IN THE SUPREME COURT OF THE STATE OF MISSOURI

IN RE:	)	
	)	
BRANDON WILLIAMS,	)	
462 North Taylor, Suite 105	)	**Supreme Court No. SC96752**
Saint Louis, Missouri 63108	)	
	)	DHP-2016-015
MISSOURI BAR NO. 55307	)	
	)	
Respondent.	)	

RESPONDENT'S BRIEF

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STATEMENT OF JURISDICTION

Respondent agrees with and adopts Informant's Statement of Jurisdiction.

STATEMENT OF FACTS

Respondent Brandon Williams ("Mr. Williams") agrees with Informant's Statement of Facts, but provides additional facts for detail and context.[1] Of utmost importance, Mr. Williams takes full responsibility for the conduct which led to this proceeding, and is truly remorseful for causing any harm to the involved complainants.

Mr. Williams is an attorney admitted to practice law in the state of Missouri since September 17, 2003. Mr. Williams attended Washington University School of Law. He was a summer associate at Sandberg Phoenix after his first and second years of law school and, after graduation, was an associate at Sandberg Phoenix for almost two years, practicing in the business, business litigation, and products liability groups. Mr. Williams left the firm on excellent terms to open his own practice in the near north side of St. Louis to serve a community similar to the one he grew up in.

This disciplinary proceeding stems from the representation of two clients: Makayla Turner and Karina Kozhukharenko. Both cases were relatively small. Both clients were involved in minor automobile accidents which ultimately settled for $7,500 or less each.

Around the same time these cases arose, Mr. Williams experienced multiple family crises causing him to be absent from the office for large periods of time between 2013 and 2015. App. 113 (Tr.14). Mr. Williams's brother died suddenly in January of

[1] Respondent's Statement of Facts is largely derived from the Joint Stipulation of Facts, Joint Conclusions of Law, and Joint Recommended Discipline, provided in Appendix A188-A194 and admitted as Exhibit A at the DHP Hearing. Facts stemming from any other document will so indicate. Respondent uses the same citation method used by Informant.

2013 and then Mr. Williams's grandfather died in June of 2013. App. 114 (Tr. 15). Mr. Williams was close with both family members and had been raised for a time by his grandparents when he was younger. *Id.* He spent large periods of time in 2013 and 2014 living in Dallas supporting his grandmother and aunt. *Id.* Then, when Mr. Williams was starting to get back on his feet, his father died in a car accident one week before Mr. Williams's wedding in 2015. App. 151 (Tr. 52). Thus, 2013 through 2015 were extremely trying and difficult times in Mr. Williams's personal life.

During this period, Mr. Williams was not taking on additional clients. App. 114 (Tr. 15). He estimates he only had about 20 active matters in the 2013 to 2015 time frame. App. 119 (20). Because Mr. Williams was out of the office often, the routine office activities and non-legal work was largely done by Mr. Williams's paralegal. App. 118 (19). She had been working for him for four or five years and he placed a lot of trust in her. *Id.* In Mr. Williams's litigation cases that resulted in settlement, he often had his paralegal conclude the final steps in the settlement. App. 121 (22). Namely, Mr. Williams had his paralegal obtain the client's authorizations, deposit the checks, and pay the clients. *Id.* This had become routine procedure.

The Turner Complaint

Makayla Turner was involved in an automobile accident in 2013 when she was a minor. Because she was a minor, Makayla and her mother (Persaphanie) retained Mr. Williams to negotiate with the insurer and obtain a settlement. Mr. Williams was able to settle the case in late 2013 or early 2014 for $7,500. App. 116 (17). Mr. Williams informed Persaphanie Turner of the settlement and had her sign the settlement and

release agreement. Unknown to Mr. Williams, however, Makayla Turner turned eighteen and was no longer a minor by the time the settlement was reached. Therefore, Mr. Williams needed Makayla to sign the settlement and release agreement. That did not occur.

Because Mr. Williams was in Dallas taking care of family, he delegated to his paralegal the tasks of executing the settlement check, depositing the funds, and paying the client. Mr. Williams specifically instructed her to follow those instructions. App. 93 (Ans. 9). Unfortunately, she did not do so. His paralegal endorsed the check herself, deposited the funds into Mr. Williams's trust account, and did not pay the client. All of this occurred without Mr. Williams' knowledge or authorization.

