

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1457 Disciplinary Docket No. 3
Petitioner :
v. : No. 134 DB 2008
RUTH ANN PRICE, : Attorney Registration No. 33004
Respondent : (Out Of State)

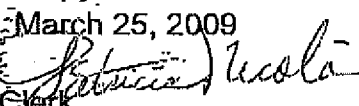
ORDER

PER CURIAM:

AND NOW, this 25th day of March, 2009, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated January 6, 2009, the Joint Petition in Support of Discipline on Consent is hereby granted pursuant to Rule 215(g), Pa.R.D.E., and it is

ORDERED that Ruth Ann Price is suspended on consent from the Bar of this Commonwealth for a period of three months and she shall comply with all the provisions of Rule 217, Pa.R.D.E.

Mr. Justice McCaffery dissents.

A True Copy Patricia Nicola
As of: March 25, 2009
Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA


OFFICE OF DISCIPLINARY COUNSEL : No. 134 DB 2008
Petitioner :
v. : Attorney Registration No. 33004
RUTH ANN PRICE :
Respondent : (Out of State)

RECOMMENDATION OF THREE-MEMBER PANEL
OF THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

The Three-Member Panel of the Disciplinary Board of the Supreme Court of Pennsylvania, consisting of Board Members Gary G. Gentile, Francis X. O'Connor and Mark S. Baer, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on November 14, 2008.

w/ Dissent of F. X. O'Connor
The Panel approves the Joint Petition consenting to a Three Month Suspension and recommends to the Supreme Court of Pennsylvania that the attached Petition be Granted.

The Panel further recommends that any necessary expenses incurred in the investigation and prosecution of this matter shall be paid by the respondent-attorney as a condition to the grant of the Petition.


Gary G. Gentile, Panel Chair
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date: January 6, 2009

*Mr O'Connor recommend 9 months Suspension
due to filing of false affidavit*

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :
Petitioner :
:
: No. 134 DB 2008
v. :
: Atty. Reg. No. 33004
RUTH ANN PRICE, :
Respondent: (Out of State)

JOINT PETITION IN SUPPORT OF DISCIPLINE
ON CONSENT UNDER Pa.R.D.E. 215(d)

Petitioner, Office of Disciplinary Counsel ("ODC"), by Paul J. Killion, Chief Disciplinary Counsel, and Richard Hernandez, Disciplinary Counsel, and by Respondent, Ruth Ann Price, file this Joint Petition in Support of Discipline on Consent Under Pennsylvania Rule of Disciplinary Enforcement ("Pa.R.D.E.") 215(d), and respectfully represent that:

1. Petitioner, whose principal office is situated at Suite 1400, 200 North Third Street, Harrisburg, Pennsylvania, is invested, pursuant to Pa.R.D.E. 207, 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 of Disciplinary Enforcement.

FILED

NOV 14 2008

Office of the Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

2. Respondent, Ruth Ann Price, was born on April 20, 1952, and was admitted to practice law in the Commonwealth on December 10, 1980.

3. According to attorney registration records, Respondent's public access address is 8057 Rodney Street, Philadelphia, PA 19150. Although Respondent maintains an office at 8057 Rodney Street, Respondent does not engage in the practice of law in the Commonwealth of Pennsylvania. Respondent's current home address is 1117 Crestover Road, Wilmington, DE 19803.

4. Pursuant to Pa.R.D.E. 201(a)(1), Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

5. Petitioner filed a Petition for Discipline against Respondent with the Secretary of the Disciplinary Board on August 26, 2008. Respondent was served with that Petition on August 29, 2008.

6. Respondent filed an Answer to the Petition for Discipline with the Secretary of the Disciplinary Board.

SPECIFIC FACTUAL ADMISSIONS AND
RULES OF PROFESSIONAL CONDUCT VIOLATED

7. Respondent hereby stipulates that the following factual allegations drawn from the Petition for Discipline

are true and correct and that she violated the charged Rules of Professional Conduct as set forth herein.

CHARGE

8. On June 4, 2006, Mr. Justin Pour was arrested in Philadelphia County and charged with operating a vehicle while under the influence of alcohol.

a. A criminal Complaint was filed with the Philadelphia Municipal Court, said case captioned *Commonwealth of Pennsylvania vs. Justin Pour*, docket number MC-51-CR-0600081-2006.

