

IN THE SUPREME COURT OF PENNSYLVANIA

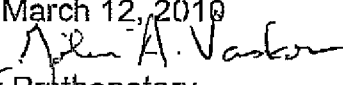
OFFICE OF DISCIPLINARY COUNSEL, : No. 1576 Disciplinary Docket No. 3  
Petitioner :  
 :  
 :  
v. : No. 106 DB 2009  
 :  
 :  
GREGORY DAVID MacFARLANE, : Attorney Registration No. 161451  
Respondent : (Philadelphia)

ORDER

PER CURIAM:

AND NOW, this 12<sup>th</sup> day of March, 2010, there having been filed with this Court by Gregory David MacFarlane his verified Statement of Resignation dated January 19, 2010, stating that he desires to resign from the Bar of the Commonwealth of Pennsylvania in accordance with the provisions of Rule 215, Pa.R.D.E., it is

ORDERED that the resignation of Gregory David MacFarlane is accepted; he is disbarred on consent from the Bar of the Commonwealth of Pennsylvania; and he shall comply with the provisions of Rule 217, Pa.R.D.E. Respondent shall pay costs, if any, to the Disciplinary Board pursuant to Rule 208(g), Pa.R.D.E.

A True Copy John A. Vaskov  
As of: March 12, 2010  
Attest:   
Deputy Prothonotary  
Supreme Court of Pennsylvania

**BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL	:	No. 106 DB 2009
Petitioner	:	
	:	
v.	:	Attorney Registration No. 161451
	:	
GREGORY DAVID MACFARLANE	:	
Respondent	:	(Philadelphia)

**RESIGNATION BY RESPONDENT**

Pursuant to Rule 215  
of the Pennsylvania Rules of Disciplinary Enforcement

BEFORE THE DISCIPLINARY BOARD OF  
THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :

Petitioner :

:  
: No. 106 DB 2009

v. :

: Atty. Registration No. 161451

GREGORY DAVID MacFARLANE, :

Respondent : (Philadelphia)

RESIGNATION  
UNDER Pa.R.D.E. 215

GREGORY DAVID MacFARLANE, Esquire, hereby tenders his unconditional resignation from the practice of law in the Commonwealth of Pennsylvania in conformity with Pa.R.D.E. 215 ("Enforcement Rules") and further states as follows:

1. He is an attorney admitted in the Commonwealth of Pennsylvania, having been admitted to the bar on February 6, 2006. His attorney registration number is 161451.

2. He desires to submit his resignation as a member of said bar.

3. His resignation is freely and voluntarily rendered; he is not being subjected to coercion or duress; and he is fully aware of the implications of submitting this resignation.

4. He is aware that there is presently pending an investigation into allegations that he has been guilty of

misconduct, the nature of which allegations have been made known to him by service of a Petition for Discipline filed with the Disciplinary Board on July 13, 2009 and docketed at 106 DB 2009, a true and correct copy of which is attached hereto, made a part hereof, and marked Exhibit "A."

5. He is aware of an additional complaint filed against him from a former client of Respondent, which is currently being investigated by ODC, which is as follows:

- a. C1-09-1258, wherein Louise Fleming alleges that Respondent failed to prosecute her personal injury action following a denial of her claim at an arbitration hearing, despite Respondent having filed an appeal from the arbitration award. Fleming alleges that based upon Respondent's failure to pursue the appeal, the personal injury action was dismissed.

6. He acknowledges that the material facts upon which the allegations of complaint contained in Exhibit "A" are based are true.

7. He submits the within resignation because he knows that he could not successfully defend himself against

the charges of professional misconduct set forth in the attached exhibit.

8. He is fully aware that the submission of this Resignation Statement is irrevocable and that he can only apply for reinstatement to the practice of law pursuant to the provisions of Enforcement Rule 218(c).

9. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant proceeding. He has willingly and voluntarily determined not to employ counsel in connection with his decision to execute the within resignation.

It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S., Section 4904 (relating to unsworn falsification to authorities).

Signed this 19<sup>th</sup> day of January, 2010.