Mr. Williams received a call from Persaphanie Turner in 2015 inquiring about the settlement funds. App. 162 (Tr. 63). Upon receiving the call, Mr. Williams "immediately tried to rectify it." App. 122 (Tr. 23). He paid the Turners the full $7,500 settlement, taking no fee. App. 123 (Tr. 24). This occurred twenty-two months after Mr. Williams's office received the funds. App. 187.

The Kozhukharenko Complaint

Mr. Williams was retained by Karina Kozhukharenko to negotiate with an insurer following an automobile accident. It was a minor accident with limited injury and questionable liability. By September of 2013, Mr. Williams negotiated a $3,750 settlement with the insurer. App. 116 (Tr. 17). Again, Mr. Williams's paralegal was tasked with concluding the settlement by having the client sign the settlement and release agreement, executing the settlement check, depositing the funds, and paying the client.

As was the case with the Turner matter, Mr. Williams was in Dallas and believed his paralegal would conclude the matter as instructed. She did not. The paralegal personally executed the agreement and endorsed the check. App. 165 (Tr. 66). The funds were then deposited into Mr. Williams's trust account and not paid to the client.

In 2015, Mr. Williams received a letter from Ms. Kozhukharenko's new counsel stating she had not been paid. Immediately upon receiving the letter, Mr. Williams investigated and retained counsel. App. 131 (Tr. 32). Negotiations began immediately and Mr. Williams agreed to pay Ms. Kozhukharenko $12,500, $8,750 more than the original settlement agreement. Mr. Williams agreed to pay this amount because he was "very sorry that [this] happened to Karina and [he's] glad she was able to settle the case [for] an amount that was satisfactory to her." App. 133 (Tr. 34).

Subsequent Events

Mr. Williams' efforts to make restitution began before Informant commenced its investigation of the Turner or Kozhukharenko matters. (Informant's Brief, p. 23). On his own initiative, Mr. Williams addressed both issues and began working towards a solution. He also immediately began reviewing the rest of the cases he handled during the 2013-2015 time period to ensure they were properly handled. App. 93 (Ans. 7). Mr. Williams fired the problematic employee. App. 91 (Ans. 3). And since that time, he has implemented new systems into his practice to ensure these issues never arise again. App. 34 (¶ 5). Such changes include limiting access to the bank account to only him and requiring all releases or other settlement documents to be notarized. *Id.* Finally, on OCDC recommendation, Mr. Williams completed a five-part webinar designed to

improve various law practice skills and procedures. App. 34 (¶ 6). Mr. Williams has taken the initiative after this misconduct to make both complainants whole and to improve his business practices to ensure such problems never arise again.

Throughout the OCDC investigation, Mr. Williams has been fully cooperative, as evidenced by the OCDC's willingness in the Informant's Brief to advocate for mitigation due to such cooperation. Moreover, Mr. Williams has taken full responsibility for his actions and for the damages incurred by both complainants. He has been willing to stipulate to the facts throughout the entire investigation and the subsequent hearings. When the OCDC recommended Mr. Williams receive an admonition for his conduct, he accepted the discipline. App. 192. Moreover, when the DHP recommended Mr. Williams receive probation with a one-year stayed suspension, he also accepted that discipline. App. 236. Mr. Williams has been fully cooperative, honest, and taken full responsibility throughout this entire process.

It has been nearly five years since these incidents occurred. During this time, Mr. Williams has received no other complaints in regards to his legal services, he terminated the employee who was involved, and he has improved his business practices to ensure against like occurrences.

POINTS RELIED ON

I. AS ADMITTED TO AND STIPULATED TO THROUGHOUT THIS PROCESS, RESPONDENT IS SUBJECT TO DISCIPLINE BECAUSE HE ENGAGED IN PROFESSIONAL MISCONDUCT IN VIOLATION OF THE RULES OF PROFESSIONAL CONDUCT.

Rule 4-1.15(d)

Rule 4-5.3(b)

II. DISCIPLINE EQUAL TO OR LESS THAN A ONE-YEAR STAYED SUSPENSION, WITH A PERIOD OF PROBATION, IS AN APPROPRIATE SANCTION BECAUSE:

a. MISSOURI CASE LAW SUPPORTS SUCH A SANCTION;

b. THE ABA STANDARDS SUPPORT SUCH A SANCTION;

c. THE AGGRAVATING FACTORS IN THIS CASE ARE MINIMAL;

d. THERE ARE NUMEROUS MITIGATING FACTORS IN SUPPORT OF A LESSER SANCTION; AND

e. THE RELEVANT FACTS INDICATE SUCH A SANCTION IS APPROPRIATE.

