

BEFORE THE BOARD OF PROFESSIONAL CONDUCT
OF THE SUPREME COURT OF OHIO

Disciplinary Counsel
65 East State Street, Suite 1510
Columbus, Ohio 43215-4215

Relator,

v.

Case No. 2020-021

Jessica Anne Mager, Esq.
Attorney Registration No. 0073766
Taft Stettinius & Hollister
65 East State Street, Suite 1000
Columbus, Ohio 43215

FILED

AUG 27 2021

BOARD OF PROFESSIONAL CONDUCT

Respondent.

Complaint and Certificate

Relator, Disciplinary Counsel, alleges that respondent, Jessica Anne Mager, an attorney at law, duly admitted to the practice of law in the state of Ohio, violated the Ohio Rules of Professional Conduct by exchanging sexually explicit text messages with a client and engaging in sexual activity with that same client.

1. The Supreme Court of Ohio admitted respondent to the practice of law on November 13, 2001.
2. Respondent is subject to the Ohio Rules of Professional Conduct and the Supreme Court Rules for the Government of the Bar of Ohio.

3. On or about September 13, 2019, C.O. retained respondent to represent him in a divorce from his wife, J.O.¹
4. As was her practice, respondent provided C.O. with her cell phone number so that he could contact respondent about his case.
5. On September 19, 2019, respondent filed a Complaint for Divorce with Children and other related documents on behalf of C.O. in the Delaware County Court of Common Pleas.
6. On September 25, 2019, respondent met with C.O. to discuss the case. As a result of this meeting, respondent prepared an Amended Affidavit of Income and Expenses and an Amended Parenting Supplemental Information Affidavit, which she filed on October 9, 2019.
7. On October 13, 2019, respondent met C.O. at a local restaurant where they discussed personal matters over the meal.
8. On October 14, 2019, respondent met with opposing counsel and discussed several issues related to the case, such as child support, sale of the marital residence, the possibility of joint counseling, and selection of a guardian ad litem.
9. During the week of October 14, 2019, respondent spoke to C.O. several times regarding her conversation with opposing counsel and other issues pertinent to the case. During these conversations, respondent and C.O. discussed personal matters, such as their mutual interest in sports and the fact that respondent was going to run in the Columbus Marathon on Sunday, October 20, 2019. Throughout the week, the conversations became

¹ Initials have been used to protect the privacy of C.O. (now deceased), J.O., and their respective families.

increasingly personal, as reflected in text messages that respondent and C.O. also exchanged.

10. For instance, on October 17, 2019, respondent and C.O. exchanged the following text messages²:

Respondent: Can we go on like a normal date, like ever !?

C.O.: Yes like 4ever and ever if u want me[.] But I'll probably have a chew n at sometime[.] Lol

Respondent: I want to invite you to stuff but I feel like I can't.

C.O.: U can and I want u 2 damnit

Respondent: Really?

C.O.: Yes

Respondent: Okay ready ? It's non stop [C.O.]

C.O.: Yep let's do it

11. On October 18, 2019, respondent and C.O. exchanged additional text messages, including the following:

Respondent: I hope I get to see you next Friday night I want to see your face when u see my costume!

C.O.: Lol hopefully I'll get 2

Respondent: Are u guys busy today

C.O.: Not yet. Getting ready 2 look at a job

Respondent: I'm showering if you want to ft me³

² Except where noted, all text messages are quoted verbatim.

³ Ft stands for Facetime, which is Apple's real time video and chatting application.

Respondent: Your obviously on my mind too

C.O.: Good

Respondent: Good?! We really aren't supposed to be doing this

C.O.: I dnt care I like you[.] And I'm kinda falling 4 ya

Respondent: You don't know yet[.] But you can and it would be cute

12. On October 19, 2019, the day before respondent was to run in the Columbus Marathon, respondent and C.O. exchanged the following text messages expressing their feelings for one another:

C.O.: I miss u. I want 2 c u 2nite

Respondent: Good morning. We can do something later I'm just gonna try to get to bed early again.

C.O.: Ok. I won't bug u 2nite. I knw u got ur thing 2mor morn.

Respondent: You don't bug me. I slept perfectly after you left. And I miss you too.

C.O.: Good. I think I want u 4ever:)

Respondent: I'm glad.

Respondent: Hey honey.

C.O.: Miss u

Respondent: You too[.] Do u still want to do dinner[?] I can't eat past 7

C.O.: It's up 2 u. I should be there abt 5 or 6

Respondent: That should work[.] But if your tired from getting up early we can do another time

C.O.: I'm good. U dnt want me to come do u

Respondent: I absolutely do. I asked you

13. During the evening of October 19, 2019, C.O. went to respondent's house. They had dinner, drank wine, and engaged in sexual intercourse.
14. On the morning of October 20, 2019, respondent left the house early to run in the marathon. She texted C.O., "Thanks for making my night wonderful."
15. Throughout the day on October 20, 2019 and continuing on October 21, 2019, respondent and C.O. texted each other about their budding relationship and their intentions to continue it into the future. For instance, respondent texted C.O. the following:
 - "I'm saying you seem to be able to make love to me like we've been together for a long time. You seem to know how to be caring and sensitive. Just keep doing that."
 - "I do want you and I do want to see where it goes. I think I have said that and my actions support what I am saying."
 - "I want to date just you. Yes I like you. Yes I like being with and around you. Yes you should make time for us and yes I want to also. Yes you should stop refusing to shower w me when I ask. I love that. Like love it."
16. Later in the morning of October 21, 2019, J.O. and C.O. had a verbal and physical altercation at the marital residence. After J.O. fled and notified law enforcement, C.O. was found deceased in the marital residence. His death was determined to be a suicide.
17. Respondent's conduct violated the Rules of Professional Conduct, specifically Prof.Cond.R. 1.8(j) [prohibiting a lawyer from soliciting or engaging in sexual activity with a client unless a consensual relationship existed between them when the client-lawyer relationship commenced] by exchanging sexually explicit text messages with C.O. and by engaging in sexual intercourse with C.O.

Conclusion

Relator requests that respondent be found in violation of the Ohio Rules of Professional Conduct and be sanctioned accordingly.

Respectfully submitted,

/s Joseph M. Caligiuri

Joseph M. Caligiuri (0074786)

Disciplinary Counsel

Relator

/s Audrey E. Varwig

Audrey E. Varwig (0073265)

Karen H. Osmond (0082202)

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Counsel for Relator

Certificate

The undersigned, Joseph M. Caligiuri, Disciplinary Counsel, hereby certifies that Audrey E. Varwig and Karen H. Osmond are authorized to represent relator in the action and have accepted the responsibility of prosecuting the complaint to its conclusion.

Dated: August 26, 2021

/s Joseph M. Caligiuri
Joseph M. Caligiuri (0074786)
Disciplinary Counsel

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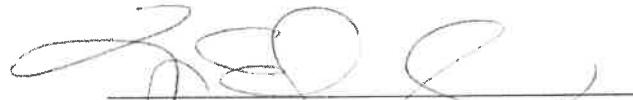
Jessica Mager, Esq.
Attorney Registration No. 0073766

Respondent.

Waiver of Probable Cause

Per Gov.Bar R. V(11)(B), respondent stipulates that there is probable cause for filing a complaint and waives the determination of probable cause by a Probable Cause Panel of the Board of Professional Conduct.

Dated: AUGUST 26, 2021



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