

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 971, Disciplinary Docket
Petitioner	:	No 3 - Supreme Court
	:	
v.	:	No. 156 DB 2004 – Disciplinary Board
	:	
	:	Attorney Registration No. 82049
RHONDA McCULLOUGH ANDERSON	:	
Respondent	:	(Philadelphia)

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 Order of the Supreme Court dated October 15, 2004, Rhonda McCullough Anderson was placed on temporary suspension from the practice of law and the matter was referred to the Disciplinary Board pursuant to Pa.R.D.E. 214(f)(1). Office of Disciplinary Counsel filed a Petition for Discipline on September 8, 2005, charging

Respondent with professional misconduct arising out of her conviction of one count of mail fraud. Respondent filed an Answer to Petition for Discipline on September 23, 2005.

On November 7, 2005, a Joint Petition for Discipline on Consent was filed by Petitioner. The Board Panel approved the Joint Petition on November 10, 2005. By Order of the Supreme Court dated February 10, 2006, the Court denied the Joint Consent Petition and referred the matter back to the Disciplinary Board for a hearing on the matter.

A disciplinary hearing was held on April 25, 2006, before a District I Hearing Committee comprised of Chair Robert A. Newman, Esquire, and Members George D. Bruch, Jr., Esquire, and Scott H. Mustin, Esquire. Respondent was represented by John W. Morris, Esquire.

Following the submission of briefs by the parties, the Hearing Committee filed a Report and recommended that Respondent be suspended for not more than three years retroactive to November 14, 2004.

No Briefs on Exceptions were filed.

This matter was adjudicated by the Disciplinary Board at the meeting on September 20, 2006.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is located 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 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 of Disciplinary Enforcement.

2. Respondent, Rhonda McCullough Anderson, was born in 1973 and was admitted to practice law in the Commonwealth in 1998. Her attorney registration addresses are Langsam Stevens, et.al, 1616 Walnut Street, Suite 1700, Philadelphia PA 19103-5319, and 6556 Walnut Park Drive, Philadelphia PA 19120. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has no prior history of discipline.

4. Respondent, having been convicted of a "serious crime" as defined by Pa.R.D.E. 214(i), voluntarily endorsed a Joint Petition to Temporarily Suspend an Attorney on September 2, 2004.

5. By Order dated October 15, 2004, the Supreme Court of Pennsylvania granted the Joint Petition to Temporarily Suspend an Attorney, placed Respondent on temporary suspension, and referred Respondent's criminal conviction matter to the Disciplinary Board pursuant to Pa.R.D.E. 214(f)(1).

6. On June 29, 2004, the United States Attorney's Office filed a 56-count, 12-defendant Indictment alleging a collection of separate schemes by which Corey Kemp and those involved with him used Kemp's position as City Treasurer to fraudulently enrich themselves or, as in Respondent's case, assisted Kemp in fraudulently enriching himself. The case was captioned as United States of America v. Ronald White, et. al., No. 04-370 (U.S.D.C. E.D.Pa.)

7. Counts 54 and 55 of the Indictment charged Respondent in connection with her cash payments of \$1,300 to Kemp, representing his share of income produced by Respondent in an asset locator business.

8. As a result of her cooperation, the Government and Respondent entered into a plea agreement whereby Respondent agreed to plead guilty to one count of mail fraud. The full plea agreement is set forth in a Guilty Plea Memorandum, filed on August 2, 2004, which contains Respondent's further admission concerning improper billing of a welfare-to-work program.

9. On August 12, 2004, Respondent entered a plea of guilty to a single count of mail fraud before the Honorable Michael M. Baylson of the United States District Court for the Eastern District of Pennsylvania.

10. On May 20, 2005, Respondent appeared before Judge Baylson, at which time the Judge imposed a sentence of two years of probation with the following conditions, inter alia:

- a. Respondent shall pay restitution in the amount of \$9,100 and a special assessment fee of \$100 within 30 days;
- b. Respondent shall give the Probation Office any requested financial information; and
- c. Respondent shall perform 100 hours of community service directed by the Probation Office during the term of probation.

11. Respondent first met Corey Kemp when she was a college undergraduate and he was dating her roommate. Shortly after Respondent started practicing law in 1999, she again met Kemp, who was then Assistant City Treasurer, and re-established a friendship with him. In the course of the relationship, Kemp initially asked Respondent for help in church work in which he was interested. Respondent provided the requested assistance.

12. At some point in 2002, Kemp suggested that Respondent should consider getting into the asset locator business, which involved finding the owners of unclaimed City bonds and assisting them in obtaining payment.

13. Kemp further explained that he wanted a financial interest in Respondent's efforts in the form of a share of the fees she collected. Further, Kemp demanded that his portion be paid in cash because he "was not certain whether or not this was a conflict of interest of his job".

14. Respondent agreed to pay Kemp 35% of her earnings in cash.

15. In 2002 Respondent began her part-time business as an asset-locator. Working from a public list of unclaimed property owners, she hired a locator, collected the necessary paperwork, and forwarded it to Wachovia Bank, the indenture trustee, for payment. She performed the work properly and charged legally approved fees.