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

In re Kopf, 767 S.W.2d 20 (Mo. banc 1989).

In re Farris, 472 S.W.3d 549 (Mo. banc 2015).

In re Witte, 615 S.W.2d 421 (Mo. banc 1981).

Rule 5.225

ABA Standards for Imposing Lawyer Sanctions (1991 ed.)

ARGUMENT

I. AS ADMITTED TO AND STIPULATED TO THROUGHOUT THIS PROCESS, MR. WILLIAMS IS SUBJECT TO DISCIPLINE BECAUSE HE ENGAGED IN PROFESSIONAL MISCONDUCT IN VIOLATION OF THE RULES OF PROFESSIONAL CONDUCT.

From the beginning of this disciplinary proceeding and before, Mr. Williams has admitted to certain violations, taken responsibility for them, and made more than complete restitution. He has cooperated fully with the OCDC throughout.

After completion of the OCDC's thorough investigation, Mr. Williams stipulated to an appropriate discipline—an admonition—and admitted to the violations. The stipulation was rejected by the DHP.

After a hearing on the merits, the DHP issued its opinion which was flawed and misleading. Specifically, and contrary to the undisputed evidence, the DHP found an absence of mitigating factors and the presence of aggravating factors. These findings were contrary to the record and to the position of the OCDC. The DHP imposed a much higher level of discipline. Notwithstanding his disagreement, and knowing that the decision was unsupported by the record, Mr. Williams agreed to be bound by the decision in order to put this matter behind him and continue his practice.

From the beginning, Mr. Williams has stipulated to his violations of Rules 4-1.15(d) and 4-5.3(b). App. 190 (¶¶ 13-14).

1. Rule 4-1.15(d):

> Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as provided in Rules 4-1.145 to 4-1.155 or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

2. Rule 4-5.3(b):

> a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer

As for Rule 4-1.15(d), Mr. Williams admits he did not properly inform the Turners or Ms. Kozhukharenko of their settlements. He also admits he did not timely disburse their settlement funds. As for Rule 4-5.3(b), Mr. Williams fully acknowledges he did not properly supervise his paralegal. As the supervising attorney, Mr. Williams recognizes he is responsible for this conduct and he takes full responsibility.

II. DISCIPLINE EQUAL TO OR LESS THAN A ONE-YEAR STAYED SUSPENSION, WITH A PERIOD OF PROBATION, IS AN APPROPRIATE SANCTION BECAUSE:

A. MISSOURI CASE LAW SUPPORTS SUCH A SANCTION;

B. THE ABA STANDARDS SUPPORT SUCH A SANCTION;

C. THE AGGRAVATING FACTORS IN THIS CASE ARE MINIMAL;

D. THERE ARE NUMEROUS MITIGATING FACTORS IN SUPPORT OF A LESSER SANCTION; AND

E. THE RELEVANT FACTS INDICATE SUCH A SANCTION IS APPROPRIATE.

While the OCDC stipulated to an admonition and the DHP recommended a term of probation with a one-year stayed suspension, this Court is the ultimate arbiter of fact and law in regards to the imposition of attorney discipline. *In re Farris*, 472 S.W.3d 549, 557 (Mo. banc 2015). The Court should take into consideration OCDC's investigation and the findings made by the DHP, but the Court ultimately applies a *de novo* standard of review. *Id.*

When determining whether professional misconduct has occurred, the Court is to determine whether the evidence demonstrates a violation based upon a preponderance of the evidence. *In re Crews*, 159 S.W.3d 355, 358 (Mo. banc 2005). Then, when determining the appropriate discipline, the Court should consider its own decisions, the disciplinary rules, and the American Bar Association's *Standards for Imposing Lawyer*

Sanctions ("ABA Standards"). *In re Forck*, 418 S.W.3d 437, 441 (Mo. banc 2014); *In re Coleman*, 295 S.W.3d 857 (Mo. banc 2009). "The purpose of imposing discipline is not to punish the attorney, but to protect the public and maintain the integrity of the legal profession." *Forck*, 418 S.W.3d at 441.