9. On July 8, 2006, Respondent met with Mr. Pour.

a. Mr. Pour expressed an interest in retaining Respondent to represent him in his criminal case.

b. Respondent advised Mr. Pour that her retainer for the representation was \$1,700.

c. Mr. Pour agreed to Respondent's requested retainer.

d. Mr. Pour paid Respondent the sum of \$400 in cash, as a down payment towards her requested retainer.

e. Respondent provided Mr. Pour with a handwritten receipt, signed and dated by her, in

which Respondent acknowledged receiving \$400 in cash from Mr. Pour.

10. On August 7, 2006, Respondent met with Mr. Pour at his place of business.

- a. Mr. Pour gave Respondent \$300 in cash.
- b. Respondent advised Mr. Pour that on August 8, 2006, a status hearing would be held, at which listing he would receive a trial date.

11. By letter dated August 7, 2006, sent by Respondent to Mr. Pour, Respondent, *inter alia*:

- a. confirmed her meeting with Mr. Pour that day;
- b. acknowledged receiving \$300 in cash from Mr. Pour, which represented the balance owed on her requested retainer of \$1,700; and
- c. again advised Mr. Pour that on August 8, 2006, a status hearing would be held, at which listing he would receive a trial date.

12. On August 8, 2006, Respondent attended the status listing on behalf of Mr. Pour.

- a. Respondent completed and filed an Order for Appearance, thereby entering her appearance on behalf of Mr. Pour.

13. By letter dated August 8, 2006, sent by Respondent to Mr. Pour, Respondent, *inter alia*:

- a. advised Mr. Pour of what transpired at the status hearing;
- b. informed Mr. Pour of what she had learned from documents related to his criminal case;
- c. listed for Mr. Pour the penalties he could expect to receive if convicted;
- d. advised Mr. Pour that his case was next listed for a hearing on October 4, 2006; and
- e. enclosed documents related to his criminal case.

14. On October 4, 2006, Mr. Pour's criminal case was continued to December 4, 2006.

15. By Order of the Pennsylvania Supreme Court dated October 10, 2006, effective thirty days from the date of the Order, Respondent was suspended from the Bar of the Commonwealth of Pennsylvania for six months and directed to comply with all the provisions of Pa.R.D.E. 217.

16. By letter dated October 11, 2006, which was sent to Respondent by regular mail, Elaine M. Bixler, Secretary to the Disciplinary Board:

- a. enclosed a copy of the Pennsylvania Supreme Court's October 10, 2006 Order;

- b. advised Respondent that her six-month suspension was effective thirty days from the date of the Court's Order;
- c. provided Respondent with the Standard Guidance of the Disciplinary Board to Lawyers who have been Suspended One Year or Less; Rule 217 of the Pa.R.D.E.; Subchapter E., Formerly Admitted Attorneys, of the Disciplinary Board Rules; Form DB-23, Nonlitigation Notice of Disbarment, Suspension or Transfer to Inactive Status; Form DB-24, Litigation Notice of Disbarment, Suspension or Transfer to Inactive Status; and Form DB-25, Statement of Compliance; and
- d. informed Respondent that she was "required to comply with the Pennsylvania Rules of Disciplinary Enforcement and Disciplinary Board Rules as enclosed herewith."

17. Respondent received this letter, with enclosures.

18. Respondent failed to:

- a. provide Mr. Pour with written notice, sent by registered mail or by certified mail, return receipt requested, of her suspension and of her consequent inability to act as an

attorney after the effective date of her suspension, and of Mr. Pour's need to promptly retain substitute counsel; and

- b. provide the Philadelphia District Attorney's Office with written notice, sent by registered mail or by certified mail, return receipt requested, of her suspension and of her consequent inability to act as an attorney after the effective date of her suspension.

19. By letter dated November 20, 2006, sent to Mr. Pour by regular mail, Respondent, *inter alia*:

- a. informed Mr. Pour that she referred his criminal case to William Dixon, Esquire;
- b. represented to Mr. Pour that her "work demands do not allow [her] to continue" to represent Mr. Pour;
- c. stated that she had forwarded Mr. Pour's file for his legal matter to Mr. Dixon;
- d. advised Mr. Pour that his next hearing date was December 4, 2006; and
- e. suggested to Mr. Pour that he schedule an appointment with Mr. Dixon.

20. Respondent failed to:

- a. obtain Mr. Pour's consent to refer his case to Mr. Dixon and to forward Mr. Pour's file to Mr. Dixon; and
- b. advise Mr. Pour of her suspension and of her consequent inability to act as an attorney after the effective date of her suspension.

