

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

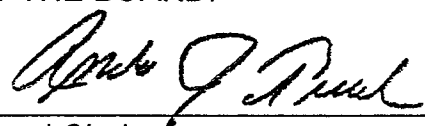
OFFICE OF DISCIPLINARY COUNSEL : No. 144 DB 2019
Petitioner :
v. : Attorney Registration No. 40570
SUSAN P. HALPERN :
Respondent : (Philadelphia)

ORDER

AND NOW, this 21st day of August, 2019, in accordance with Rule 215(g), Pa.R.D.E., the three-member Panel of the Disciplinary Board having reviewed and approved the Joint Petition in Support of Discipline on Consent filed in the above captioned matter; it is


ORDERED that SUSAN P. HALPERN be subjected to a **PUBLIC REPRIMAND** by the Disciplinary Board of the Supreme Court of Pennsylvania as provided in Rule 204(a) and Rule 205(c)(9) of the Pennsylvania Rules of Disciplinary Enforcement.

BY THE BOARD:



Board Chair

TRUE COPY FROM RECORD
Attest:



Marcee D. Sloan
Board Prothonotary
The Disciplinary Board of the
Supreme Court of Pennsylvania

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

| | | |
|--------------------------------|---|---------------------------------|
| OFFICE OF DISCIPLINARY COUNSEL | : | No.144 DB 2019 |
| Petitioner | : | |
| | : | File No. C1-18-929 |
| | : | |
| v. | : | |
| | : | Attorney Registration No. 40570 |
| SUSAN P. HALPERN | : | |
| Respondent | : | (Philadelphia) |

PUBLIC REPRIMAND

Susan P. Halpern, you stand before the Disciplinary Board, your professional peers and members of the public for the imposition of a Public Reprimand. It is an unpleasant task to publicly reprimand one who has been granted the privilege of membership in the bar of this Commonwealth. Yet as repugnant as this task may be, it has been deemed necessary that you receive this public discipline.

Ms. Halpern, you are being reprimanded today for your criminal conviction of two counts of willful failure to file return, supply information, or pay tax, pursuant to 26 U.S.C. §7203. You were sentenced to probation for five years on each count, to run concurrently; to pay restitution in the amount of \$100,000.00; to pay a \$5,000.00 fine; to perform 250 hours of supervised community service; to fulfill certain other conditions; and to pay court costs. You timely notified Office of Disciplinary Counsel of your conviction, in accordance with Rule 214(a) of the Pennsylvania Rules of Disciplinary Enforcement.

As a result of your conduct, you have violated the following Rule of Professional Conduct (“RPC”) and Pennsylvania Rule of Disciplinary Enforcement (“Pa.R.D.E.”):

1. RPC 8.4(b) – It is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects; and
2. Pa.R.D.E. 203(b)(1) – A conviction of a crime shall be grounds for discipline.

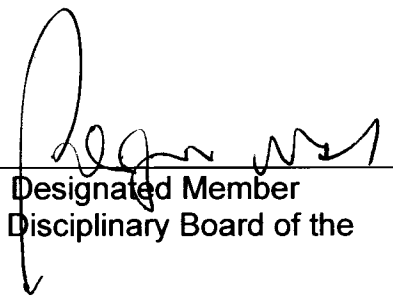
We note that you were admitted to practice law in the Commonwealth in 1984 and have no record of discipline.

It is my duty to reprimand you for your misconduct. We sincerely hope that you will conduct yourself in such a manner that future disciplinary action will be unnecessary.

Ms. Halpern, your conduct in this matter is now fully public. This Public Reprimand is a matter of public record.

As you stand before the Board today, we remind you that you have a continuing obligation to abide by the Rules of Professional Conduct and Rules of Disciplinary Enforcement. This Public Reprimand is proof that Pennsylvania lawyers will not be permitted to engage in conduct that falls below professional standards. Be mindful that any future dereliction will subject you to disciplinary action.

This Public Reprimand shall be posted on the Disciplinary Board’s website at www.padisciplinaryboard.org



Designated Member
The Disciplinary Board of the

Supreme Court of Pennsylvania

Administered by a designated panel of three Members of The Disciplinary Board of the Supreme Court of Pennsylvania, at Philadelphia, Pennsylvania, on September 12, 2019.

