

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1676 Disciplinary Docket No. 3
Petitioner :
v. : No. 131 DB 2009
THEODORE Q. THOMPSON, : Attorney Registration No. 17826
Respondent : (Montgomery County)

ORDER

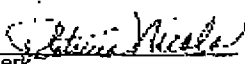
PER CURIAM:

AND NOW, this 24th day of February, 2011, upon consideration of the Report and Recommendations of the Disciplinary Board dated November 1, 2010, the Petition for Review and response thereto, It is hereby

ORDERED that Theodore Q. Thompson is suspended from the Bar of this Commonwealth for a period of two years and he shall comply with all the provisions of Rule 217, Pa.R.D.E.

It is further ORDERED that respondent shall pay costs to the Disciplinary Board pursuant to Rule 208(g), Pa.R.D.E.

A True Copy Patricia Nicola
As Of 2/24/2011

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 131 DB 2009
Petitioner	:	
	:	
v.	:	Attorney Registration No. 17826
	:	
THEODORE Q. THOMPSON	:	
Respondent	:	(Montgomery County)

REPORT AND RECOMMENDATIONS OF
THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES
OF THE SUPREME COURT OF PENNSYLVANIA:

Pursuant to Rule 208(d)(2)(iii) of the Pennsylvania Rules of Disciplinary Enforcement, the Disciplinary Board of the Supreme Court of Pennsylvania ("Board") herewith submits its findings and recommendations to your Honorable Court with respect to the above-captioned Petition for Discipline.

I. HISTORY OF PROCEEDINGS

On August 24, 2009, Office of Disciplinary Counsel filed a Petition for Discipline against Theodore Q. Thompson. The Petition charged Respondent with violations of the Rules of Professional Conduct and Rules of Disciplinary Enforcement arising out of allegations that he engaged in the practice of law while his license to practice was suspended. Respondent filed an Answer to Petition on September 28, 2009.

A disciplinary hearing was held on December 9, 2009, before a District II Hearing Committee comprised of Chair Steven B. Barrett, Esquire, and Members Nicholas E. Chimicles, Esquire, and Nelson J. Sack, Esquire. Respondent appeared pro se. The Petition for Discipline, Answer to Petition for Discipline and Revised Joint Stipulations of Fact were incorporated into the record. Petitioner presented five witnesses and thirty-three exhibits. Respondent testified on his own behalf. He did not present additional witnesses or exhibits.

The Hearing Committee filed a Report on April 22, 2010, finding that Respondent violated the Rules as charged in the Petition for Discipline and recommending that he be suspended for a period of two years.

On May 20, 2010, Respondent filed a Brief on Exceptions and request for oral argument.

On June 10, 2010, Petitioner filed a Brief Opposing Exceptions.

Oral argument was held on July 6, 2010 before a three-member panel of the Disciplinary Board.

This matter was adjudicated by the Board at the meeting on July 17, 2010.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is situated at Pennsylvania Judicial Center, 601 Commonwealth Ave., Suite 2700, Harrisburg, Pennsylvania 17106, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, 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 brought in accordance with the various provisions of said Rules.

2. Respondent is Theodore Q. Thompson. He was born in 1947 and was admitted to practice law in the Commonwealth in 1973. He maintains his office address at 650 Sentry Parkway, Suite 1, Blue Bell PA 19422. He is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. On March 23, 2007, the Supreme Court placed Respondent on suspension for a period of six months. The suspension took effect 30 days thereafter on April 22, 2007.

4. The basis for the discipline was Respondent's unauthorized practice of law during a time when he was on inactive status for failure to comply with Continuing Legal Education requirements, and his failure to properly represent his client.

5. On March 23, 2007, Elaine M. Bixler, Secretary of the Disciplinary Board, sent a letter to Respondent which notified Respondent that he had been suspended for a period of six months and that the total expenses incurred were \$2,004, and had to be paid by Respondent. The Supreme Court Order of March 23, 2007 and the Expenses Incurred Sheet prepared by the Board were enclosed with the letter.

6. On March 23, 2007, Ms. Bixler sent a letter to Respondent and enclosed the following for Respondent's guidance, compliance and information:

- a) Standard Guidance of the Disciplinary Board to Lawyers who have been Suspended One Year or Less;

- b) Rule 217 of the Pa.R.D.E.;
- c) Subchapter E, Formerly Admitted Attorney, of the Disciplinary Board Rules;
- d) Form DB-23, Nonlitigation Notice of Disbarment, Suspension or Transfer to Inactive Status;
- e) Form DB-24, Litigation Notice of Disbarment, Suspension or Transfer to Inactive Status; and
- f) Form DB-25, Statement of Compliance.

