplinary authorities' request for his response. **App. 39 (T. 55), 40 (T. 57).**

On September 19, 2012, disciplinary authorities again mailed Respondent a letter requesting information regarding the Tetteh complaint, as well as noting his failure to respond to the August 27 letter. Respondent Raines made no response to the September 19, 2012, letter's inquiries. **App. 39 (T. 55), 40 (T. 57).**

On November 27, 2012, a third letter was mailed by first class mail to Respondent. The letter advised Mr. Raines about his duty to provide Ms. Tetteh with an accounting of services he had rendered her, his obligation to return unearned fees to her, and his duty to respond to requests for information from disciplinary authorities. Respondent failed to provide any response to the November 27, 2012, letter. **App. 39 (T. 55), 40 (T. 57).**

Respondent did receive all the letters from disciplinary authorities, but did not respond to them. **App. 40 (T. 57).**

Respondent's Mitigating Evidence

Respondent produced the following witnesses who testified on his behalf: Associate Circuit Judge Hugh Harvey, Leonda Raines (his mother), Mark Gooden (Marshall's mayor), and George Wally (Saline County Sheriff).

Judge Harvey heads the Drug Court program in Saline County. **App. 42 (T. 67-68).** He accepted Respondent into the program and oversaw his successful completion of it. **App. 43 (T. 70-71).** He would like Respondent to join his Drug Court team as a defense attorney to provide the defense perspective. **App. 43 (T. 71-72).** If the team decided to remove a participant from the Drug Court program, Respondent would represent that participant at a hearing. **App. 45 (T. 80).** They have never had a defense attorney in the program, so they would have to find out what the conflicts of interest might be. **App. 45-46 (T. 80-81).** The judge was not aware of any part of the instant disciplinary case besides the driving while intoxicated issue. **App. 45 (T. 77-78).**

Leonda Raines is Respondent's mother and works in his law office as receptionist and bookkeeper. **App. 47 (T. 87).** She drove Respondent everywhere for a year while his license was suspended. **App. 48 (T. 90).**[2] She and Joby's father do not drink. She has never seen him drinking. She does not believe he drinks anymore. **App. 48 (T. 90-91).** She thinks the cruel ankle bracelet that he had to wear while in Drug Court changed him. Now he sings solos at church. **App. 49 (T. 94-95).**

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[2] Respondent refused to take a breathalyzer test when asked to do so on February 10, 2012. **App. 35 (T. 39)**. The Western District Court of Appeals affirmed the one year revocation for refusal to submit to a chemical test of his breath in *Raines v. Director of Revenue*, 391 S.W.3d 928 (Mo. App. 2013).

Wally George is Saline County Sheriff. He has been friends with the Raines family pretty much his whole life. **App. 51 (T. 101-102), 52 (T. 106).** He and Joby's mother and father are very close. Respondent has a good reputation. **App. 51 (T. 101).** The sheriff did not know about Respondent's 2011 reprimand from the Court. **App. 52 (T. 107).** Sheriff George calls Respondent a "good team member" who works as a team with the Sheriff's Department. **App. 50 (T. 99-100).** He believes he would know if Respondent were out in the bars drinking. **App. 51 (T. 102).**

Mark Gooden is Mayor of Marshall and a full-time pastor. He has known Respondent since he was a little boy and has known the family for years. **App. 46 (T. 82), 47 (T. 86).** The Raines family has been in Marshall for a long time. **App. 47 (T. 86).** Respondent is active in many community organizations like United Way and Rotary. **App. 46 (T. 83).** He has an excellent reputation as an attorney. He has a good personality and is a blessing to the community. **App. 46-47 (T. 84-85).** Mr. Gooden was not familiar with the allegations of misconduct. **App. 47 (T. 85-86).**

POINT RELIED ON

I.

THE SUPREME COURT SHOULD DISCIPLINE RESPONDENT BECAUSE HE HAS ADMITTED VIOLATING RULE 4-8.4(b) (COMMIT CRIMINAL ACT) AND RULE 4-8.1(c) (KNOWINGLY FAIL TO RESPOND TO REQUESTS FOR INFORMATION FROM DISCIPLINARY AUTHORITIES) AND HAS VIOLATED RULE 4-1.4(a) (COMPLY WITH CLIENT'S REASONABLE REQUEST FOR INFORMATION) AND 4-1.16(d) (UPON TERMINATION, TAKE REASONABLE STEPS TO RETURN UNEARNED FEE) IN THAT HE REFUSED TO DISCUSS WITH A CLIENT OR ACCOUNT FOR A FEE SHE PAID HIM AND DELAYED FIVE MONTHS IN PAYING A PORTION OF THE FEE HE AGREED TO REFUND HER.

In re Vails, 768 S.W.2d 78 (Mo. banc 1989)

In re Sullivan, 494 S.W.2d 329 (Mo. banc 1973)

POINT RELIED ON

II.