  
\_\_\_\_\_  
Gregory David MacFarlane

WITNESS: 

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :

Petitioner :

: No. 1060 DB 2009

v. :

: Atty. Reg. No. 161451

GREGORY DAVID MacFARLANE, :

Respondent : (Philadelphia)

PETITION FOR DISCIPLINE

Petitioner, Office of Disciplinary Counsel ("ODC"), by Paul J. Killion, Esquire, Chief Disciplinary Counsel, and Robert P. Fulton, Esquire, Disciplinary Counsel, files the within Petition for Discipline and charges Respondent, Gregory David MacFarlane, Esquire, with professional misconduct in violation of the Rules of Professional Conduct ("RPC"):

1. Petitioner, whose principal office is situated at Suite 1400, 200 North Third Street, Harrisburg, Pennsylvania, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement ("Pa.R.D.E."), with the power and duty to investigate all matters involving alleged misconduct of any attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings

**FILED**

JUL 13 2009

Office of the Secretary  
The Disciplinary Board of the

Exhibit A

TO BE A TRUE AND CORRECT COPY.



in a criminal matter captioned *Commonwealth v. Celeste Boone*, Phila. C.C.P. No. CP-51-CR-0009195-2007.

5. Respondent had not regularly represented Boone.

6. Respondent did not communicate to Boone the basis or rate of the fee, in writing, before or within a reasonable time after commencing the representation.

7. On July 10, 2008, Respondent filed a Notice of Appeal with the Pennsylvania Superior Court, following Boone's conviction of arson and related charges.

a. The Superior Court assigned docket number 2082 EDA 2008 to the appeal.

8. On September 2, 2008, the Superior Court issued an Order directing Respondent to comply with the requirements of Pa.R.A.P. 3517, relating to the filing of a docketing statement.

a. Respondent filed the docketing statement on September 12, 2008.

9. On October 24, 2008, the trial court ordered Respondent to file a Statement of Matters Complained of On Appeal pursuant to Pa.R.A.P. 1925(b).

10. Respondent failed to file the 1925(b) statement.

11. On November 26, 2008, the Philadelphia Court of Common Pleas filed its Opinion in the Superior Court.

brought in accordance with the various provisions of said Rules of Disciplinary Enforcement.

2. Respondent, Gregory David MacFarlane, Esquire, was admitted to practice law in the Commonwealth of Pennsylvania on February 6, 2006. Respondent's registered office address is 1845 Walnut Street, 15<sup>th</sup> Floor, Philadelphia, PA 19103. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

CHARGE

3. At all times relevant hereto, Respondent has had office addresses at:

- a. 1625 Washington Avenue, Philadelphia, Pennsylvania 19146;
- b. 802 South 6<sup>th</sup> Street, 3<sup>rd</sup> Floor, Philadelphia, Pennsylvania 19147;
- c. 121 South Broad Street, 2<sup>nd</sup> Floor, Philadelphia, Pennsylvania 19107; and
- d. 1845 Walnut Street, 15<sup>th</sup> Floor, Philadelphia, Pennsylvania 19103.

The Boone Matter

4. Respondent was retained to represent Celeste Boone ("Boone") in the Philadelphia Court of Common Pleas



12. On November 26, 2008, the Superior Court issued a briefing schedule pursuant to Pa.R.A.P. 2185(a), requiring the brief to be filed on or before January 5, 2009.

a. Respondent received this briefing schedule.

13. Respondent failed to file a brief on behalf of Boone.

14. By Order dated February 5, 2009, the Superior Court dismissed the appeal for failure to file a brief.

15. Respondent did not file a petition for reconsideration or reinstatement of the appeal.

16. On March 2, 2009, Boone filed a petition *pro se* with the Philadelphia Court of Common Pleas pursuant to the Post-Conviction Relief Act ("P.C.R.A.") seeking the appointment of counsel.

17. By his conduct as alleged in Paragraphs 4 through 16 above, Respondent violated the following Rules of Professional Conduct (RPC):

a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;

b. RPC 1.5(b), which states that when the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, in writing,

before or within a reasonable time after commencing the representation; and

- c. RPC 8.4(d), which states that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

The Hudson Matter

18. On or about May 4, 2006, Angelo and Maureen Hudson, husband and wife, retained Respondent to represent their son, Alonzo James Hudson ("Hudson"), in his criminal matter in the Montgomery County Court of Common Pleas under caption of *Commonwealth v. Alonzo James Hudson*, docket number CP-46-CR-0002583-2005 ("Hudson Matter").