ACKNOWLEDGMENT

The undersigned, Respondent in the above proceeding, herewith acknowledges that the above Public Reprimand was administered in her presence and in the presence of the designated panel of The Disciplinary Board at the Board offices located at the 1601 Market Street, Suite 3320, Philadelphia, Pennsylvania, on September 12, 2019.



Susan P. Halpern

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :
Petitioner :
: ODC File No. C1-18-929
v. :
: Atty. Reg. No. 40570
SUSAN P. HALPERN, :
Respondent : (Philadelphia)

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

Petitioner, Office of Disciplinary Counsel, by Paul J. Killion, Esquire, Chief Disciplinary Counsel, and by Richard Hernandez, Esquire, Disciplinary Counsel, and Respondent, Susan P. Halpern, who is represented by James C. Schwartzman, Esquire, file this Joint Petition In Support of Discipline On Consent Under Rule 215(d) of the Pennsylvania Rules of Disciplinary Enforcement ("the Joint Petition") and respectfully represent that:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, Pennsylvania, is invested, pursuant to Pa.R.D.E. 207, with the power and duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings

FILED
08/02/2019
The Disciplinary Board of the
Supreme Court of Pennsylvania

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

2. Respondent, Susan P. Halpern, was born in 1958, was admitted to practice law in the Commonwealth on June 4, 1984, and lists a public access address at 1420 Walnut Street, Suite 300, Philadelphia, Pennsylvania 19102-4002.

3. 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.

**SPECIFIC FACTUAL ADMISSIONS AND
RULES OF PROFESSIONAL CONDUCT VIOLATED**

4. Respondent has agreed to enter into a joint recommendation for consent discipline.

5. Respondent stipulates that the factual allegations set forth below are true and correct and that she violated the charged Rule of Professional Conduct and Pennsylvania Rule of Disciplinary Enforcement as set forth herein.

CHARGE

6. On April 11, 2017, the United States Attorney's Office filed a three-count Indictment in the United States District Court for the Eastern District of Pennsylvania, said case captioned ***United States of America vs. Edward Millstein***

and Susan Halpern, Docket No. 2:17-cr-00189-CMR ("the federal criminal case").

7. Mr. Edward Millstein was Respondent's then husband.

8. The Indictment charged Respondent with two counts of violating 26 U.S.C. § 7203 (titled "Willful failure to file return, supply information, or pay tax"), graded as a misdemeanor.

9. The Indictment alleged that while Respondent and Mr. Millstein resided as a married couple in Philadelphia, they had willfully failed to pay income taxes due in 2011 and 2012 in that they:

- a. received taxable income in the amount of \$266,588.00 in 2010, for which they owed to the United States of America an income tax in the amount of \$143,473.75, payable on or before April 15, 2011; and
- b. received taxable income in the amount of \$317,140 in 2011, for which they owed to the United States of America an income tax in the amount of \$153,560.69, payable on or before April 15, 2012.

10. The maximum penalty for a violation of 26 U.S.C. § 7203 is a term of imprisonment of not more than one year and a fine of not more than \$25,000.00.

11. On November 5, 2018, Respondent pled guilty before the Honorable Cynthia M. Rufe, Judge of the United States District Court for the Eastern District of Pennsylvania, to two counts of 26 U.S.C. § 7203.

12. On April 4, 2019, Judge Rufe sentenced Respondent to:

- a. probation for five years on each count, to run concurrent to each other;
- b. pay restitution in the amount of \$100,000.00 (which amount Respondent satisfied at sentencing);
- c. pay a \$5,000.00 fine, in monthly installments of \$500.00;
- d. 250 hours of supervised community service, in blocks of 50 hours per year;
- e. conditions that required Respondent, *inter alia*, to provide full disclosure and accurate financial information and records to her probation officer, to fully cooperate with the Internal Revenue Service by filing all

delinquent or amended tax returns and by timely filing all future tax returns while she is under supervision, and to fully cooperate by paying all taxes, interest, and penalties due; and

f. pay court costs.

13. In accordance with Pa.R.D.E. 214(a), Respondent reported her conviction to Petitioner.

14. By her conduct as alleged in paragraphs 6 through 13 above, Respondent violated the following Rule of Professional Conduct and Pennsylvania Rule of Disciplinary Enforcement:

- a. RPC 8.4(b), which states that it is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects; and
- b. Pa.R.D.E. 203(b)(1), which states that a conviction of a crime shall be grounds for discipline.

SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

15. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a public reprimand.

16. 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.

17. In support of Petitioner and Respondent's joint recommendation, it is respectfully submitted that there are several mitigating circumstances, as set forth below:

- a. Respondent has admitted engaging in misconduct and violating the charged Rule of Professional Conduct and Pennsylvania Rule of Disciplinary Enforcement;
- b. Respondent has cooperated with Petitioner, as is evidenced by Respondent's admissions herein and her consent to receiving a public reprimand;

- c. Respondent is remorseful for her misconduct and understands she should be disciplined, as is evidenced by her consent to receive a public reprimand;
- d. Respondent has no record of discipline in the Commonwealth; and
- e. Respondent, at sentencing, paid \$100,000.00 to the Internal Revenue Service, thus satisfying the court-ordered restitution in full.

18. Respondent, through her attorney, desires to bring to the attention of the three-member panel of the Disciplinary Board that if the within disciplinary matter had proceeded to a disciplinary hearing, Respondent would have presented character evidence.

19. There is precedent that stands for the proposition that Respondent's failure to pay federal income taxes does not warrant a term of suspension; consequently, these cases support the joint recommendation that Respondent be publicly reprimanded for her criminal conduct.

In *Office of Disciplinary Counsel v. Anonymous (Thomas L. McGill, Jr.)*, No. 87 DB 1993 (D.Bd. Rpt. 1/7/95) (S.Ct. Order 2/27/95), Respondent McGill was convicted of two counts of failure to pay federal income taxes over a six-year period

and one count of tax evasion for depositing his income into accounts in the name of his wife and his firm. Respondent McGill's tax liability, including interest and penalties, was \$107,175.41. Respondent McGill had no record of discipline, presented compelling character evidence, paid the back taxes owed, arranged to make installment payments toward the interest and penalties owed, expressed remorse, and agreed to be voluntarily monitored for compliance with his tax obligations while the disciplinary proceeding was pending. Respondent McGill was publicly censured and placed on probation for two years, with conditions that required him to comply with all federal and state tax laws and to fully cooperate with his monitor.

There is another disciplinary case involving a conviction for failure to pay federal income taxes that resulted in an attorney being placed on probation for two years with the following conditions: the attorney had to comply with federal, state, and municipal income tax laws; the attorney had to file his tax returns with the Secretary's Office; the attorney had to abstain from gambling; and the attorney had to continue to treat his gambling addiction. See ***In re Anonymous No. 12 DB 89***, 10 Pa. D.&C.4th 627 (1990). The attorney was convicted on six counts of willfully failing to

pay federal income taxes over a six-year period. The attorney established **Braun** mitigation based on a gambling addiction. Other mitigating factors were no record of discipline, remorse, and character evidence.

In **Office of Disciplinary Counsel v. Darrell Lee Kadunce**, No. 32 DB 2006 (Recommendation of the Three-Member Panel of the Disciplinary Board 6/27/06) (S.Ct. Order 9/18/06), Respondent Kadunce was suspended on consent for one year after having pled guilty to one count of willful failure to pay federal income tax. However, **Kadunce** is distinguishable because Respondent Kadunce was serving a suspension of one year and one day when the consent discipline was agreed upon and had additional prior discipline consisting of a public censure, two private reprimands, and three informal admonitions.

Respondent's matter resembles Respondent McGill's matter in that both attorneys: were convicted of failing to pay federal income taxes; had a similar federal tax liability; and had the mitigating factors of remorse, no record of discipline, and character evidence. Respondent's criminal conduct is arguably not as serious as Respondent McGill's criminal conduct because Respondent McGill was also convicted of one count of tax evasion.

When **McGill** was decided the only public sanctions available were a public censure, a term of suspension or disbarment. Petitioner and Respondent contend that there is no need to impose a public censure, as was the case in **McGill**, because a public reprimand, like a public censure, is a public rebuke that serves to promote the goals of maintaining the integrity of the legal profession and deterrence.

In **McGill**, the public censure was accompanied by a two-year period of probation with conditions that required compliance with tax laws. A term of disciplinary probation is unnecessary in Respondent's matter because Judge Rufe imposed a sentence that placed Respondent on probation for five years with a series of conditions that ensure that Respondent is in compliance with her tax obligations.