7. On May 3, 2007, in accordance with Pa.R.D.E. 218(f)(1), Respondent filed a Statement of Compliance, dated May 1, 2007, with the Disciplinary Board indicating that he complied with all of the terms and conditions of the Order of Suspension and of Enforcement Rule 217.

8. On May 15, 2007, Ms. Bixler sent a letter to Respondent and informed him that he needed to pay the costs assessed by the Supreme Court pursuant to Pa.R.D.E. 208(g) and that failure to pay the costs would result in the referral of the matter to the Office of Disciplinary Counsel for contempt proceedings and collection activity would commence. Ms. Bixler also enclosed a copy of the March 23, 2007 letter previously sent to Respondent.

9. On February 27, 2008, Respondent filed a second Statement of Compliance, dated February 25, 2008, with the Disciplinary Board indicating he complied with all of the terms and conditions of the Order of Suspension and of Enforcement Rule 217.

10. On February 27, 2008, Ms. Bixler sent a letter to Respondent informing him that the Board had received a Statement of Compliance filed by Respondent on May 3, 2007 and a second Statement of Compliance filed by Respondent on February 27, 2008. Ms. Bixler also informed Respondent that he had to file a Verified Statement with the Disciplinary Board showing compliance with all the terms and conditions of the Order of suspension. Pa.R.D.E. 218(f) was enclosed.

11. On February 27, 2008, Respondent paid the costs of prosecution assessed by the Court in full.

12. On February 27, 2008, Ms. Bixler sent a letter to John A. Vaskov, Deputy Prothonotary of the Supreme Court of Pennsylvania, to notify the Court that Respondent paid \$2,004 in costs to the Board.

13. On March 11, 2008, Respondent sent a Verified Statement letter to Ms. Bixler informing her that he had complied with all terms and conditions of the Order of Suspension and Pa.R.D.E. 217.

14. On March 14, 2008, Ms. Bixler sent a letter to the Deputy Prothonotary of the Supreme Court notifying the Court that Respondent filed a Verified Statement showing compliance with all terms and conditions of the Order of suspension and of Enforcement Rule 217.

15. On April 3, 2008, the Supreme Court of Pennsylvania reinstated Respondent to active status, effective immediately.

16. On April 14, 2008, Ms. Bixler sent a letter to Respondent informing him that he had been reinstated to active status. The letter also informed Respondent that the

Annual Fee Form had to be completed and the Annual Fee paid in order to complete the reinstatement process.

Jeffrey Amichetti Matter

17. A warrant was issued for the arrest of Jeffrey Amichetti for felony violations of the drug act and criminal use of a communications facility.

18. Mr. Amichetti contacted his mother, Bella Amichetti, who in turn contacted her friend, Rhonda Hall. Ms. Hall advised Mrs. Amichetti that she knew an attorney that they could talk to.

19. Rhonda Hall telephoned Respondent and left a message on his voice mail stating that she had a very close friend who needed legal advice and asked Respondent to call her back.

20. Respondent returned Ms. Hall's call the same day. Ms. Hall asked Respondent if he would be able to help her friend and thereafter handed the telephone to Mrs. Amichetti. Respondent and Mrs. Amichetti arranged a meeting with Jeffrey Amichetti and his wife, Ann Marie, for Sunday, August 26, 2007.

21. During the telephone conversation, Respondent never told Rhonda Hall or Bella Amichetti that his license to practice law had been suspended.

22. On August 26, 2007, Respondent met Jeffrey Amichetti, his wife, Rhonda Hall and Bella Amichetti at Bella's home regarding the criminal charges against Mr. Amichetti.

23. Mr. Amichetti believed that he was meeting with Mr. Thompson for a legal consultation. Introductions were made and Respondent and Mr. Amichetti went outside to speak privately.

24. During the private conversation, Respondent and Mr. Amichetti discussed the facts of the case, the legal options and the process involved. Respondent gave his opinion regarding what would happen based upon the facts supplied by Mr. Amichetti to Respondent.

25. Respondent discussed legal defenses and legal strategies. Respondent discussed the costs for retaining him and how much it would cost if the case went to trial. Respondent quoted Mr. Amichetti a retainer fee of \$3,000. Respondent assured Mr. Amichetti he would be the one to represent Mr. Amichetti at trial.