19. On or about May 4, 2006, Respondent received Sovereign Bank check number 1102 ("Sovereign check") in the amount of \$1,100 executed by Dorothy E. Bray ("Bray") on behalf of Hudson.

- a. Respondent cashed this check.

20. Prior to receiving the Sovereign check, Respondent had not regularly represented Hudson, his parents, or Bray.

21. Respondent did not communicate to Hudson, his parents, or Bray the basis or rate of the fee, in writing,

before or within a reasonable time after commencing the representation.

22. On June 29, 2006, Respondent filed an appeal from the judgment of sentence to the Pennsylvania Superior Court in the Hudson Matter ("Hudson Appeal").

a. The Pennsylvania Superior Court assigned docket number 1708 EDA 2006 to the appeal.

23. On July 5, 2006, pursuant to Pa.R.A.P. 3517, the Superior Court forwarded to Respondent a "Docketing Statement," which required Respondent to complete the docketing statement and return it to the Superior Court by July 19, 2006.

a. Respondent did not file the docketing statement by July 19, 2006.

24. By Order dated August 7, 2006, the Superior Court:

a. notified Respondent that Respondent had failed to file timely the requisite docketing statement;

b. directed Respondent to file the docketing statement by August 17, 2006; and

c. advised Respondent that if Respondent failed to file the docketing statement by August 17, 2006, the appeal would be dismissed.

25. Respondent received the August 7, 2006 Order.

26. By Order dated August 25, 2006, the Superior Court dismissed the Hudson Appeal based upon Respondent's failure to file the requisite docketing statement.

27. On September 5, 2006, Respondent filed an "Application to Reinstate Appeal" with the Superior Court.

28. By Order dated September 8, 2006, the Superior Court directed the Superior Court Prothonotary to forward a blank docketing statement to Respondent to be filed no later than September 21, 2006.

29. On September 21, 2006, Respondent filed the docketing statement in the Superior Court.

a. On September 22, 2006, the Superior Court reinstated the appeal.

30. By Order dated January 31, 2007, the Superior Court notified Respondent that he was required to file the brief in the Hudson Appeal on or before March 12, 2007.

a. Respondent received this Order.

31. Respondent failed to file a brief in the Hudson Appeal.

32. By Order dated April 9, 2007, the Superior Court dismissed the Hudson Appeal.

33. Respondent did not file a petition for reconsideration or reinstatement of the appeal.

34. Respondent failed to notify Hudson that the Hudson Appeal had been dismissed.

35. By his conduct as alleged in Paragraphs 18 through 34 above, Respondent violated the following Rules of Professional Conduct (RPC):

- a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- b. RPC 1.4(a)(2), which states that a lawyer shall reasonably consult with a client about the means by which the client's objectives are to be accomplished;
- c. RPC 1.4(a)(3), which states that a lawyer shall keep a client reasonably informed about the status of the client's matter;
- d. RPC 1.5(b), which states that when the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, in writing, before or within a reasonable time after commencing the representation; and
- e. RPC 8.4(d), which states that it is professional misconduct for a lawyer to

engage in conduct that is prejudicial to the administration of justice.

The Platt Matter

36. On January 14, 2008, Respondent appeared on behalf of Masanuh S. Weiah ("Weiah") in a custody matter before the Honorable Katherine B.L. Platt ("Judge Platt") of the Chester County Court of Common Pleas in the matter of *Alexander M.W. Nagbe v. Masanuh S. Weiah*, docket number 06-09934 ("Weiah Matter").

37. The Weiah Matter was scheduled before Judge Platt for a "Littman Hearing."

- a. Respondent sought the Littman Hearing so that, *inter alia*, Weiah could obtain primary physical custody of her children.
- b. Respondent informed Judge Platt that there had been a material change in circumstances that would justify a modification in the custody arrangements.

38. Alexander M.W. Nagbe ("Nagbe") was the father in the Weiah Matter.

- a. At the preliminary "call of the list," Nagbe did not answer.

39. Respondent informed Judge Platt that Respondent had sent Nagbe the notice of the hearing ("Notice") via certified mail.

