

**IN THE SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL, : No. 2653 Disciplinary Docket No. 3  
: :  
Petitioner : No. 149 DB 2018  
: :  
v. : Attorney Registration No. 44540  
: :  
GLENN D. DeSANTIS, : (Montgomery County)  
: :  
Respondent :

**ORDER**

**PER CURIAM**

**AND NOW**, this 15<sup>th</sup> day of November, 2019, upon consideration of the Report and Recommendations of the Disciplinary Board, Glenn D. DeSantis is disbarred from the Bar of this Commonwealth, and he shall comply with all the provisions of Pa.R.D.E. 217. Respondent shall pay costs to the Disciplinary Board pursuant to Pa.R.D.E. 208(g).

A True Copy Patricia Nicola  
As Of 11/15/2019

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 149 DB 2018
Petitioner	:	
	:	
v.	:	Attorney Registration No. 44540
	:	
GLENN D. DESANTIS	:	
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

By Petition for Discipline filed on August 23, 2018, Petitioner, Office of Disciplinary Counsel, charged Respondent, Glenn D. DeSantis, with violation of the Rules of Professional Conduct (“RPC”) and Pennsylvania Rules of Disciplinary Enforcement (“Pa.R.D.E.”) arising out of allegations that Respondent engaged in the unauthorized practice of law. Respondent failed to respond to the Petition for Discipline; all factual allegations contained therein are deemed admitted pursuant to Pa.R.D.E. 208(b)(3).

Following the referral of this matter to a District I Hearing Committee (“Committee”), the Committee Chair held a prehearing conference on November 13, 2018. Respondent failed to appear. The Committee conducted a disciplinary hearing on December 18, 2018. Petitioner offered exhibits ODC-1 through ODC-11, which were admitted into evidence. Petitioner did not call any witnesses. Respondent failed to appear.

Petitioner filed a Brief to the Committee on January 22, 2019 and requested that the Committee recommend to the Board that Respondent be disbarred from the practice of law.

Respondent did not file a brief.

The Committee filed a Report on April 16, 2019, wherein it concluded that Petitioner met its burden of proving that Respondent violated the rules charged in the Petition for Discipline and recommended that he be disbarred from the practice of law.

The parties did not file exceptions to the Committee’s Report.

The Board adjudicated this matter at the meeting on July 19, 2019.

## II. FINDINGS OF FACT

The Board makes the following findings.

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 brought in accordance with the various provisions of said rules.

2. Respondent is Glenn D. DeSantis, born in 1957 and admitted to practice law in the Commonwealth in 1985. His attorney registration address is 1801 Roberts Way, Voorhees NJ 08043. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

3. On August 23, 2018, Petitioner filed a Petition for Discipline against Respondent.

4. On September 18, 2018, the Petition for Discipline was personally served on Respondent. ODC-11.

5. Respondent failed to file an Answer to Petition for Discipline.

6. As a result of Respondent's failure to answer the Petition, all factual allegations in the Petition are admitted. Pa.R.D.E. 208(b)(3).

7. By Order dated June 10, 1997, retroactive to February 26, 1996, the Supreme Court of Pennsylvania suspended Respondent from the practice of law for a period of three years based on Respondent's criminal conviction.

a. In June 1995, Respondent was convicted of one count of mail fraud in violation of 18 U.S.C. §1341.

b. In October 1996, retroactive to October 2, 1995, Respondent was suspended in New Jersey based on his June 1995 conviction.

8. Respondent has not been reinstated to practice law in the Commonwealth of Pennsylvania.

9. In October 1998, Respondent was reinstated to the practice of law in New Jersey.

10. In March 2015, Carl A. Hemphill, a Pennsylvania resident, retained Respondent's law firm, Metzler & DeSantis, LLP, located in Moorestown, New Jersey, to represent him in a real estate matter in Pennsylvania.

a. Mr. Hemphill sought representation to purchase property located at 20 S. Union Avenue, Lansdowne PA, Delaware County.

b. Respondent's partner in the firm, Laurent W. Metzler, is licensed in the Commonwealth of Pennsylvania, but was not involved in representing Mr. Hemphill.