26. During the meeting on August 26, 2007, Respondent never communicated to Mr. Amichetti, his wife, Bella Amichetti, or Rhonda Hall that his license to practice was suspended and had not yet been reinstated.

27. The private meeting between Respondent and Jeffrey Amichetti on August 26, 2007 was a legal consultation.

28. While at Bella Amichetti's house on August 26, 2007, Respondent handed his legal business card which identified him as an attorney to both Jeffrey Amichetti and Bella Amichetti. Respondent wrote his home telephone number on the back of the card he gave to Mr. Amichetti.

29. On September 6, 2007, Mr. Amichetti contacted Respondent by telephone and spoke with Respondent. Mr. Amichetti told Respondent that he wanted

Respondent to represent him. Respondent gave Mr. Amichetti instructions regarding the check and payment and how they were going to proceed.

30. On September 6, 2007, Respondent received an email from Bella Amichetti in which she stated that she was pleased her son had decided to hire Respondent to represent him. The email address of Respondent was the one listed on his business card.

31. On September 6, 2007, Respondent sent an email back to Mrs. Amichetti. Respondent's reply to Mrs. Amichetti's email stated in part, "Too often we (attorneys) pour our hearts out to and for our clients and it does not seem that we are appreciated. As much as Jeff will permit, I will keep you informed."

32. On September 6, 2007, Ann Marie Amichetti mailed Respondent a Wachovia Bank check, made payable to Respondent in the amount of \$3,000. Ann Marie Amichetti sent a letter to Respondent along with the check. The letter stated, in part, "Enclosed please find a check in the amount of \$3,000, which shall serve as the retainer fee for your services as they pertain to Jeffrey Amichetti."

33. On or about September 13, 2007, Respondent:
- a) received Ann Marie Amichetti's letter and check;
 - b) went to a Wachovia Bank branch;
 - c) endorsed the back of the check with his signature;
 - d) placed his fingerprint on the face of the check;
 - e) received \$3,000 in cash.

34. Without the knowledge or consent of his client, Jeffrey Amichetti, Respondent gave one-half of the \$3,000 retainer to Arthur Gutkin, Esquire.

35. Respondent never represented any of the Amichetti family before nor did he provide Jeffrey and Ann Marie Amichetti with a copy of a fee agreement.

36. On October 2, 2007:

a) Respondent met Mr. Amichetti in the King of Prussia Mall parking lot in Montgomery County;

b) Respondent drove Mr. Amichetti to the Middletown Police Department in Dauphin County, Pennsylvania to assist Mr. Amichetti in turning himself in to the police due to a warrant for his arrest;

c) during the car ride Respondent discussed with Mr. Amichetti the process of turning himself in;

d) Respondent accompanied Mr. Amichetti to the Lower Paxton Police Department for processing and fingerprinting; and

e) Respondent drove Mr. Amichetti to Magisterial District Court 12-3-04 in Dauphin County. A preliminary arraignment was held before Dominic A. Pelino.

37. Mr. Amichetti and Respondent went into Judge Pelino's courtroom and Mr. Amichetti stood in front of the Judge's bench with police officers to the side of him. Respondent was sitting in the gallery.

38. Judge Pelino gave Mr. Amichetti a document to sign and Mr. Amichetti turned around and looked at Respondent because he was unsure of what he was being

asked to sign. Respondent nodded from the gallery and Mr. Amichetti signed the document.

39. When questioned by Judge Pelino, Mr. Amichetti informed him that Respondent was his attorney.

40. Judge Pelino spoke to Respondent and Respondent informed the Judge that he was not acting as an attorney because he was unable to practice law.

41. During the car ride from Dauphin County, Respondent assured Mr. Amichetti that his license suspension was going to end soon and by the time the case went to trial Respondent would be able to represent him.

42. Between October 3, and October 7, 2007, Jeffrey Amichetti informed Respondent by telephone that he was going to pursue other options for legal representation.

43. Respondent tried to dissuade Mr. Amichetti from seeking another attorney and advised Mr. Amichetti that Respondent's friend Arthur Gutkin was an attorney and would be able to represent Mr. Amichetti.

44. On October 8, 2007, Mr. Amichetti retained another attorney, Spero Lappas, Esquire, to represent him at his preliminary hearing scheduled for October 15, 2007.

45. Shortly after retaining Mr. Lappas, Mr. Amichetti contacted Respondent and requested a refund of his \$3,000. Respondent told Mr. Amichetti that he would have to speak to Arthur Gutkin and get back to Mr. Amichetti.