21. Mr. Pour contacted and met with Mr. Dixon.

- a. Mr. Pour decided not to have Mr. Dixon handle his legal matter.

22. After receiving Respondent's November 20, 2006 letter, Mr. Pour contacted Respondent by telephone and expressed to Respondent that he wanted her to continue to represent him.

- a. Respondent told Mr. Pour that she would no longer represent him.

23. By letter dated December 7, 2006, sent to Mr. Pour by Respondent, Respondent, *inter alia*:

- a. indicated that her letter was a response to a telephone call that she received that day from Mr. Pour;
- b. recounted information she had received from Mr. Dixon concerning negotiations between Mr. Dixon and the Assistant District Attorney assigned to Mr. Pour's criminal case;

- c. offered her opinion as to Mr. Pour's chances of obtaining an acquittal at trial;
- d. suggested that Mr. Pour consult with Mr. Dixon if Mr. Pour had further questions regarding his criminal case; and
- e. enclosed a billing invoice and explained to Mr. Pour that the initial retainer she had received from Mr. Pour had been expended due to prior services rendered.

24. On December 15, 2006, Respondent completed, signed, and dated the Form DB-25, Statement of Compliance, and filed the original with the Office of the Secretary.

- a. Respondent represented in the Form DB-25, Statement of Compliance, that she had "fully complied with the provisions of the Order of the Supreme Court, with the applicable provisions of the Pennsylvania Rules of Disciplinary Enforcement and with the applicable Disciplinary Board Rules."
- b. Respondent certified under the penalties provided by 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities), that the statements she provided in the Form DB-25, Statement of Compliance, were true and

correct and contained no misrepresentations or omissions of material fact.

25. Respondent's certification was false because Respondent had not "fully" complied with the suspension Order and applicable rules for the reasons set forth in ¶ 18, *supra*.

26. On January 22, 2007, David Belmont, Esquire, entered his appearance on behalf of Mr. Pour in Mr. Pour's criminal case.

27. On July 2, 2007, Respondent filed with the Office of the Secretary a document entitled "Respondent's Verified Statement of Compliance and Request for Reinstatement to the Practice of Law" ("the Reinstatement Request").

- a. Respondent completed, signed, and dated the Reinstatement Request.
- b. Respondent certified under the penalties provided by 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities), that the statements she provided in the Reinstatement Request, were true and correct and contained no misrepresentations or omissions of material fact.

28. By letter dated July 3, 2007, which was sent by Ms. Bixler to John A. Vaskov, Esquire, Deputy Prothonotary

for the Supreme Court of Pennsylvania, Ms. Bixler, *inter alia*:

- a. enclosed copies of the Form DB-25, Statement of Compliance, and the Reinstatement Request; and
- b. stated that the Disciplinary Board "recommends that the Supreme Court enter an order reinstating [Respondent] to active status."

29. Ms. Bixler copied her July 3, 2007 correspondence to Respondent, and Respondent failed to inform Ms. Bixler and the Court that her Statement of Compliance was false.

30. By Order dated July 17, 2007, the Pennsylvania Supreme Court reinstated Respondent to active status, effective immediately, after "certification by the Disciplinary Board" that Respondent had "filed a verified statement showing compliance with all the terms and conditions of the Order of Suspension and Rule 217, Pa.R.D.E."

31. By her conduct as alleged in Paragraphs 8 through 30 above, Respondent violated the following Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement:

- a. RPC 1.2(a); which states that a lawyer shall

abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify;

- b. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;
- c. RPC 8.1(b), which states that an applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not fail to disclose a fact necessary

to correct a misapprehension known by the person to have arise in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority except that this Rule does not require disclosure of information otherwise protected by Rule 1.6;

d. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

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; and

f. Pa.R.D.E. 203(b)(3), which states that a wilful violation of any other provision of the Enforcement Rules shall constitute misconduct and shall be grounds for discipline, via:

(1) Pa.R.D.E. 217(b), which states that a formerly admitted attorney shall promptly notify, or cause to be notified, by registered or certified mail, return receipt requested, all clients who are involved in pending litigation or administrative

proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of the disbarment, suspension or transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension or transfer to inactive status. The notice to be given to the client shall advise the prompt substitution of another attorney or attorneys in place of the formerly admitted attorney. In the event the client does not obtain substitute counsel before the effective date of the disbarment, suspension or transfer to inactive status, it shall be the responsibility of the formerly admitted attorney to move in the court or agency in which the proceeding is pending for leave to withdraw. The notice to be given to the attorney or attorneys for an adverse party shall state the place of residence of the client of the formerly admitted attorney; and

- (2) Pa.R.D.E. 217(e), which states that within ten days after the effective date of the disbarment, suspension or transfer to inactive status order, the formerly admitted attorney shall file with the Board a verified statement.

SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

32. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a three-month suspension.

33. Respondent hereby consents to that discipline being imposed upon her by the Supreme Court of Pennsylvania. Attached to this Petition is Respondent's

executed Affidavit required by Rule 215(d), Pa.R.D.E., stating that she consents to the recommended discipline, including the mandatory acknowledgements contained in Rule 215(d)(1) through (4), Pa.R.D.E.

34. In support of Petitioner and Respondent's joint recommendation, it is respectfully submitted that there are several mitigating circumstances:

- a. Respondent has admitted engaging in misconduct and violating the charged Rules of Professional Conduct and Rules of Disciplinary Enforcement;
- b. Respondent has cooperated with Petitioner, as is evidenced by Respondent's admissions herein and her consent to receiving a three-month suspension;
- c. Respondent is remorseful for her misconduct and understands she should be disciplined, as is evidenced by her consent to receiving a three-month suspension; and
- d. Part of Respondent's misconduct occurred while two of her family members had health-related problems. In November 2006, Respondent's husband became seriously ill. Respondent's husband, *inter alia*, was

diagnosed with high blood pressure, diabetes, and atrial fibrillation. After several months spent convalescing, Respondent's husband returned to work in February 2007. In February 2008, Respondent's husband had two major strokes. On May 25, 2008, Respondent's husband passed away. Around the same time frame that Respondent's husband first fell ill, one of Respondent's children was having difficulty with his Attention Deficit Disorder and was in jeopardy of failing in school. Respondent had the sole responsibility for addressing the needs of her seriously ill husband and her child.

35. An aggravating factor in determining the discipline to impose is Respondent's six-month suspension, which was imposed by Order of the Pennsylvania Supreme Court dated October 10, 2006. Respondent was found to have violated RPC 1.8(h)(2), RPC 1.15(c), RPC 1.16(a)(1), RPC 5.5(a), RPC 8.4(c), and Pa.R.D.E. 203(b)(3) via Pa.R.D.E. 217(b), Pa.R.D.E. 217(c)(1), Pa.R.D.E. 217(c)(2), Pa.R.D.E. 217(d), Pa.R.D.E. 217(e), Pa.R.D.E. 217(j)(4)(iii), Pa.R.D.E. 217(j)(4)(iv), Pa.R.D.E. 217(j)(4)(v), Pa.R.D.E.

217(j) (4) (vi), Pa.R.D.E. 217(j) (4) (vii), Pa.R.D.E. 217(j) (4) (ix), and Pa.R.D.E. 217(j) (4) (x). In that disciplinary matter, Respondent: presented to her clients a document containing a provision that limited Respondent's liability to her clients for malpractice and that sought to settle a claim or potential claim for malpractice and failed to advise her clients, in writing, to seek independent legal counsel before executing that document and to afford her clients a reasonable opportunity to seek the advise of independent counsel; failed to hold separate a \$5,000 fee Respondent took from her clients' settlement proceeds after Respondent was advised that her clients disputed Respondent's claim that she was entitled to a fee; and provided legal services in three client matters following her transfer to inactive status for failing to satisfy her continuing legal education ("CLE") requirements.

36. There is no Pennsylvania disciplinary case that involves the same misconduct engaged in by Respondent. Respondent's most serious misconduct involves the misrepresentations made in two separate documents filed with the Office of the Secretary concerning her compliance with certain Pennsylvania Rules of Disciplinary Enforcement relating to her suspension. There is one Pennsylvania

case, which resulted in a two-year suspension, where, *inter alia*, an attorney filed a Statement of Compliance that contained false information concerning the attorney's compliance with the Pennsylvania Supreme Court's Order transferring him to inactive status. *Office of Disciplinary Counsel v. Joel H. Cavadel*, Nos. 176 DB 2006 and 5 DB 2007 (D.Bd. Rpt. dated 8/30/07) (S.Ct. Order dated 3/12/08).

The *Cavadel* case involved two consolidated Petitions for Discipline, where the principal charge in each was the unauthorized practice of law. D.Bd. Rpt. at 2. Respondent Cavadel was transferred to inactive status for failing to comply with his continuing legal education requirements by Order of the Pennsylvania Supreme Court dated March 25, 2003 ("the inactive status Order"). *Id.* at 4. While on inactive status, Respondent Cavadel engaged in the unauthorized practice of law in two separate client matters. *Id.* at 4-6.