11. On March 31, 2015, Respondent and Mr. Hemphill executed an Engagement Letter and Terms of Engagement, wherein it was provided, *inter alia*, that:

a. Respondent would represent Mr. Hemphill "in all facets of the Real Estate Purchase" in Lansdowne, PA, "including the formation of a Pennsylvania Limited Partnership and Pennsylvania Limited Liability Company";

b. Respondent's fee would be \$2,500 plus costs; and

c. A portion of the fee in the amount of \$1,250 would be required in advance.

12. Mr. Hemphill paid Respondent \$1,250.00. Respondent acknowledged receipt of the funds in the Engagement Letter.

13. Respondent failed to inform Mr. Hemphill that he was prohibited from practicing law in Pennsylvania.

14. Thereafter, Respondent formed Union Avenue Holdings, L.P., a Pennsylvania Limited Partnership, on behalf of Mr. Hemphill.

15. On August 26, 2015, Mr. Hemphill forwarded to Respondent a Cashier's Check in the amount of \$30,000, made payable to "Metzler & DeSantis Escrow Account" to hold in escrow in regard to the purchase of the Lansdowne property.

16. On December 14, 2015, Union Avenue Holdings entered into an Agreement of Purchase and Sale.

17. The Agreement provide that the \$30,000 deposit, which was held in Respondent's escrow account:

- a. Should be credited against the purchase price at Closing; and
- b. "[i]f Closing is not completed hereunder for any other reason prior to the Inspection Period Expiration Date or pursuant to Section 13(b), the Deposit shall be returned to Buyer."

18. Thereafter, the sale of the Lansdowne property was not completed due to a denial of a variance petition.

19. By letter dated December 4, 2016 to Mr. Hemphill, Respondent

- a. Stated that he finally had an opportunity to go through the file and "capture" the expenses associated with the representation;
- b. Provided an itemization of the balance of his fee and expenses incurred during his representation, which totaled \$1,618.85;
- c. stated that he deducted \$1,618.85 from the \$30,000 that he had held in his firm's escrow account; and
- d. Enclosed a check in the amount of \$28,381.15.

20. Mr. Hemphill did not give Respondent permission to deduct the balance of Respondent's fee and expenses incurred from the \$30,000 deposit.

21. By certified letter to Respondent dated December 23, 2016, Mr. Hemphill's attorney, John F. Bradley, Esquire:

a. Stated that Mr. Hemphill acknowledged receipt of a check in the amount of \$28,381.15;

b. Stated that Mr. Hemphill "accepts the legitimacy of" the mailing charges and filing fees, totaling \$368.85;

c. Stated that Mr. Hemphill "disputes the propriety of Respondent's decision to deduct \$1,250.00 for the remaining portion of the legal fee";

d. Stated Mr. Hemphill's position that the \$30,000 in the escrow account was "intended for the sole purpose of providing the initial payment to the Seller";

e. Stated that given the denial of the variance, Respondent "could not justifiably have withdrawn funds from the escrow account based upon fees earned";

f. Requested the corporation kits and relevant documents for Union Avenue Holdings, L.P. and Tuxpan Investments, LLC because they were business entities that Respondent had formed on Mr. Hemphill's behalf; and

g. Requested that Respondent respond within thirty days.

22. Respondent received Mr. Bradley's letter.

23. Respondent did not respond to Mr. Bradley's letter.

24. Respondent failed to return the corporation kits and relevant documents.

25. Respondent did not refund any unearned fees.

26. On March 28, 2018, Petitioner's investigator hand-delivered to Respondent at his residence address in Plymouth Meeting a DB-7 Request for Statement of Respondent's Position. Petitioner's previous attempt to send the DB-7 by certified mail to Respondent's registered mailing address (at that time, 544 Ridge Pike, Lafayette Hill, PA 19107) was returned as undeliverable.