46. On or about October 19, 2007, Bella Amichetti sent Respondent an email and requested that Respondent return the \$3,000 to her son.

47. On October 24, 2007, Bella Amichetti sent Respondent another email and attached her previous email of October 19. She asked Respondent what his plan was for returning the retainer and requested that Respondent either email or call her. She provided several different telephone numbers.

48. Over the course of a year, Jeffrey Amichetti and Bella Amichetti called Respondent several times at his office and cell phone number in an attempt to recover the \$3,000. He didn't return the calls.

49. Rhonda Hall contacted Respondent and specifically requested that he return the \$3,000. When Respondent did not refund the retainer, Ms. Hall left many messages. Respondent never returned her calls.

50. Respondent never returned the \$3,000 he received from Ann Marie Amichetti on behalf of her husband, Jeffrey.

51. In August or September of 2008, Bella Amichetti encountered Respondent while on a train in Philadelphia. She asked Respondent about her son's situation. Respondent told her that Arthur Gutkin was supposed to take care of it.

52. The Amichettis had never met or spoken to Arthur Gutkin.

53. On or about September 4, 2008, Mr. Amichetti filed a Statement of Claim against Respondent with the Pennsylvania Lawyers Fund for Client Security.

54. On September 11, 2008, Kathryn J. Peifer, Executive Director of the Pennsylvania Lawyers Fund for Client Security, sent a letter to Respondent, via regular and

certified mail, notifying Respondent that a claim had been filed against him alleging that a monetary loss was caused by Respondent's actions. The letter also informed Respondent that he was entitled to respond to the claim and he could request a hearing. A copy of Mr. Amichetti's complaint was enclosed.

55. Respondent received the letter and on October 27, 2008, he sent a letter to Ms. Peifer and requested an additional 30 days to respond to the claim.

56. On October 31, 2008, Ms. Peifer sent a letter to Respondent and advised Respondent that his response was due on or before November 20, 2008.

57. On November 21, 2008, Ms. Peifer sent a letter to Respondent advising him that if he intended to defend the allegations in the claim or request a hearing he was required to do so immediately.

58. Respondent received the letter.

59. On April 16, 2009, Ms. Peifer sent a letter to Respondent and advised him that Mr. Amichetti's claim was scheduled to be reviewed by the Board at its June 24, 2009 meeting. Ms. Peifer advised Respondent that if he had any information that he would like the Board to consider, which had not been previously provided to the Fund, Respondent should forward it within 14 days otherwise the claim would be reviewed based on the available information.

60. Respondent received the letter.

61. On June 24, 2009, the PA Lawyers Fund approved the recommendation to award Mr. Amichetti \$3,000.

62. On June 29, 2009, Ms. Peifer sent a letter to Respondent notifying him that the award to Mr. Amichetti would be paid on or about August 1, 2009. The letter provided Respondent with further instructions if he wanted to file a reconsideration or if he wanted to pay the claim instead of the Fund. The letter also informed Respondent that the Fund intended to seek reimbursement from Respondent.

63. On November 6, 2009, Ms. Peifer prepared an Affidavit which contained her notarized signature. The Affidavit states, in pertinent part, "The June 29, 2009 correspondence was mailed to Theodore Q. Thompson on June 29, 2009 via regular U.S. mail. As of the date of the signing of this Affidavit, the original June 29, 2009 letter addressed to Theodore A. Thompson had not been returned to the Pennsylvania Lawyers Fund for Client Security."

64. Exhibit ODC-30 is a copy of a letter dated October 11, 2007 from Arthur L. Gutkin, Esquire to the Honorable David H. Judy regarding the Jeffrey Amichetti case. Mr. Gutkin wrote the letter to Judge Judy based on Respondent's assurance that Mr. Amichetti wanted Mr. Gutkin to represent him at the preliminary hearing scheduled for October 15, 2007.