40. Judge Platt requested that Respondent produce the "green card" or some other indication that the Notice had been received or refused by Nagbe.

41. Respondent represented to Judge Platt that Nagbe had received the Notice and that Respondent would check to see if the receipt was in the file.

42. Respondent was unable to produce either a "green card" or a notice of refusal of the certified mail at the January 14, 2008 listing.

43. On January 14, 2008, Judge Platt instructed Respondent to:

- a. send to her chambers via facsimile "whatever form the green card took, whether it was - whether [Nagbe] signed for it, whether [Nagbe] refused to sign it, whatever";
- b. formally enter his appearance on behalf of Weiah; and
- c. request a relisting of the Weiah Matter in the event that Respondent was unable to establish service of the Notice of Hearing upon Nagbe.

44. Beginning on January 15, 2008, Judge Platt's chambers made various and repeated attempts by telephone to contact Respondent.

a. Despite repeated requests, Respondent has failed to respond.

b. Respondent received these messages.

45. By letter dated January 29, 2008, Carole M. Lowry ("Lowry"), Interim Secretary to Judge Platt, informed Respondent that:

a. she had attempted to contact Respondent by telephone;

b. Judge Platt directed Lowry to write to Respondent and request that Respondent provide Judge Platt with a copy of Respondent's "letter of service" on Nagbe, "which [Respondent] promised [Judge Platt] in open court";

c. Respondent may send the "letter of service" via facsimile;

d. Respondent must enter his appearance with the Prothonotary's Office as soon as possible; and

e. Respondent must respond promptly to these requests.



46. Respondent received the January 29, 2008 letter.

47. By letter dated February 25, 2008, Judge Platt informed Respondent that:

- a. Respondent had stated that he would provide Judge Platt with proof of service upon Nagbe once Respondent had returned to his office;
- b. she had held the temporary order pending receipt of the proof of service;
- c. her staff had telephoned Respondent's office repeatedly asking for documentation and reminding Respondent to enter his appearance, to which Respondent has failed to respond;
- d. her secretary had written to Respondent on January 29, 2008 reminding him of the foregoing matters;
- e. she had been holding the Weiah "matter open for a month and a half, to [Respondent's] client's detriment";
- f. Respondent must enter his appearance;
- g. Respondent must accomplish service upon either Nagbe or his attorney; and
- h. further silence or inaction on Respondent's part will "give [Judge Platt] no option but

to bring [Respondent's] recalcitrance to the attention of the Disciplinary Board."

48. Respondent received the February 25, 2008 letter.

49. To date, Respondent has failed to respond to any inquiries regarding the Weiah Matter.

50. To date, Respondent has failed to provide Judge Platt with any information regarding service of the Notice of Hearing on Nagbe.

51. To date, Respondent has failed to return to the Chester County Court of Common Pleas in the Weiah Matter.

52. To date, the original custody order remains in effect, to Respondent's client's detriment, despite Respondent's representations that there was a "material change in the circumstances."

53. Respondent has failed to protect his client's custody rights.

54. Respondent has failed to comply with the instructions and orders of Judge Platt.

55. By his conduct as alleged in Paragraphs 36 through 54 above, Respondent violated the following Rules of Professional Conduct (RPC):

- a. RPC 1.1, which states that a lawyer shall provide competent representation to a client. Competent representation requires

the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation;

- b. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- c. RPC 3.2, which states that a lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client;
- d. RPC 3.3(a)(1), which states that a lawyer shall not knowingly make a false statement of material fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;
- e. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation; and
- f. RPC 8.4(d), which states that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

The Greening Matter

56. On August 30, 2007, a default judgment in the amount of \$2,475.45 was entered against Barbara Greening ("Greening") in a Philadelphia Municipal Court matter under caption *Slomins, Inc. v. Barbara Greening*, SC-07-06-14-5244 ("Greening Matter").

57. In or about September 2007, Respondent was retained to represent Greening.

58. On September 24, 2007, Respondent filed a Petition to Open Judgment in the Greening Matter, in which Respondent averred, *inter alia*:

- a. Greening was never served with "any type of notice of this hearing";
- b. Greening did not live at the address listed on the affidavit of service at the time service was made; and
- c. "[Greening] has a defense to the above referenced action."