Relevant Precedent Supports a Sanction Equal to or Less than Probation

Discipline such as a stayed suspension, probation, or an admonition are arguably appropriate in this case and would be supported by prior decisions from this Court. In *In re Coleman*, the Court imposed a stayed suspension with a one-year term of probation to an attorney with prior disciplinary violations who committed numerous additional violations in regards to settlement agreements. 295 S.W.3d 857 (Mo. banc 2009). The Court determined that Coleman violated rule 4-1.2 by accepting a settlement agreement without his client's consent, violated 4-1.7 by granting himself contractual rights to accept settlements without the client's consent, and violated rule 4-1.15 by comingling personal and client funds. *Id.* at 863. While these violations were serious, the Court determined Coleman's conduct did not stem from "an intent[] to violate the rules" and "his misconduct can [likely] be remedied by education and supervision." *Id.* at 871. Thus, the Court stayed execution of a suspension and placed Coleman on probation for one year. *Id.*

Moreover, in *In re Kopf*, this Court was presented with an extreme case of non-diligence involving an attorney who nonetheless appeared completely competent. 767 S.W.2d 20 (Mo. banc 1989). There, it took Kopf approximately five years to handle a fairly straight-forward step-parent adoption. *Id.* at 21. Kopf admitted he had violated the

rules of professional conduct through his lack of diligence, but explained that he suffered from severe anxiety and depression during this time period. *Id.* Besides the lack of diligence, the client had no complaints as for the attorney's performance of legal services. *Id.* at 22. Therefore, because Kopf was not acting with an intent to "obtain[] personal gain," had "taken measures to prevent [these issues] from affecting him in the future," had inflicted minimal harm, had charged no fee for his services, and appeared to be a competent attorney, the Court determined a public admonition was appropriate. *Id.* at 23.

These cases demonstrate that a large emphasis is placed on the lawyer's intent; it is an important factor in determining proper attorney discipline. In both cases, the Court recognized the attorneys' improper conduct did not appear to stem from any ill-will or desire to promote personal gain, and, therefore, the Court imposed less severe sanctions. Whenever an attorney is not "seek[ing] personal gain by his actions," the discipline imposed should be less severe. *In re Staab*, 719 S.W.2d 780, 784 (Mo. banc 1986). Therefore, the Court has stated, in cases involving what appears to be "isolated instances of misconduct" and in cases involving simple negligence, discipline such as a reprimand is more appropriate. *Id.*

Here, there has been no accusation that Mr. Williams's misconduct stemmed from a desire to further his own personal gain. Rather, on two isolated instances, close in time and involving similar situations, there was misconduct. Mr. Williams neglected his duties to ensure his staff carried out their jobs and properly handled these matters for his clients. As a result, the clients had to wait a longer period of time to receive their settlement funds. But besides having to wait for their money, Mr. Williams's clients

were not harmed in any other way. Neither complainant has raised an issue of Mr. Williams' competency.

While this Court (rightfully so) takes serious the misappropriation of client funds, this case does not involve the misappropriation of client funds. Black's Law Dictionary defines misappropriation as "[t]he application of another's property or money dishonestly to one's own use." (10th ed. 2014).

Here, neither the OCDC nor the DHP found that Mr. Williams misappropriated or improperly used client's money. Moreover, there was no finding of any dishonest motive, and neither entity found Mr. Williams applied the clients' money for his own personal uses. Mr. Williams admits his clients' money was not timely disbursed. But there was no misappropriation. He did not take either Ms. Turner's or Ms. Kozhukharenko's money and dishonestly use it for his own good. Rather, Mr. Williams trusted his clients' money with his long-time paralegal and failed to ensure she acted properly. As soon as Mr. Williams learned his clients had not received their money, he worked to remedy the problem and immediately made those funds available to his clients.

A more severe punishment is not appropriate here. Disbarment is only appropriate in the most extreme situations. For example, in *In re Farris*, the Court was presented with a situation where an attorney received $93,000 in settlement funds, placed the money in his operating account, and used the funds to pay office bills as well as personal expenses. 472 S.W.3d 549 (Mo. banc 2015). The Court found the attorney acted with a dishonest motive, obstructed the OCDC investigation, refused to acknowledge his wrongful conduct, and acted indifferent to making restitution. *Id.* at 565-66. As of the

date the Court's opinion was handed down, none of the client's money had been returned. *Id.* at 566. Therefore, this was a clear case of misappropriation with additional aggravating factors, and disbarment was appropriate.

Similarly, in *In re Witte*, the Court ordered disbarment when an attorney deposited settlement funds into his office and personal bank accounts, commingled those funds with his own money, declared those funds as income on his tax returns, used the entirety of the funds for personal use, and never delivered any part of the settlement proceeds to his client. 615 S.W.2d 421, 422 (Mo. banc 1981). This was clear misappropriation deserving disbarment. The intent to dishonestly use client funds for personal purposes is at the essence of the Court's disbarment decisions.