On November 23, 2005, Respondent Cavadel filed with the Disciplinary Board a Statement of Compliance, in which he falsely certified that he had fully complied with the inactive status Order, and the applicable provisions of the Disciplinary Enforcement Rules and the Disciplinary Board Rules. *Id.* at 5. Respondent was reinstated to practice law in Pennsylvania. *Id.* at 6.

By Order dated November 14, 2005, the Board of Immigration Appeals suspended Respondent Cavadel for nine months. *Id.* at 5. By Order dated April 17, 2006, the Pennsylvania Supreme Court reciprocally suspended Respondent Cavadel for nine months. *Id.* at 3. While on suspended status, Respondent Cavadel engaged in the unauthorized practice of law in one client matter. *Id.* at 7-8.

The Disciplinary Board, in recommending a two-year suspension to the Pennsylvania Supreme Court, cited cases that dealt solely with the unauthorized practice of law. *Id.* at 15.

The *Cavadel* case is readily distinguishable from the matter at bar because unlike Respondent Cavadel, Respondent Price did not engage in the unauthorized practice of law and her misrepresentations in the documents that she filed with the Secretary's Office did not relate to her attorney status. Therefore, precedent does not support a suspension in excess of a year and a day.

37. Respondent's misconduct is not sufficiently egregious to warrant a term of suspension that requires Respondent to prove her fitness at a reinstatement hearing. However, a short term of suspension is appropriate to underscore the gravity of Respondent having submitted

documents that contained misrepresentations, which documents were relied upon by the Disciplinary Board in recommending to the Supreme Court of Pennsylvania that Respondent's request for reinstatement be granted. Moreover, a short term of suspension will deter other formerly admitted attorneys from engaging in similar misconduct.

WHEREFORE, Petitioner and Respondent respectfully request that:

- a. Pursuant to Pa.R.D.E. 215(e) and 215(g), the three-member panel of the Disciplinary Board review and approve the Joint Petition in Support of Discipline on Consent and file its recommendation with the Supreme Court of Pennsylvania recommending that the Supreme Court enter an Order that Respondent receive a three-month suspension; and
- b. Pursuant to Pa.R.D.E. 215(i), the three-member panel of the Disciplinary Board enter an order for Respondent to pay the necessary expenses incurred in the investigation and prosecution of this matter as a condition to the grant of the Petition, and that all expenses be paid by Respondent before the

imposition of discipline under Pa.R.D.E.
215(g).

Respectfully and jointly submitted,

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION
CHIEF DISCIPLINARY COUNSEL

November 12, 2008
Date

By



Richard Hernandez
Disciplinary Counsel

11/12/2008
Date

By



Ruth Ann Price
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :

Petitioner :

:

: No. 134 DB 2008

v. :

: Atty. Reg. No. 33004

RUTH ANN PRICE, :

Respondent: (Out of State)

VERIFICATION

The statements contained in the foregoing Joint Petition In Support Of Discipline On Consent Under Pa.R.D.E. 215(d) are true and correct to the best of our knowledge, information and belief and are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

November, 17, 2008

Date



Richard Hernandez
Disciplinary Counsel

11/12/2008

Date



Ruth Ann Price
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
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AFFIDAVIT UNDER RULE 215(d), Pa.R.D.E.

Respondent, Ruth Ann Price, hereby states that she consents to the imposition of a three-month suspension, as jointly recommended by Petitioner, Office of Disciplinary Counsel, and Respondent in the Joint Petition In Support Of Discipline On Consent and further states that:

1. Her consent is freely and voluntarily rendered; she is not being subjected to coercion or duress; she is fully aware of the implications of submitting the consent; and she has not consulted with counsel in connection with the decision to consent to discipline;

2. She is aware that there is presently pending a disciplinary proceeding at No. 134 DB 2008 involving allegations that she has been guilty of misconduct as set forth in the Joint Petition;

3. She acknowledges that the material facts set forth in the Joint Petition are true; and

4. She consents because she knows that if charges pending at No. 134 DB 2008 continued to be prosecuted, she could not successfully defend against them.

Ruth Ann Price
Ruth Ann Price, Esquire
Respondent

Sworn to and subscribed
before me this 12th
day of November, 2008.

Rosemary B. Cullen
Notary Public