59. Pennsylvania Rule of Civil Procedure 237.3 (Relief from Judgment of Non Pros or by Default) requires that a petition seeking relief from a default judgment "shall have attached thereto a verified copy of the complaint or answer which the petitioner seeks leave to file."

60. On September 24, 2007, the Honorable Bradley Moss of the Philadelphia Municipal Court entered a Rule in which he denied the Petition to Open in that "Defense Set Forth Is Without Merit - The petitioner [Greening] merely avers that it has a defense without setting forth the nature of the defense or any facts in support of the defense. If a meritorious defense exists and there are facts in support of such a defense, the petitioner may promptly file another petition setting them forth."

61. Respondent received the Rule denying the Petition to Open.

62. Respondent failed to notify Greening that the Petition to Open was denied.

63. Respondent failed to "promptly file another petition" setting forth facts that Greening had previously provided to Respondent that would have established a meritorious defense, to Greening's detriment.

64. Greening made numerous attempts to contact Respondent but Respondent has failed to respond.

65. By his conduct as alleged in Paragraphs 56 through 64 above, Respondent violated the following Rules of Professional Conduct (RPC):

- a. RPC 1.1, which states that a lawyer shall provide competent representation to a client.

Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation;

- b. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- c. RPC 1.4(a)(2), which states that a lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- d. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter; and
- e. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information.

#### The Farley Matter

66. Respondent represented Richard Alan Farley ("Farley") in a divorce matter in the Montgomery County Court of Common Pleas under caption of *Farley v. Farley*, docket number 2004-19799 ("Farley Divorce").

67. Farley was originally represented in the Farley Divorce by Wayne Alan Bradley, Esquire ("Bradley").

68. Prior to Respondent's admission to the Pennsylvania Bar, Respondent commenced his representation of Farley after Bradley moved his law practice to the United States Virgin Islands in early 2005.

69. On April 20, 2005, David E. Auerbach, Esquire ("Auerbach"), attorney for Deborah Farley, filed a "Motion for Appointment of a Master in Divorce" in the Farley Divorce ("Motion for Master").

70. Auerbach listed Respondent as the attorney for the "Non-Moving Party," Richard Farley.

71. By letter dated December 22, 2005, addressed to Gregory McFarland, Esquire [sic], 1625 Washington Avenue, Philadelphia, PA 19146, Auerbach stated, *inter alia*:

As per [Auerbach's and Respondent's] telephone conversation, enclosed please find a copy of the counseling notice. It is [Auerbach's] understanding that [Respondent] will hand up the amended notice tomorrow. Also [Respondent is] going to have Richard sign a Power of Attorney so that [Auerbach's] client can sell the personal property ordered by the Court.

72. By letter dated December 28, 2005, addressed to Gregory McFarland, Esquire [sic], 1625 Washington Avenue, Philadelphia, PA 19146, Auerbach stated:

[Respondent] indicated that [Respondent was] going to (a) file the appropriate papers to correct the Divorce Complaint; and (b) take care of the Power of Attorney. [Auerbach has] not heard from [Respondent].

Please let [Auerbach] hear from [Respondent] immediately with regard to these two matters so [Auerbach is] not required to file a Petition with the Court. If [Auerbach does] have to file the Petition, [Auerbach] intend[s] to ask for counsel fees and other sanctions as this matter should have been taken care of before.

73. By letter dated January 4, 2006, addressed to Gregory McFarland, Esquire [sic], 1625 Washington Avenue, Philadelphia, PA 19146, Auerbach stated:

[Auerbach] understand[s] that [Respondent] now [has] filed the appropriate papers with the Court. [Auerbach] talked to the Judge's law clerk and he indicated that



[Auerbach] should write to [Respondent] asking [Respondent] to send a copy of the same to [Auerbach] and that [the law clerk] was going to have the Judge sign the documents so [Auerbach and Respondent] can move the matter along towards the equitable distribution part of the case. As of Tuesday, January 3, 2006, [Auerbach has] not received a copy of the document so please send a copy to [Auerbach].