27. Respondent, without good cause, failed to respond to the DB-7.

28. Respondent failed to notify the Attorney Registration Office in writing of his address change.

29. Respondent received notices of the prehearing conference and disciplinary hearing. ODC-10.

30. Respondent failed to appear at the November 13, 2018 prehearing conference.

31. Respondent failed to appear at the December 18, 2018 disciplinary hearing.

32. Respondent filed for bankruptcy in the United States Bankruptcy Court for the Eastern District of Pennsylvania as follows:

a. December 5, 2017; debtor dismissed 3/13/2018; failure to make plan payments; and

b. March 27, 2018; debtor dismissed 7/17/2018; failure to make plan payments and failure to file documents.

ODC-8.



33. Respondent has two open judgments in the Philadelphia Municipal Court totaling \$3,742.15. ODC-9.

34. Respondent has ten open liens in the Court of Common Pleas of Montgomery County totaling \$122,638.74. ODC-9.

35. Respondent has two open judgments in New Jersey totaling \$4,350.50. ODC-9.

### III. CONCLUSIONS OF LAW

By his conduct as set forth above, Respondent violated the following rules:

1. RPC 1.4(a)(3) - A lawyer shall keep a client reasonably informed about the status of the matter;

2. RPC 1.4(a)(4) - A lawyer shall promptly comply with reasonable requests for information;

3. 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;

4. RPC 1.5(a) - A lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee;

5. 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 expense that has not been earned or incurred;

6. 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;

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

8. Pa.R.D.E. 203(b)(7) – Failure by a respondent-attorney without good cause to respond to Disciplinary Counsel's request or supplemental request under Disciplinary Board Rules, §87.7(b) for a statement of the respondent-attorney's position shall be grounds for discipline.

9. Pa.R.D.E. 217(c)(2) – A formerly admitted attorney shall promptly notify, or cause to be notified, of the disbarment, suspension, administrative suspension or transfer to inactive status, by registered or certified mail, return receipt requested: all other persons with whom the formerly admitted attorney may at any time expect to have professional contacts under circumstances where there is a reasonable probability that they may infer that he or she continues as an attorney in good standing. The responsibility of the formerly admitted attorney to provide the notice required by this subdivision shall continue for as long as the formerly admitted attorney is disbarred, suspended, administratively suspended or on inactive status;

10. Pa.R.D.E. 217(j)(4)(iv) - A formerly admitted attorney is specifically prohibited from representing himself or herself as a lawyer or person of similar status;

11. Pa.R.D.E. 217(j)(4)(v) - A formerly admitted attorney is specifically prohibited having any contact with clients either in person, by telephone, or in writing, except as provided in paragraph (3);

12. Pa.R.D.E. 217(j)(4)(vi) - A formerly admitted attorney is specifically prohibited from rendering legal consultation or advice to a client;

13. Pa.R.D.E. 217(j)(4)(x) - A formerly admitted attorney is specifically prohibited from receiving, disbursing or otherwise handling client funds; and

14. Pa.R.D.E. 219(d)(3) - Every attorney who filed the attorney registration form with the Attorney Registration Office “shall notify the Attorney Registration Office in writing of any change in the information previously submitted, including e-mail address, within 30 days after such change, which notice shall be sent by e-mail or facsimile transmission...”

#### IV. DISCUSSION

This matter is before the Board for review of allegations that Respondent committed professional misconduct by engaging in the unauthorized practice of law, failing to respond to a client’s requests for return of property and unearned fees, and failing to respond to Petitioner’s requests for information. The evidence establishes that Petitioner served Respondent with the Petition for Discipline setting forth the charges against him. Respondent failed to file an Answer to Petition for Discipline. Consequently, all of the factual allegations in the Petition for Discipline are deemed admitted, pursuant to Rule 208(b)(3), Pa.R.D.E., and support the conclusion that Respondent violated the Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement charged in the Petition for Discipline. Petitioner proved by clear and satisfactory evidence that Respondent engaged in ethical misconduct by virtue of the facts plead in the Petition for Discipline and related exhibits. ***Office of Disciplinary Counsel v. John Grigsby***, 425 A.2d 730, 732 (Pa. 1981).

Having concluded that Respondent violated the rules, this matter is ripe for the determination of discipline. For the following reasons, the Board recommends that Respondent be disbarred.