65. When Mr. Gutkin faxed the letter to Judge Judy, Mr. Amichetti had already retained Spero Lappas as new counsel.

66. On July 9, 2009, Mr. Gutkin mailed a check to Jeffrey Amichetti, c/o Ann Marie Amichetti, in the amount of \$3,000.

68. Respondent testified at the disciplinary hearing.

69. Respondent did not express sincere remorse for his actions.

70. Respondent testified that portions of the testimony of Petitioner's witnesses, including Jeffrey Amichetti and Bella Amichetti, was not true. (N.T. 246) Respondent would only admit that his client was "possibly" misled. (N.T. 246)

III. CONCLUSIONS OF LAW

By his actions as set forth above, Respondent violated the following Rules of Professional Conduct and Rules of Disciplinary Enforcement:

1. RPC 1.4(b) – A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

2. RPC 1.5(b) – 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.

3. RPC 1.16(a)(1) – A lawyer shall not represent a client if the representation will result in violation of the Rules of Professional Conduct or other law.

4. RPC 1.16(d) – Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expenses that has not been earned or incurred.

5. RPC 5.5(a) – A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

6. RPC 5.5(b)(2) – 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.

7. RPC 7.1 – A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.

8. RPC 7.5(a) – A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1.

9. RPC 8.4(c) – It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

10. Pa.R.D.E. 217(d) - Orders imposing suspension, disbarment, administrative suspension or transfer to inactive status shall be effective 30 days after entry. The formerly admitted attorney, after entry of the disbarment, suspension, administrative or transfer to inactive status order, shall not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature.

11. Pa.R.D.E. 217(j) – A formerly admitted attorney may not engage in any form of law related activities in this Commonwealth except in accordance with the following requirements:

(1) All law-related activities of the formerly admitted attorney shall be conducted under the supervision of a member in good standing of the Bar of this Commonwealth who shall be responsible for ensuring that the

formerly admitted attorney complies with the requirements of this subdivision (j).

(2) For purposes of this subdivision (j), the only law-related activities that may be conducted by a formerly admitted attorney are the following:

(i) legal work of a preparatory nature, such as legal research, assembly of data and other necessary information, and drafting of transactional documents, pleadings, briefs, and other similar documents;

(ii) direct communications with the client or third parties to the extent permitted by paragraph (3); and

(iii) accompanying a member in good standing of the Bar of this Commonwealth to a deposition or other discovery matter or to a meeting regarding a matter that is not currently in litigation, for the limited purpose of providing clerical assistance to the member in good standing who appears as the representative of the client.

(3) A formerly admitted attorney may have direct communications with a client or third party regarding a matter being handled by the attorney, organization or firm for which the formerly admitted attorney works only if the communication is limited to ministerial matters such as scheduling, billing, updates, confirmation of receipt or sending of correspondence and messages. The formerly admitted attorney shall clearly indicate in any such

communication that he or she is a legal assistant and identify the supervising attorney.

(4) Without limiting the other restrictions in this subdivision(j), a formerly admitted attorney is specifically prohibited from engaging in any of the following activities:

(i) performing any law-related activity for a law firm, organization or lawyer if the formerly admitted attorney was associated with that law firm, organization, or lawyer on or after the date on which the acts which resulted in the disbarment or suspension occurred, through and including the effective date of disbarment or suspension;

(ii) performing any law related services from an office that is not staffed by a supervising attorney on a full time basis;

(iv) representing himself or herself as a lawyer or person of similar status;

(v) having any contact with clients either in person, by telephone, or in writing, except as provided in paragraph (3);

(vi) rendering legal consultation or advice to a client;

(x) receiving, disbursing, or otherwise handling client funds.

IV. DISCUSSION

This matter is before the Board for consideration of the allegations against Respondent that he engaged in the unauthorized practice of law while serving a suspension pursuant to Order of the Supreme Court of Pennsylvania dated March 23, 2007.

Respondent was suspended for a period of six months effective April 22, 2007, which was 30 days after the entry of the Supreme Court Order. The basis for Respondent's suspension was that he engaged in the unauthorized practice of law during a time when he was on inactive status for failure to comply with Continuing Legal Education requirements. He also failed to properly represent his client. Respondent received proper notice of his suspension and his obligations as a formerly admitted attorney. These included, among other things, a clear prohibition on the practice of law.

The evidence of record demonstrates that on August 26, 2007, while still a suspended attorney, Respondent met with Jeffrey Amichetti, his wife and mother, as well as a family friend. Respondent had been referred to Mr. Amichetti as an attorney to help with Mr. Amichetti's criminal problems. At no time during the initial legal consultation did Respondent ever inform the Amichettis, including more specifically Jeffrey, that his law license was suspended. Respondent discussed the facts of the case, legal options, and the process involved, with Respondent supplying his opinion as to what would happen based on the facts. Respondent handed business cards to Mr. Amichetti and his mother, which indicated he was a lawyer and provided pertinent contact information. He quoted a

fee to Mr. Amichetti and accepted and cashed the \$3,000 check the Amichettis gave to him.