Also, please contact [Auerbach] with regard to the Power of Attorney. As [Respondent] indicated, [Respondent] would take care of that as well. [Auerbach] intend[s] to file a petition with the Court unless this matter is taken care of by [Respondent]. Please let [Auerbach] hear from [Respondent].

74. Respondent did not file anything with the Court as Respondent had led Auerbach to believe.

75. On January 30, 2006, Auerbach filed a "Petition for Special Relief and Contempt of June 7, 2005 Order" in the Farley Divorce.

- a. Auerbach attached as exhibits the letters dated December 22, 2005, December 28, 2005 and January 4, 2006.

76. On March 14, 2006, Respondent entered his appearance on behalf of Farley.

77. On or about July 20, 2006, Respondent was notified that Bruce Goldenberg, Esquire ("Goldenberg"), an Equitable Distribution Master, fixed September 22, 2006 at 9:30 a.m. for a hearing on claims of equitable distribution, alimony, counsel fees, costs and expenses in the Farley Divorce.

- a. Respondent received this notice.

78. Respondent failed to appear for the September 22, 2006 hearing.

- a. Respondent did not make a request for a continuance in writing prior to the hearing date.

79. Respondent did not notify Farley prior to the hearing date that Respondent would not appear on September 22, 2006.

80. On or about October 13, 2006, Respondent was notified that Goldenberg fixed November 9, 2006 at 9:30 a.m. for a hearing on claims of equitable distribution,

alimony, counsel fees, costs and expenses in the Farley Divorce.

a. Respondent received this notice.

81. Respondent failed to appear at the November 9, 2006 hearing.

a. Respondent did not make a request for a continuance in writing prior to the hearing date.

82. Respondent did not notify Farley prior to the hearing date that Respondent would not appear on November 9, 2006.

83. On November 9, 2006, Goldenberg:

- a. determined that Respondent was duly notified of the hearing; and
- b. proceeded with the hearing even though Respondent and Farley were not present.

84. On February 8, 2007, Goldenberg issued a "Notice of Filing of the Divorce Economic Report and Recommendation" in which Goldenberg recommended, *inter alia*, that:

- a. Respondent's client would receive one-half of his Thrift Savings Plan with the United States Postal Service;

b. Respondent's client would be responsible for alimony to his wife for a period of five years in the amount of \$785 per month commencing the first of the month following the entry of the final decree in divorce; and

c. Respondent's client was responsible for his wife's counsel fees in the amount of \$3,500.

85. Respondent received the Notice of Filing of the Divorce Economic Report and Recommendation.

86. Respondent did not file "Exceptions to the Report and Recommendation."

87. By Decree and Order dated April 17, 2007, the Honorable William Furber adopted Goldenberg's recommendation as set forth in the February 8, 2007 Report and Recommendation.

88. By his conduct as alleged in Paragraphs 66 through 87 above, Respondent violated the following Rules of Professional Conduct (RPC):

a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;

b. RPC 1.4(a)(2), which states that a lawyer shall reasonably consult with the client

- about the means by which the client's objectives are to be accomplished;
- c. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;
  - d. RPC 5.5(a), which states that a lawyer shall not practice in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction;
  - e. RPC 5.5(b)(1), which states that a lawyer who is not admitted to practice in this jurisdiction shall not establish an office or other systematic and continuous presence in this jurisdiction for the practice of law;
  - f. RPC 5.5(b)(2), which states that a lawyer who is not admitted to practice in this jurisdiction shall not hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction;
  - g. RPC 8.4(c), which states that it is professional misconduct for a lawyer to

engage in conduct involving dishonesty, fraud, deceit or misrepresentation; and

- h. RPC 8.4(d), which states that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

The Leuzzi Matter

89. On or about April 12, 2007, Respondent filed a complaint in a civil action in the Philadelphia Court of Common Pleas on behalf of the plaintiff, Mark Leuzzi ("Leuzzi"), under caption of *Leuzzi v. CSX Transportation, Inc.*, docket number 1442 APRIL TERM 2007 ("Leuzzi Action").

90. Respondent did not serve the complaint on the defendant, CSX Transportation, Inc.

91. On August 1, 2007, the Leuzzi Action was listed for a status conference on August 28, 2007.

- a. Respondent received notice of the status conference.