Respondent, admitted to practice law in the Commonwealth in 1985, was suspended for a period of three years by Order of the Supreme Court of Pennsylvania dated June 10, 1997, retroactive to February 26, 1996. Respondent's suspension was based on his 1995 criminal conviction of one count of mail fraud. To date, Respondent remains suspended in the Commonwealth and is prohibited from engaging in the practice of law.

During his suspension, Respondent engaged in serious professional misconduct by representing Carl Hemphill, a Pennsylvania resident, in a Pennsylvania real estate matter. Mr. Hemphill paid Respondent \$1,250.00 towards the representation. Respondent failed to inform Mr. Hemphill that he was prohibited from practicing law in Pennsylvania. In 2015, on behalf of Mr. Hemphill, Respondent formed Union Avenue Holdings, L.P., a Pennsylvania Limited Partnership. Relative to the representation, Respondent held \$30,000.00 in his escrow account for the purchase of a property. The Agreement of Purchase provided, *inter alia* that the deposit be returned to Union Avenue Holdings if the closing was not completed. In fact, the closing was not completed due to a denial of a variance petition. Nevertheless, Respondent deducted \$1,618.85 from the \$30,000 he held in his escrow account, which Respondent advised Mr. Hemphill represented the balance of his fee and expenses incurred. Mr. Hemphill did not give Respondent permission to deduct the balance of Respondent's fee and expenses from that deposit.

By certified letter, Mr. Hemphill, through counsel, advised Respondent that he disputed the propriety of Respondent's decision to deduct the funds and requested that Respondent provide a response and return certain other documents. Respondent failed to respond, failed to return his client's property, and failed to refund the unauthorized fee.

Petitioner's attempts to investigate this matter were frustrated by Respondent's failure to respond to the DB-7 letter, as well as his failure to provide a current address to the Attorney Registration Office, which impeded Petitioner's ability to move this matter in an efficient fashion. Respondent's contemptuous attitude towards his professional responsibilities carried forward to these disciplinary proceedings, as he failed answer the charges against him, failed to appear at the prehearing conference and failed to appear at the disciplinary hearing.

It is well-established that in evaluating professional discipline, each case must be decided individually on its own unique facts and circumstances. ***Office of Disciplinary Counsel v. Robert Lucarini***, 427 A.2d 186, 190 (Pa. 1983). In order to "strive for consistency so that similar misconduct is not punished in radically different ways," ***Office of Disciplinary Counsel v Anthony Cappuccio***, 48 A.3d 1231, 1238 (Pa. 2012) (quoting ***Lucarini***, 473 A.2d at 190), the Board is guided by precedent for the purpose of measuring "the respondent's conduct against other similar transgressions." ***In re Anonymous No. 56 DB 94 (Linda Gertrude Roback)***, 28 Pa. D. & C. 4<sup>th</sup> 398 (1995).

Suspended attorneys who continue to hold themselves out as licensed to practice have received discipline ranging from a lengthier suspension to disbarment. See, e.g., ***Office of Disciplinary Counsel v. Louis Criden***, No. 48 DB 97, 42 Pa. D. & C. 4<sup>th</sup> 254, 275 (1998) (consecutive four-year suspension imposed on Criden after he continued