THE SUPREME COURT SHOULD SUSPEND RESPONDENT'S LICENSE WITHOUT LEAVE TO APPLY FOR REINSTATEMENT FOR AT LEAST SIX MONTHS BECAUSE HE VIOLATED MULTIPLE RULES OF PROFESSIONAL CONDUCT, NOTABLY THE RULE AGAINST COMMISSION OF A CRIMINAL ACT AND A RULE FOR WHICH HE HAS ALREADY RECEIVED A REPRIMAND, IN THAT HE HAS PLED GUILTY TO THREE DRUNK DRIVING INCIDENTS, HE HAS FAILED, ONCE AGAIN, TO RESPOND TO REQUESTS FOR INFORMATION FROM DISCIPLINARY AUTHORITIES, AND FAILED TO ACT ETHICALLY UPON A CLIENT'S TERMINATION OF A REPRESENTATION.

In re Stewart, 342 s.W.3d 307 (Mo. banc 2011)

In re Staab, 785 s.W.2d 551 (Mo. banc 1990)

ABA Standards for Imposing Lawyer Sanctions, Standard Rule 5.12

ARGUMENT

I.

THE SUPREME COURT SHOULD DISCIPLINE RESPONDENT BECAUSE HE HAS ADMITTED VIOLATING RULE 4-8.4(b) (COMMIT CRIMINAL ACT) AND RULE 4-8.1(c) (KNOWINGLY FAIL TO RESPOND TO REQUESTS FOR INFORMATION FROM DISCIPLINARY AUTHORITIES) AND HAS VIOLATED RULE 4-1.4(a) (COMPLY WITH CLIENT'S REASONABLE REQUEST FOR INFORMATION) AND 4-1.16(d) (UPON TERMINATION, TAKE REASONABLE STEPS TO RETURN UNEARNED FEE) IN THAT HE REFUSED TO DISCUSS WITH A CLIENT OR ACCOUNT FOR A FEE SHE PAID HIM AND DELAYED FIVE MONTHS IN PAYING A PORTION OF THE FEE HE AGREED TO REFUND HER.

Various and distinct acts of misconduct described in the Statement of Facts violate duties owed to a client (4-1.4 and 4-1.16), to the general public (4-8.4(b)), and to the legal profession (4-8.1(c)). Respondent has admitted that his three drunk driving convictions violate Rule 4-8.4(b). He has likewise admitted that his failure to respond to any of the letters disciplinary counsel sent him seeking his response to the Tetteh complaint violated Rule 4-8.1(c). He did not admit that his conduct when Ms. Tetteh terminated their attorney client relationship violated the charged rules, so discussion of the evidence adduced on that count is appropriate.

Charges of professional misconduct must be proven by a preponderance of evidence. The Court reviews the evidence de novo and draws its own legal conclusions. *In re Ehler*, 319 S.W.3d 442, 448 (Mo. banc 2010).

Ms. Tetteh is an aide at the Marshall Habilitation Center; her tasks include cleaning and feeding the residents. She hired Respondent in 2010 to represent her in a dissolution of marriage. She paid him $2,500.00 in a lump sum to represent her. Ms. Tetteh discharged Respondent on July 10, 2012. She did not think he had earned all of the $2,500.00, so she asked him to account for his services. Respondent would not discuss the issue with Ms. Tetteh. Ms. Tetteh sent Respondent an e-mail requesting that he "state services in writing and the refund due to me in writing." **App. 125.** Respondent never complied with her request.

Ms. Tetteh contacted the Missouri Bar Fee Dispute Resolution Committee shortly after she terminated Respondent as her attorney. Ms. Tetteh was contacted by the program a few days before Christmas in 2012 and told that Respondent would be refunding $1,800.00 to her. She did not, however, get a check from Respondent for that amount until May 29, 2013. Respondent testified that paying the money to Ms. Tetteh was something that slipped through the cracks, and the cracks were "clearly [on] my end."

Rule 4-1.4(a) states that a lawyer shall "promptly comply with reasonable requests for information." A client's request for an accounting of the lawyer's services is certainly reasonable. Not only is it reasonable, the Missouri Supreme Court has said that an "attorney should be ready and willing to make full disclosure to his client at any time concerning his actions in the conduct of a case and all developments therein." *In re Sullivan*, 494 S.W.2d 329, 335 (Mo. banc 1973). In *Sullivan*, the lawyer was paid $1,000.00 by the father of the client to defend his son in a criminal matter. The criminal charges were dismissed before the prosecutor was even aware that Sullivan was representing the client. Sullivan did not respond to the several letters and a telegram sent him requesting an accounting as to services rendered, prompting the language from the *Sullivan* decision as quoted above. Respondent's failure to provide an accounting or to communicate at all with Ms. Tetteh about the issue violated Rule 4-1.4(a)(2).