Respondent held himself out as a lawyer in good standing, had contact with a client by telephone and in person, engaged in legal consultation and received client funds. From the beginning, Respondent knew that Jeffrey Amichetti and his family members believed that he was an attorney in good standing yet he took no steps to correct their misperception. He reinforced their beliefs by handing out business cards, quoting retainer fees, and giving legal opinions, all the while knowing he was not permitted to do so. He accepted the representation when Mr. Amichetti indicated he wanted to retain Respondent.

He accompanied Mr. Amichetti to Dauphin County, discussing the case and explaining the procedures during the drive. Mr. Amichetti at all times believed he had a lawyer at his side for representation. The facts of record allow for no other interpretation than that Respondent represented Mr. Amichetti. By Court Order, Respondent was prohibited from representing Mr. Amichetti, as his license was not reinstated by the Supreme Court until April 3, 2008.

Mr. Amichetti learned that Respondent was a suspended attorney at the preliminary arraignment. Once he was aware of Respondent's status, Mr. Amichetti made clear to Respondent that he no longer required Respondent's services. At that point, Respondent was obligated to refund the monies given to him by the Amichettis. Respondent did not return the funds promptly. In fact, he had given one-half of the funds to his colleague, Arthur Gutkin, and tried to persuade Mr. Amichetti to use Mr. Gutkin's services. Mr. Amichetti eventually filed a complaint with the PA Lawyers Fund more than

one year later. Respondent did not respond to inquiries made to him by the Fund, even after it notified him of the intent to make an award to Mr. Amichetti. The matter was resolved when Arthur Gutkin sent a check to Ann Marie Amichetti for \$3,000. The facts of record support the conclusion that Respondent violated the Rules of Professional Conduct and Rules of Disciplinary Enforcement as charged in the Petition for Discipline.

Respondent's testimony at the disciplinary hearing was troubling. He did not fully admit his wrongdoing and insisted on quibbling over the harm his actions caused. He testified on cross-examination: "Were they--I don't want to say mislead (sic), but that's probably the word that would more clearly describe it. Were they mislead (sic)? Possibly." (N.T. 246) Respondent still maintained that he did not render a legal consultation and was not obligated to tell the Amichettis that his license was suspended. The Hearing Committee afforded Respondent's testimony little weight, as he lacked credibility.

The primary goal of the disciplinary system is to protect the public from unfit lawyers and to maintain the integrity of the legal system. Office of Disciplinary Counsel v. Keller, 506 A.2d 872 (Pa. 1986). The Supreme Court has held that an attorney who knowingly practices law while ineligible to do so demonstrates unfitness by flouting an Order of the Court and should be sanctioned accordingly. Frequently, the sanction imposed is a suspension of one year and one day. Office of Disciplinary Counsel v. Harry Curtis Forrest, Jr. 72 Pa. D. & C. 4th 339 (2005); Office of Disciplinary Counsel v. Chauncey Harris, 150 DB 2002 (Pa. July 15, 2004); Office of Disciplinary Counsel v. John D. Enright, 136 DB 2002 (Pa. March 14, 2004).

Respondent's unauthorized practice of law, standing alone, demonstrates his unfitness and is a sufficient basis for the imposition of a suspension of one year and one day. However, Respondent's actions warrant a lengthier suspension. The instant matter marks the second time that Respondent has engaged in the unauthorized practice of law. The underlying basis for Respondent's six month period of suspension was his unauthorized practice of law while he was on inactive status, wherein he failed to withdraw his appearance in pending cases or notify clients and opposing counsel of his status, and accepted new representation.

Once again, Respondent has ignored an Order of the Supreme Court, the Rules of Professional Conduct, and the Rules of Disciplinary Enforcement, and has attempted to maintain a law practice despite a clear order to the contrary. Respondent has not learned from his prior experience nor has he been motivated to conform his behavior. The evidence of record suggests he believed he could merely circumvent the Court Order and continue his practice with no adverse consequences. Respondent has shown little understanding of the seriousness of his actions and the impact of such actions on the public.

For these reasons, the Board recommends that Respondent be suspended for a period of two years.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Theodore Q. Thompson be Suspended from the practice of law for a period of two years.

It is further recommended that the expenses incurred in the investigation and prosecution of this matter are to be paid by the Respondent.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: 

Gerald Lawrence, Board Member

Date: November 1, 2010