to practice during his three-year period of suspension: “[i]n order to emphasize the seriousness of practicing law while suspended, the Board is persuaded that a suspension longer than the original suspension must be imposed on respondent”); **Office of Disciplinary Counsel v. Jackson and Office of Disciplinary Counsel v. Anonymous Attorney**, 637 A.2d 615 (Pa. 1994) (disbarment imposed on Jackson for practicing law while on a five-year suspension); **Office of Disciplinary Counsel v. Thomas J. Turner**, No. 136 DB 2008 (D. Bd. Rpt. 9/28/2009) (S. Ct. Order 12/16/2009) (disbarment imposed on Turner for practicing law while serving a two-year suspension; had direct communications with clients; solicited new clients; received fees from clients; and engaged in misconduct before the bankruptcy court); **Office of Disciplinary Counsel v. Marvin F. Galfand** No. 4 DB 2010 (D. Bd. Rpt. 3/10/2011) (S. Ct. Order 6/10/2011) (disbarment imposed on Galfand, who was serving a suspension of one year and one day and continued to practice law while suspended; failed to appear at the prehearing conference and hearing); **Office of Disciplinary Counsel v. Allan G. Gallimore**, No. 155 DB 2014 (D. Bd. Rpt. 8/11/2015) (S. Ct. Order 10/22/2015) (disbarment imposed on Gallimore for practicing law while serving a suspension of one year and one day; had a prior record of discipline; pled guilty to the unauthorized practice of law, forgery and failure to make required disposition of funds; failed to answer the Petition for Discipline; and failed to appear at the prehearing conference and disciplinary hearing); **Office of Disciplinary Counsel v. Mark David Johns**, No. 80 DB 2016 (D. Bd. Rpt. 7/17/2017) (S. Ct. Order 9/6/2017) (disbarment imposed on Johns, who was serving a suspension of one year and one day; continued to hold himself out as an attorney eligible to practice law; failed to withdraw his appearance in pending matters; continued to accept new clients; failed to answer a DB-7 letter; and failed to appear at the prehearing conference and the disciplinary hearing).

Respondent's misconduct is equally egregious as in the above-cited matters. In each of those matters, the respondents, who were all suspended attorneys, had actual knowledge that they were prohibited from practicing law and nonetheless blatantly defied a Supreme Court Order and actively engaged in the practice of law. In the instant matter, Respondent had actual knowledge of his suspension, had been suspended for approximately nineteen years when the instant misconduct occurred, and defied a Supreme Court Order by engaging in the prohibited practice of law. In this matter, Respondent deceived his client by failing to inform the client that Respondent was not permitted to practice law. Respondent's representation fell short of ethical standards, as he failed to respond to his client, failed to return an unauthorized fee and failed to return client property. It is abundantly clear that Respondent's suspended status did not deter him from practicing law.

When considering the appropriate level of discipline, the Board weighs facts that constitute aggravating or mitigating circumstances. Herein, Respondent's misconduct is aggravated by his failure to participate in the disciplinary process. ***Office of Disciplinary Counsel v. Michael Christopher Gallo***, No. 121 DB 2017 (D. Bd. Rpt. 8/10/2018) (S. Ct. Order 11/2/2019). Petitioner proved that Respondent had actual notice of the formal disciplinary proceeding, the prehearing conference and the disciplinary hearing. Petitioner personally served Respondent with the Petition for Discipline. Notice of the prehearing conference and hearing were sent to Respondent's three addresses known to Petitioner by first class and certified mail. Although mailings to one address were returned as undeliverable, the mailings to two of Respondent's addresses were not returned as undeliverable. Respondent had proper notice of the disciplinary proceedings against him and by failing to respond or appear, waived his opportunity to show remorse

and did not give the Committee the opportunity to assess Respondent's fitness to practice law. Respondent's failure to appear evidenced his disrespect for the Pennsylvania disciplinary authorities and his disinterest in maintaining his Pennsylvania law license.

The Board is mindful when adjudicating each case that the primary purpose of the lawyer discipline system in Pennsylvania is to protect the public, preserve the integrity of the courts and deter unethical conduct. ***Office of Disciplinary Counsel v. Akim Czmus***, 889 A.2d 1197, 1204 (Pa. 2005). After analysis of the decisional law, we conclude that Respondent's violation of the Supreme Court's order prohibiting him from practicing law, failure to respond to his client's request for return of property and unearned fees, and failure to respond to Petitioner's requests for information, aggravated by Respondent's decision to have no contact with the disciplinary system, weigh in favor of disbarment as the most appropriate sanction to protect the public and maintain the integrity of the courts and the legal profession.



V. RECOMMENDATION

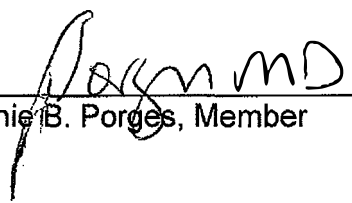
The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that Respondent, Glenn D. DeSantis, be Disbarred from the practice of law in this Commonwealth.

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: \_\_\_\_\_

  
Stefanie B. Porges, Member

Date: 09/06/2019