20. After considering the circumstances surrounding Respondent's criminal conduct, the aforementioned precedent, and the mitigating factors, Petitioner and Respondent submit that a public reprimand is appropriate discipline for Respondent's misconduct.

WHEREFORE, Petitioner and Respondent respectfully request that:

- a. Pursuant to Pa.R.D.E. 215(e) and 215(g)(1), the three-member panel of the Disciplinary

Board review and approve the Joint Petition in Support of Discipline on Consent and enter an Order that Respondent receive a public reprimand; and

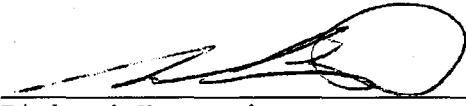
- b. Pursuant to Pa.R.D.E. 215(i), the three-member panel of the Disciplinary Board enter an order for Respondent to pay the necessary expenses incurred in the investigation and prosecution of this matter, and that under Pa.R.D.E. 208(g)(1), all expenses be paid by Respondent within 30 days of entry of the order taxing the expenses against the respondent-attorney.

Respectfully submitted,

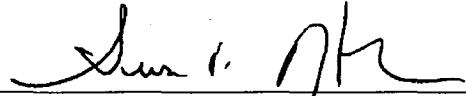
OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION
CHIEF DISCIPLINARY COUNSEL

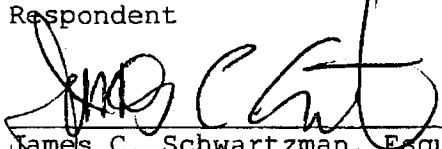
July 31, 2019
Date

By 
Richard Hernandez
Disciplinary Counsel

7/17/19
Date

By 
Susan P. Halpern, Esquire
Respondent

7/26/19
Date

By 
James C. Schwartzman, Esquire
Counsel for Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA


OFFICE OF DISCIPLINARY COUNSEL, :
Petitioner :
: ODC File No. C1-18-929
v. :
: Atty. Reg. No. 40570
SUSAN P. HALPERN, :
Respondent : (Philadelphia)

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 or
information and belief and are made subject to the penalties
of 18 Pa.C.S. §4904, relating to unsworn falsification to
authorities.

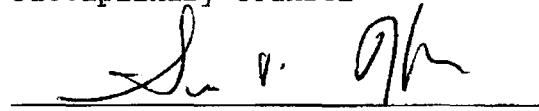
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Date

By


Richard Hernandez
Disciplinary Counsel

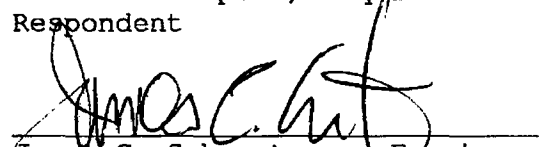
7/17/19
Date

By


Susan P. Halpern, Esquire
Respondent

7/26/19
Date

By


James C. Schwartzman, Esquire
Counsel for Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :
Petitioner :
: ODC File No. C1-18-929
v. :
: Atty. Reg. No. 40570
SUSAN P. HALPERN, :
Respondent : (Philadelphia)

AFFIDAVIT UNDER RULE 215(d), Pa.R.D.E.

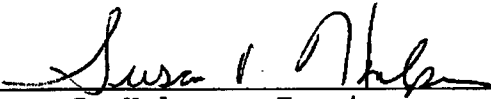
Respondent, Susan P. Halpern, hereby states that she consents to the imposition of a public reprimand as jointly recommended by Petitioner, Office of Disciplinary Counsel, and Respondent in the Joint Petition In Support Of Discipline On Consent, and further states that:

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 consulted with James C. Schwartzman, Esquire, in connection with the decision to consent to discipline;

2. She is aware that there is presently pending an investigation into 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 predicated upon the matter under investigation were filed, she could not successfully defend against them.



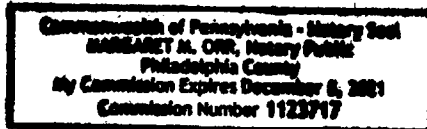
Susan P. Halpern, Esquire
Respondent

Sworn to and subscribed

before me this 17th
day of July, 2019.



Notary Public



CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Office of Disciplinary Counsel

Signature:  _____

Name: Richard Hernandez, Disciplinary Counsel

Attorney No. (if applicable): 57254