

1 Columbus Bar Association v. Blankenship.

2 [Cite as Columbus Bar Assn. v. Blankenship (1996), \_\_\_\_\_Ohio

3 St.3d \_\_\_\_\_.]

4 *Attorneys at law -- Misconduct -- Indefinite suspension -- Neglect of*  
5 *an entrusted legal matter -- Failure to carry out contract of*  
6 *employment -- Causing prejudice or damage to a client --*  
7 *Attempt to exonerate or limit liability for malpractice -- Failure*  
8 *to maintain client funds -- Failure to pay and deliver client*  
9 *funds -- Charging a clearly excessive fee -- Engaging in*  
10 *conduct adversely reflecting on fitness to practice law --*  
11 *Engaging in conduct involving deceit or misrepresentation --*  
12 *Conduct prejudicial to the administration of justice --*  
13 *Neglecting or refusing to assist in disciplinary investigation.*

14 (No. 95-1200--Submitted November 15, 1995--Decided February 28,  
15 1996.)

16 On Certified Report by the Board of Commissioners on Grievances

17 and Discipline of the Supreme Court, No. 94-70.

18 On October 17, 1994, relator, Columbus Bar Association, charged

19 respondent, Jeffrey A. Blankenship of Columbus, Ohio, Attorney

20 Registration No. 0014764, with seven counts of professional misconduct.

21 Respondent was served with notice of the complaint, but did not answer. A

1 panel of the Board of Commissioners on Grievances and Discipline of the  
2 Supreme Court (“board”) heard the matter on relator’s motion for default,  
3 filed pursuant to Gov.Bar R. V(6)(F) and 9(G)(2). A copy of the motion for  
4 default was sent to respondent by regular mail, but he did not reply.

5 The panel found that relator’s motion for default judgment was well  
6 taken and that all of the allegations in the complaint were meritorious. The  
7 complaint alleged, and the evidence attached to the default motion  
8 established, the following.

9 As to Count One, respondent undertook in October 1991 to represent  
10 Laura Silvey in a custody matter. In January 1992, he assured her he would  
11 immediately file her case. By May 1992, respondent had not initiated any  
12 necessary legal action on his client’s behalf, and she fired him. As a result,  
13 she incurred expenses for successor counsel and possible lost child support.  
14 After she filed a grievance, respondent paid Silvey money and required her  
15 to sign a release of claims. The panel found that respondent’s conduct  
16 violated DR 6-101(A)(3)(neglect of entrusted legal matter), 7-  
17 101(A)(2)(failure to carry out contract of employment), 7-

1 101(A)(3)(causing prejudice or damage to a client), and 6-102(A)(attempt to  
2 exonerate or limit liability for malpractice).

3 As to Count Two, in January 1993, respondent represented Robert  
4 Rist in a court case, and Rist gave him money to cover certain court costs.  
5 Respondent gave the court clerk a check, on his office account, but the bank  
6 returned the check marked "NSF." A friend of Rist's advanced her own  
7 funds to pay these costs, together with the bank's returned check fee, but  
8 respondent refused to reimburse these costs. The panel found that  
9 respondent's conduct violated DR 9-102(B)(3)(failure to maintain client  
10 funds) and 9-102(B)(4)(failure to pay and deliver client funds).

11 As to Count Three, respondent represented Daryl Brown and Bernard  
12 Brown for claims arising out of a 1987 automobile accident. The Browns'  
13 case was dismissed for want of prosecution, and a subsequent appeal was  
14 also dismissed. The Browns secured a \$35,000 default judgment against  
15 respondent for malpractice, but respondent did not pay that judgment.  
16 Thereafter, respondent filed for bankruptcy and sought to discharge this  
17 debt, but his bankruptcy suit was dismissed. Respondent then negotiated a  
18 settlement with the Browns, but thereafter filed successive bankruptcy

1 actions in efforts to frustrate foreclosure proceedings to collect the debt. A  
2 substantial portion of his settlement debt to the Browns remains unpaid.  
3 The panel found respondent violated DR 6-101(A)(3), 7-101(A)(2) and (3),  
4 and 6-102(A).

5 As to Count Four, in September 1993, Gerald Swank paid the  
6 respondent a retainer and deposit for court costs to file a bankruptcy action.  
7 By December 1993, respondent had all the information and materials  
8 necessary to file that action. As of August 1, 1994, respondent had not filed  
9 the petition despite his client's repeated requests to do so. Thereafter,  
10 Swank sued respondent to recover his fees and deposit for costs. The panel  
11 found respondent's conduct violated DR 2-106(charging clearly excessive  
12 fee), 6-101(A)(3), 7-101(A)(2) and (3), and 9-102(B)(4).

13 As to Count Five, respondent was in-state co-counsel for the personal  
14 injury claims of Andrew Kalmanowicz arising from a July 1989 automobile  
15 accident. After filing the case, just prior to expiration of the statute of  
16 limitations, respondent failed to conduct discovery or prepare the case for  
17 trial. When the case was assigned for trial in June 1992, respondent  
18 dismissed the case without notice to his client or co-counsel. A year later,

1 respondent refiled the case, but did nothing to prepare for trial. The trial  
2 was scheduled for July 1994, but respondent again failed to notify co-  
3 counsel or his client.