92. Respondent failed to appear for the August 28, 2007 status conference.

93. On September 5, 2007, the Leuzzi Action was listed for status conference on October 1, 2007.

- a. Respondent received notice of the status conference.

94. Respondent failed to appear for the October 1, 2007 status conference.

95. By Order dated October 2, 2007, the Honorable Allan L. Tereshko ("Judge Tereshko") entered a Rule to Show Cause upon Respondent to show cause why sanctions should not be imposed for Respondent's failure to appear at the October 1, 2007 status/trial scheduling conference. The rule date was scheduled for October 17, 2007 in Courtroom 243 City Hall.

a. Respondent received the October 2, 2007 Order and rule to show cause.

96. Respondent failed to appear to respond to the rule to show cause on October 17, 2007.

97. On October 17, 2007, Judge Tereshko entered a non pros for Respondent's failure to appear at the rule returnable and dismissed the Leuzzi Action for Respondent's lack of prosecution.

98. Respondent did not file a petition for reconsideration.

99. Respondent did not notify Leuzzi of the disposition of the Leuzzi Action.

100. By his conduct as alleged in Paragraphs 89 through 99 above, Respondent violated the following Rules of Professional Conduct (RPC):

- a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- b. RPC 1.4(a)(2), which states that a lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- c. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;
- d. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information;
- e. RPC 3.2, which states that a lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client; and
- f. RPC 8.4(d), which states that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

**The Campbell Matter**

101. On or about April 4, 2006, Respondent filed a complaint in a civil action in the United States District



Court for the Eastern District of Pennsylvania on behalf of Frank Campbell, Jr. ("Campbell"), under caption of **Campbell v. Citizens Automobile Finance, Inc.**, docket number 2:06-cv-01417-TJS ("Campbell I").

102. By Order dated August 15, 2006, the Honorable Timothy J. Savage ("Judge Savage") dismissed Campbell I for lack of service of the complaint and summons pursuant to Fed.R.Civ.P. 4(m).

103. Respondent failed to show "good cause" to the court for Respondent's failure to complete service.

104. Respondent failed to notify Campbell that Campbell I had been dismissed.

105. On or about April 24, 2007, Respondent filed a complaint in a civil action in the United States District Court for the Eastern District of Pennsylvania on behalf of Campbell under caption of **Campbell v. Citizens Automobile Finance, Inc.**, docket number 2:07-cv-01750-TJS ("Campbell II").

106. By Order dated November 13, 2007, Judge Savage dismissed Campbell II based upon Respondent's failure "to take any action to prosecute this action since the filing of the complaint."

107. Respondent failed to notify Campbell that Campbell II had been dismissed.


108. By his conduct as alleged in Paragraphs 101 through 107 above, Respondent violated the following Rules of Professional Conduct (RPC):

- a. RPC 1.1, which states that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation;
- b. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- c. RPC 1.4(a)(2), which states that a lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- d. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter; and
- e. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information.

WHEREFORE, Petitioner prays that your Honorable Board appoint, pursuant to Rule 205, Pa.R.D.E., a Hearing Committee to hear testimony and receive evidence in support of the foregoing charges and upon completion of said hearing to make such findings of fact, conclusions of law, and recommendations for disciplinary action as it may deem appropriate.

Respectfully submitted,  
OFFICE OF DISCIPLINARY COUNSEL

Paul J. Killion, Esquire  
Chief Disciplinary Counsel

By   
Robert P. Fulton, Esquire  
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Attorney Registration No. 37935

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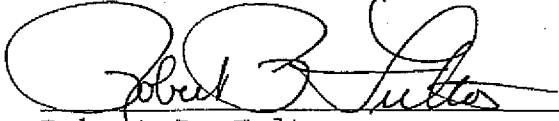
BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :  
Petitioner :  
: No. DB 2009  
v. :  
: Atty. Reg. No. 161451  
GREGORY DAVID MacFARLANE, :  
Respondent : (Philadelphia)

VERIFICATION

I verify that the statements made in the foregoing  
Petition for Discipline are true and correct to the best of  
my knowledge, information and belief. This statement is  
made subject to the penalties of 18 Pa.C.S. §4904 relating  
to unsworn falsification to authorities.

6 July 09  
Date

  
Robert P. Fulton  
Disciplinary Counsel