On the other hand, discipline such as probation may be more appropriate in this case. Missouri Supreme Court Rule 5.225(a)(2) outlines when probation is proper. Probation should be given whenever the lawyer: (A) is unlikely to harm the public by continuing to practice law while being supervised; (B) is able to practice law without causing the courts or the profession disrepute; and (C) has not committed acts warranting disbarment. Here, Mr. Williams has been practicing law for nearly five years since these disciplinary violations occurred and has not caused any other harm or disrepute to the public, the courts, and the profession. Thus, probation could be appropriate.

The ABA Standards Support a Sanction Equal to or Less than Probation

The Court often relies on the *ABA Standards for Imposing Lawyer Sanctions* when determining appropriate discipline in attorney discipline cases. *In re Crews*, 159 S.W.3d

at 360-61. Here, the guidelines related to "Violations of Duties Owed to Clients" are instructive.

The relevant conduct involved in this case does not neatly fall within any of the categories of "violations" listed by the ABA. However, Standard 4.1 "Failure to Preserve the Client's Property" provides some guidance. While Mr. Williams did not fail to preserve his client's funds, he did improperly handle his clients' funds. Under Standard 4.12, suspension is warranted whenever "a lawyer *knows or should know* that he is dealing improperly with client property and causes injury or potential injury to a client." On the other hand, reprimand is appropriate whenever "a lawyer is *negligent* in dealing with client property and causes injury or potential injury to a client." Therefore, a distinction arises between a knowing violation and a negligent violation.

Here, Mr. Williams received client settlement funds and directed his paralegal to finish the process. This task was straight forward. It only required obtaining the client's authorization of the settlement and release agreement, obtaining the client's endorsement of the settlement check, depositing the funds into the proper account, and paying the client. Mr. Williams's paralegal had been doing this process for years and he had no reason to believe it would be done any differently.

Unfortunately, the funds were not properly handled. Thus, the clients were not paid in a timely manner. While this was negligent, it was not more. He had no reason to believe these administrative matters would not be handled by his paralegal in accordance with the procedures she had used for years.

The ABA Standards involving "Lack of Diligence" may actually be more appropriate in this instance. Under Standard 4.42, suspension is appropriate whenever "a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client, or a lawyer engages in a pattern of negligence and causes injury or potential injury to a client." On the other hand, Standard 4.43 states that reprimand is appropriate whenever "a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client." The description for reprimand appears to nearly identically align with Mr. Williams' actions. Mr. Williams assigned administrative tasks to his paralegal, expected they would be done properly, and failed to act with reasonable diligence in catching his staff member's mistakes. Reprimand appears to be an appropriate sanction in this case.

Aggravating Factors

The DHP was simply wrong, and inexplicably so, in its findings of the existence of aggravating factors. In fact, these "findings" were directly contrary to the position the OCDC took at the hearing (Tr. 81) and in its stipulation for an admonition. Interestingly, the OCDC continues to disagree with and refutes the DHP in the Informant's brief.

Mr. Williams agrees with the Informant's Brief regarding the aggravating factors. Originally, the OCDC and Mr. Williams stipulated that no aggravating factors were involved in the case. The DHP decision, however, cites seven aggravating factors, but many of these factors are not recognized by the ABA, include misleading language, and are simply restatements of the misconduct involved.

Because Mr. Williams agrees with the Informant's Brief regarding aggravating factors, there is no need to restate each and every point made. However, a few points deserve additional emphasis. The first aggravating factor cited by the DHP involves the lack of minimal core competencies. The DHP asserts Mr. Williams failed to validly process and handle settlement funds and, in the process, demonstrated a lack of core competencies. The DHP fails to acknowledge, however, that Mr. Williams did specifically instruct his paralegal on these "core competencies," told her how to do these tasks, and instructed her to do them. Again, Mr. Williams should have supervised more closely, but he did nothing to demonstrate he was incapable of displaying core competencies. Rather, he was negligent in ensuring his staff members carried out their duties.

The DHP's second aggravating factor claims Ms. Turner and Ms. Kozhukharenko suffered serious injury because they were deprived of their funds for 18-22 months. While funds were not timely disbursed, the wording used is misleading in that the DHP suggests Mr. Williams knowingly and intentionally kept the funds from his clients. That is not true. Mr. Williams had no idea his clients had not received their settlement funds, and as soon as this was brought to his attention he immediately sought to rectify the situation and did so.