4 As a result of respondent's inattention, Kalmanowicz's damage  
5 claims have been substantially compromised. Respondent also refused and  
6 neglected to provide information and records about this case to co-counsel  
7 or his client. As of October 1994, respondent failed to return all files to his  
8 client or co-counsel, although respondent had been fired. The panel found  
9 respondent's conduct violated DR 6-101(A)(3), 7-101(A)(2) and (3), and 9-  
10 102(B)(4).

11 As to Count Six, Carl Ransbottom hired respondent on January 6,  
12 1994, to file a bankruptcy on his behalf, and respondent received attorney  
13 fees and court costs to file this action. His client also informed respondent  
14 that there were two lawsuits against the client and the client's wife, that a  
15 January 20 hearing was scheduled, and that certain defenses and  
16 counterclaims existed as to these two actions. Respondent failed to file the  
17 bankruptcy action before January 20, as agreed, and failed to take other  
18 action to protect his client, or his client's wife, as agreed. As a

1 consequence, default judgments were taken against his client and his  
2 client's wife on January 20. In late January 1994, respondent assured his  
3 client that the bankruptcy had been filed and arrangements had been made  
4 with the judgment creditors. On February 10, 1994, his client learned the  
5 bankruptcy had not been filed. When confronted, respondent claimed the  
6 forms had been lost in the mail or by the court. Further, respondent made  
7 disparaging and unprofessional remarks to his client and failed to return the  
8 client's fees and deposit for costs. The panel found respondent's conduct  
9 had violated DR1-102(A)(4) (engaging in conduct involving deceit or  
10 misrepresentation), 1-102(A)(6) (engaging in conduct adversely reflecting  
11 on fitness to practice law), 2-106(A), 6-101(A)(3), 7-101(A)(2) and (3), and  
12 9-102(B)(4).

13 As to Count Seven, respondent repeatedly ignored investigative  
14 requests made by relator and by this court's Disciplinary Counsel relating to  
15 grievances by his clients against him. Respondent also failed to provide  
16 certain documents from his files relating to the grievances, despite  
17 numerous promises to do so. Thus, respondent exhibited a pattern and  
18 practice of neglecting or refusing to cooperate with disciplinary

1 investigations. As a result, the panel found respondent's conduct had  
2 violated DR 1-102(A)(5)(conduct prejudicial to the administration of  
3 justice), 1-102(A)(6), and Gov.Bar R. V(4)(G)(neglecting or refusing to  
4 assist an investigation).

5 In additon to these findings and conclusions, the panel noted that  
6 respondent had refused to cooperate with relator and offered no explanation  
7 for his conduct or mitigating evidence. Relator sought an indefinite  
8 suspension, and the panel recommended that respondent be suspended  
9 indefinitely from the practice of law in Ohio. The board adopted the  
10 findings, conclusions of law, and recommendation of the panel and further  
11 recommended that costs be taxed to respondent.

12 On June 15, 1995, the board certified the proceedings to this  
13 court, and on June 19, 1995, we issued a show cause order to respondent.  
14 On July 31, 1995, respondent filed objections to the board's findings of fact,  
15 conclusions of law, and recommendation. Counsel for respondent asserts  
16 that respondent has been adversely affected by a severe problem with  
17 alcohol for a number of years. As a result, respondent was unwilling and  
18 unable to deal adequately with his personal and professional life.

1 Subsequent to the default judgment, his counsel claims respondent has now  
2 begun to resolve his alcohol problem in earnest. At oral argument,  
3 respondent's counsel urged the court to suspend proceedings so respondent  
4 could be placed on probation.

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6 *Schwartz, Kelm, Warren & Ramirez and Nelson E. Genshaft; Zeiger*  
7 *& Carpenter and Jeffrey A. Lipps; and Bruce A. Campbell, for relator.*

8 *R. Joshua Brown, for respondent.*

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10 *Per Curiam.* Having reviewed the record, we concur in the  
11 board's findings and its recommendation. Relator's complaint was served  
12 upon respondent in October 1994, but respondent did not interpose a  
13 response until July 31, 1995, and then only at the last moment before us. As  
14 relator points out, "To allow the Respondent to ignore \*\*\* these  
15 proceedings and now to blithely suggest -- ten months \* \* \* [later] - - that  
16 the process begin again, would be to totally disregard the public and  
17 professional obligations of the disciplinary system." Moreover, respondent  
18 has repeatedly failed to perform legal services for which he accepted

1 responsibility, misused client funds, and compromised his clients' legal  
2 interests.

3 Accordingly, we order that respondent be indefinitely suspended from  
4 the practice of law in Ohio. Costs taxed to respondent.

5 *Judgment accordingly.*

6 MOYER, C.J., DOUGLAS, WRIGHT, RESNICK, F.E. SWEENEY and  
7 PFEIFER, JJ., concur.

8 COOK, J., dissents and would disbar.

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