Rule 4-1.16(d) states that upon termination of a representation, an attorney "shall take steps to the extent reasonably practicable to protect a client's interests, such as . . . refunding any advance payment of fee . . . that has not been earned." Respondent Raines, like the attorney in *In re Vails*, 768 S.W.2d 78 (Mo. banc 1989), agreed to refund part of a fee to a client. The client in *Vails*, unhappy because Vails had failed to draft an agreement concerning property ownership rights as he had promised, sought return of the fee through a bar dispute process, much as Ms. Tetteh did in this case. Mr. Vails did not participate in the bar process, but did eventually agree to send the former client a refund and apology letter. The first check he sent her was returned for insufficient funds. He promised to send a second check by July 11, but did not do so until September 13. This Court found that Vails' inordinate delay in finally drafting the agreement and delivering it to the client, "coupled with the protracted disinclination to return the fee as promised," violated ethical rules. Respondent Raines' five month delay in sending Ms. Tetteh the promised refund is evidence of even more "protracted disinclination" to do what was promised, and required, by Rule 4-1.16.

It is noted that Ms. Tetteh's termination of the attorney client relationship and retrieval of her file did not relieve Respondent of his ethical duty to provide her with the information she had requested or to refund the unearned fee as promised. Rule 4-1.16(d) requires a lawyer to take all reasonable steps to mitigate the consequences to a client of the termination of a representation, even if the client ended the representation. See *In re Coleman*, 295 S.W.3d 857, 867 (Mo. banc 2009).

The evidence offered established violations of Rules 4-1.4(a)(2) and 4-1.16(d). The Court sanctioned lawyers for very similar conduct as Respondent committed here in *In re Vails* and *In re Sullivan*. Raines has admitted violating Rules 4-8.1(c) and 4-8.4(b). Respondent Raines has violated four distinct rules of professional conduct, thereby subjecting his license to sanction by the Court.

ARGUMENT

II.

THE SUPREME COURT SHOULD SUSPEND RESPONDENT'S LICENSE WITHOUT LEAVE TO APPLY FOR REINSTATEMENT FOR AT LEAST SIX MONTHS BECAUSE HE VIOLATED MULTIPLE RULES OF PROFESSIONAL CONDUCT, NOTABLY THE RULE AGAINST COMMISSION OF A CRIMINAL ACT AND A RULE FOR WHICH HE HAS ALREADY RECEIVED A REPRIMAND, IN THAT HE HAS PLED GUILTY TO THREE DRUNK DRIVING INCIDENTS, HE HAS FAILED, ONCE AGAIN, TO RESPOND TO REQUESTS FOR INFORMATION FROM DISCIPLINE AUTHORITIES, AND FAILED TO ACT ETHICALLY UPON A CLIENT'S TERMINATION OF A REPRESENTATION.

Disciplinary counsel recommended a six-month license suspension, not stayed, to the disciplinary hearing panel. Respondent's counsel acknowledged in his closing argument to the panel that suspension is the appropriate discipline, but argued that it should be stayed and Respondent placed on probation. The panel recommended a six-month (actual) license suspension to the Court. Suspension is the appropriate baseline sanction in a case of multiple drunk driving offenses. *In re Stewart*, 342 S.W.3d 307 (Mo. banc 2011); ABA Standards for Imposing Lawyer Sanctions, Standard Rule 5.12. Imposition of a six month suspension, not stayed, is urged in light of the quantity and nature of the rules violated, particularly in light of Respondent's prior reprimand, and this Court's precedent.

An actual, i.e., not stayed, license suspension is recommended because Respondent Raines has demonstrated repeatedly over the course of the first ten years of his licensure an unsettling lack of judgment regarding both the law and his personal integrity. Respondent's first drunk driving incident occurred just two months after he was sworn in as a licensed attorney. He drove drunk a second time before the first case was even resolved. He then pled guilty to the second drunk driving charge and received his second term of probation, all before the third anniversary of his licensure.

Respondent moved back to his hometown in late 2007 and went to work as an assistant prosecuting attorney and an associate in a law firm. Respondent's conduct, for which he received the 2011 reprimand in *In re Raines,* SC91463, occurred in 2009. The reprimand was for violating a client's confidences and engaging in a conflict of interest by dating the wife of a divorce client who his firm was representing. Importantly, the reprimand also included a violation of the rule requiring attorneys to respond to OCDC's requests for information. Respondent's 2003 and 2004 drunk driving incidents had not been reported OCDC, so the 2011 reprimand did not take that conduct into account.

Then, in early 2012, Respondent drove drunk for the third time. It was also in 2012 that Respondent refused to discuss with or account for services he provided Ms. Tetteh, and did not respond, yet again, to multiple letters OCDC sent him.

