

In the Indiana Supreme Court

In the Matter of: Dave C. Bromund,
Respondent

Supreme Court Case No.
20S-DI-708



Published Order Approving Statement of Circumstances and Conditional Agreement for Discipline

Pursuant to Indiana Admission and Discipline Rule 23(12.1)(b), the Indiana Supreme Court Disciplinary Commission and Respondent have submitted for approval a “Statement of Circumstances and Conditional Agreement for Discipline” stipulating agreed facts and proposed discipline as summarized below.

Stipulated Facts: “Dr. T” was a surgeon with a regional “Health System” and the leader of “Surgical Group.” Respondent initially represented both Dr. T and Surgical Group.

In 2007, Surgical Group and Health System incorporated a business organization (“Institute”) to manage Health System’s surgery program. Dr. T was chief medical officer for Institute and responsible for matters of surgeon compensation. That same year, Institute, Health System, and an affiliated school of medicine entered into a “Collaboration Agreement.” That agreement in turn was subject to the provisions of several other agreements executed by various parties, including a “MTSA” between Health System and Institute, a “MMSA” between Institute and Dr. T, and a “PTSA” between Institute and Surgical Group. Each party to the Collaboration Agreement was represented by separate counsel. After all of these agreements were executed though, Respondent became Institute’s outside counsel. When all of the surgeons later became employees of a separate entity (“USI”), the Surgical Group assigned the PTSA to USI.

In late 2015, Dr. T announced his intention to move his practice out of state. Prior to his resignation, Dr. T believed Institute owed him several million dollars in back pay, but Dr. T was amenable to settling with Institute for \$1 million in the interest of expediency. Dr. T consulted with the Institute’s chief operating officer and his surgeon colleagues, who thought this amount was acceptable, but did not formally consult with the Institute’s Board of Directors. Dr. T consulted with Respondent (as Institute’s counsel), who advised that Dr. T had the authority to make the payment and that Health System did not have the authority to block the payment. Respondent also believed, based on documents he had reviewed, that Dr. T was owed several million dollars in back pay under the MMSA and that a \$1 million settlement would be in Institute’s best interests.

When Dr. T attempted to have \$1 million transferred from Institute to USI, Health System blocked the transfer. Respondent then told Dr. T he could not represent him individually but could assist Institute to resolve its dispute with Health System, and Dr. T retained separate counsel. Dr. T never signed a conflict waiver for Respondent.

Respondent then drafted a demand letter for Dr. T to Institute and USI with a copy to Health System, which was intended to persuade Health System to bless the \$1 million settlement. At Respondent's suggestion Dr. T gave this draft letter to his counsel, who then finalized and sent the letter to Institute, USI, and Health System. Respondent took no action on behalf of USI after USI received the letter. Dr. T never sought permission from Institute's Board for Respondent to send the demand letter, and Health System never sought permission from the Board to block payment.

After negotiations between Health System and Dr. T were unsuccessful, the dispute was submitted to arbitration. Respondent did not represent Dr. T or Institute in the negotiations or arbitration.

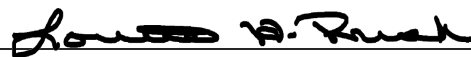
Violations: The parties agree that Respondent violated these Indiana Professional Conduct Rules prohibiting the following misconduct:

- 1.7(a): Representing a client when the representation involves a concurrent conflict of interest.
- 1.9(a): Representing a client in a matter in which that client's interests are materially adverse to the interests of a former client without the former client's informed consent.

Discipline: The parties propose the appropriate discipline is a public reprimand. This discipline is consistent with that imposed in other cases involving similar misconduct. *See Matter of Kirsh*, 83 N.E.3d 699 (Ind. 2017); *Matter of Hatcher*, 42 N.E.3d 80 (Ind. 2015). The Court, having considered the submissions of the parties, now approves the agreed discipline and imposes a **public reprimand** for Respondent's misconduct.

The costs of this proceeding are assessed against Respondent.

Done at Indianapolis, Indiana, on 4/19/2021.



Loretta H. Rush
Chief Justice of Indiana

All Justices concur, except Slaughter, J., who is not participating.