Finally, the DHP's fourth aggravating factor involves an assertion of "criminal acts," specifically forgery. But again, the DHP fails to acknowledge that no criminal charges were brought against Mr. Williams or his paralegal. There has been no allegation that Mr. Williams was involved in any criminal act, that he instructed his staff to carry

out any criminal acts, or that he was aware of any criminal acts occurring. When asked why he did not report his paralegal to the authorities, Mr. Williams' answer was that she is a single mother and he simply chose not to. Rather, he took responsibility.

Mitigating Factors

Again, inexplicably, the DHP found an absence of mitigating factors.[2] They were wrong.

Mr. Williams agrees with the Informant's Brief in relation to mitigating factors. Under the ABA Standards, many mitigating factors should be applied to this case based upon the stipulated facts:

1. Factor (b): "absence of a dishonest or selfish motive"
    a. There have been no allegations that Mr. Williams engaged in misconduct in order to engage in any kind of dishonest or selfish behavior.
2. Factor (c): "personal or emotional problems"
    a. Near the time of this misconduct, Mr. Williams had suddenly lost both his brother and his grandfather who helped raise him. Then, when Mr. Williams was beginning to get back on his feet, his father died just a week prior to Mr. Williams's scheduled wedding date.
    b. Because of these personal issues, Mr. Williams was out of town for long periods of time and placed too much trust in his paralegal to properly

[2] As with the aggravating factors, the DHP was clearly wrong regarding mitigating factors based on the undisputed record. The findings in both regards are not only wrong but misleading to this Court. Suffice it to say, the findings were contrary to the record and the OCDC's positions.

ensure these matters were handled. Mr. Williams should have been more attentive, but he allowed his personal circumstances and resultant problems to interfere with his role as a supervisor.

3. Factor (d): "timely good faith effort to make restitution or to rectify consequences of misconduct"

    a. As soon as Mr. Williams learned of the problems, he immediately took steps to rectify them. He engaged in good faith efforts to make restitution **before** the OCDC even got involved. Ultimately, both clients received the entirety of their funds, were charged no fees, and Mr. Williams paid Ms. Kozhukharenko over $8,000 more than she was due from the settlement.[3]

4. Factor (e): "full and free disclosure to disciplinary board or cooperative attitude toward proceedings"

    a. The OCDC states Mr. Williams has been fully cooperative, open, and honest about his misconduct throughout this entire process. He has always taken responsibility for his conduct and has willingly agreed to each of the prior recommendations for discipline (admonition and stayed suspension).

5. Factor (g): "character or reputation"

    a. The OCDC recognizes Mr. Williams has developed a positive reputation as a lawyer and as a member of the St. Louis community. Mr. Williams serves on the Board of Family & Workforce Centers of American and Better Family Life. Both are voluntary positions. He is also the primary

[3] This is a classic mitigating factor ignored by the DHP.

custodial parent of his daughter, Chase, who is a student at Parkway Central High School. (L.F. 45-149)

6. Factor (l): "remorse"

    a. Mr. Williams has taken responsibility for his actions and is remorseful. That is why he immediately sought to rectify the situation, willingly paid the clients more than they were originally due, fired the problematic staff member, and implemented additional procedures to ensure this does not happen again.

In addition to these mitigating factors, it should be noted that this misconduct occurred nearly five years ago and since that time no additional complaints have been made. Mr. Williams has changed the practices of his office to prevent such occurrences. The totality of the evidence points to a competent and respected attorney who experienced some personal tragedies and placed too much trust in his staff. Mr. Williams fully acknowledges his misconduct and takes complete responsibility.

CONCLUSION

Mr. Williams and the OCDC stipulated to Mr. Williams' violations of Rule 4-1.15(d) by not promptly disbursing client funds and Rule 4-5.3(b) by failing to properly supervise his assistant and agreed to an admonition. Based on the record, this is an appropriate resolution. Taking into consideration the aggravating and mitigating factors, and applying the ABA Standards in conjunction with prior disciplinary decisions, Mr. Williams respectfully requests this Court impose the sanction of a public admonition.

However, Mr. Williams, after the DHP's decision, stipulated to the recommended discipline. He will stand by that stipulation if this Court deems it appropriate.

Respectfully submitted,

SANDBERG, PHOENIX & von GONTARD

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CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of March, 2018, the Mr. Williams's Brief was sent to Informant's counsel via the Missouri Supreme Court e-filing system to:

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CERTIFICATE OF COMPLIANCE

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 5,298 words, according to Microsoft Word, which is the word processing system used to prepare this brief.

/s/ Cody Hagan