Respondent's failure to respond to disciplinary counsel's multiple letters requesting his response to Ms. Tetteh's complaint, in light of this Court's 2011 reprimand for violation of that same rule, is incomprehensible. Voluminous bank records were not being sought; rather, just a response to a fairly commonplace complaint. Yet, Respondent sent nothing. He testified at the hearing that when he got the letters he "froze," that "with everything that I was doing at the time with a full-time job, drug court, everything else; I just froze." **App. 40 (T. 57-58).** The Missouri Supreme Court has noted in a case where a lawyer provided a similar response for failing to respond to disciplinary counsel that such a failure to respond "casts doubt on the attorney's ability to represent others." *In re Staab*, 785 S.W.2d 551, 555 (Mo. banc 1990). Mr. Staab's self-described "severe panic attacks whenever he saw mail from the Bar Committee" did not "mitigate the seriousness of the offense." 785 S.W.2d at 554. The Court in *In re Tessler*, 783 S.W.2d 906 (Mo. banc 1990), noted as "particularly egregious" Tessler's failure to answer multiple letters from a disciplinary investigator. Indeed, because Raines was previously reprimanded for the same conduct, his failure to respond to correspondence from OCDC in this case should be considered willful.

The Court determined in *In re Stewart*, 342 S.W.3d 307 (Mo. banc 2011), that a stayed suspension was not warranted where an attorney had accumulated multiple drunk driving offenses. Respondent Raines' misconduct is almost indistinguishable from Mr.

Stewart's. Stewart had four drunk driving incidents;[3] Raines has three. Fortunately, neither case involved an injury accident, or vehicular collision.

Both Stewart and Raines professed a strong commitment to sobriety after their final drunk driving incident. Mr. Stewart was sentenced to sixty days shock time incarceration, followed by supervised probation that required drug and alcohol testing. He participated in extensive inpatient and outpatient treatments and attended numerous Alcoholic Anonymous meetings. Stewart was in full compliance with the terms of his criminal probation when the disciplinary Information was filed with the Court. 342 S.W.3d at 311.

Mr. Raines entered a Drug Court program in September of 2012. His urine tested positive for alcohol on one occasion while he was a Drug Court participant. He testified that he "would have to say" he is an alcoholic. At the time of the disciplinary hearing he was attending AA meetings once every couple of weeks. Respondent successfully completed the Drug Court program in February or March of 2014. An amended Information was filed on May 5, 2014, in *State v. Raines* charging Respondent with a class B misdemeanor, to which he pled guilty. He was given a suspended imposition of sentence and placed on a two year probation.

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[3] Stewart was initially charged with four DWIs, but one was removed from the Information filed in the criminal case at the time he pled guilty. 342 S.W.3d at 309.

Stewart had one prior brush with disciplinary authorities before the DWI Information was filed – an admonition for diligence and communication violations. Respondent, as previously discussed, has a reprimand from the Court.

The reasoning of the Court in denying a stayed suspension in *In re Stewart* applies equally to this case. Respondent has repeatedly violated the criminal statutes, showing thereby his indifference to his legal obligations. The three incidents implicate a reckless or knowing mental state. The nature of his offenses, i.e., drunk driving, likewise show his lack of regard for public safety. His conduct has a deleterious effect on the public's confidence in the legal system and the legal profession. Just as Mr. Stewart's good fortune in not being sentenced to a significant period of incarceration did not diminish the severity of his conduct for sanction assessment, Raines' good fortune (in a county where he grew up, where his family has been for a long time, and where his parents are good friends with the sheriff and mayor) in being accepted into the Drug Court program does not diminish his misconduct for the purpose of sanction analysis. "This Court must insist that attorneys be keenly aware of the parameters the law places on their conduct, and Stewart's repeated disregard for those boundaries simply cannot be excused." *In re Stewart*, 324 S.W.3d at 313.

Respondent is currently serving his third term of criminal probation. Another term of probation, in this disciplinary case, is not appropriate in light of the record of misconduct Respondent has produced over the years he has been licensed to practice law. His knowing, or at least reckless, violation of the drunk driving laws, as well as his willful, second, violation of Rule 4-8.1(c), mitigate against stayed suspension. Actual suspension, without leave to apply for reinstatement for six months, is the appropriate sanction.

CONCLUSION

Respondent's violation of multiple rules, rules that implicate duties he owed to a client, the public, and the legal profession, his willful violation of the rule requiring prompt responses to disciplinary authorities, his reckless or knowing violation of criminal statutes, and the aggravating effect of Respondent's prior reprimand all serve to substantiate imposition of a license suspension, not stayed, with no leave to apply for reinstatement for six months.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of October, 2014, the Informant's Brief was sent via the Missouri Supreme Court e-filing system to:

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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 4,700 words, according to Microsoft Word, which is the word processing system used to prepare this brief.

Sharon K. Weedin

Sharon K. Weedin