16. Respondent received a total of \$9,100 as her gross fees from the bond locator business. Initially she paid Kemp his agreed share in cash for a total of \$1,300.

17. Respondent eventually concluded that the payments to Kemp were improper and she stopped making them.

18. The additional misconduct which Respondent admitted, but for which she was not criminally charged, consists of her act of invoicing a federally funded program "CCI" for \$3,200 for legal services not in fact rendered. Rather, Respondent had performed a greater amount of work for a different program, "CDC", for which she had not been paid.

19. In March of 2003, Kemp directed Respondent to bill CCI for the work, explaining that the program had unspent funds from which payment could be made. Respondent then submitted the invoice to CCI, received \$3,200 and, at Kemp's insistence, returned \$1,600 in cash which Kemp said would be used as a charitable donation.

20. In March of 2004, Respondent was contacted by federal prosecutors who asked her to give the details of her dealings with Kemp. She voluntarily submitted to a series of interviews during which she described all of those dealings. Her cooperation

commenced long before any indictment was returned and continued through her testimony at grand jury proceedings and the trial of Corey Kemp.

21. As a result of Respondent's cooperation, the Government moved for a downward departure from the sentencing guidelines, which Judge Baylson granted, stating that Respondent's testimony was credible and her entire participation in the case was one of cooperation and remorse.

22. Respondent complied with all of the terms of her sentence: (a) she paid the court-ordered costs and restitution by taking out a second mortgage; (b) she completed her community service at a shelter for HIV-positive persons where she continues to serve as a volunteer; and (c) she is in full compliance with the terms of her probations.

23. Respondent cooperated with Office of Disciplinary Counsel.

24. Respondent complied with Pa.R.D.E. 217(e) regarding notification of pertinent parties as to her temporary suspension.

25. Respondent made timely notification to disciplinary authorities in New Jersey where she was also admitted to practice.

26. Respondent exhibited remorse.

27. Respondent has performed significant amounts of pro bono work and remains involved in charitable activities.

28. During the period of her temporary suspension Respondent enrolled in Temple University's MBA program.

III. CONCLUSIONS OF LAW

By her conduct as set forth above, Respondent violated the following Rules of Professional Conduct and Rule of Disciplinary Enforcement:

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 lawyer in other respects.

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

3. Pa.R.D.E.203(b)(1) - Conviction of a crime, which under Enforcement Rule 214 may result in suspension, shall be grounds for discipline.

IV. DISCUSSION

Respondent was convicted of the crime of mail fraud. The Board's responsibility is to recommend the appropriate level of discipline to address the misconduct. As there is no per se discipline in Pennsylvania for particular types of misconduct, the Board must analyze the underlying conduct in the context of the aggravating and mitigating circumstances in order to reach an appropriate recommendation. Office of Disciplinary Counsel v. Chung, 695 A.2d 405 (Pa. 1997).

Criminal convictions for mail fraud have occasioned a range of sanctions from suspension of 18 months up to disbarment. Mail fraud comprises a variety of underlying

acts of misconduct. In a case involving real estate fraud, the attorney received a two year suspension. In re Anonymous No. 16 DB 87, 8 Pa. D. & C. 4th 493 (1990). In several cases the mail fraud involved insurance fraud. In re Anonymous No. 41 DB 1996, No.193 Disciplinary Docket No. 3 (Pa. July 15, 1997) (convicted of mail fraud and aiding and abetting, mitigating circumstances, 18 months suspension); In re Anonymous No. 21 DB 1996, No. 174 Disciplinary Docket No. 3 (Pa. May 6, 1997) (two counts of mail fraud, three year suspension); In re Anonymous No. 22 DB 1996, No. 176 Disciplinary Docket No. 3 (Pa. July 29, 1997) (one count of mail fraud, three year suspension); In re Anonymous No. 139 DB 1995, No. 151 Disciplinary Docket No. 3 (Pa. June 13, 1997) (two counts of mail fraud and two counts of aiding and abetting, three year suspension). In the matter of Office of Disciplinary Counsel v. Preate, 731 A.2d 129 (Pa. 1999), the mail fraud involved campaign contributions. Preate was a public official and his sanction reflected that particular aspect of his case, resulting in a five year suspension. A lawyer disbarred for his fraudulent conduct had many aggravating circumstances to his case, including cash bribes, lies to the grand jury, and adherence to his perjurious testimony. In the Matter of Tumini, 453 A.2d 310 (Pa. 1982).

Absent aggravating circumstances, fraud matters generally result in suspension of three years or less. In the instant matter, Petitioner urges a suspension of not less than three years, while Respondent urges a suspension of not more than three years. The Hearing Committee's thoughtful analysis of the matter produced a recommendation of not more than three years, retroactive to the effective date of the

temporary suspension. All of the recommendations accounted for Respondent's high level of cooperation with the government and the disciplinary authorities and her sincere remorse in light of the serious crime she committed. These mitigating factors persuade the Board to recommend a suspension of three years, retroactive to November 14, 2004, the effective date of Respondent's temporary suspension. It is the Board's respectful opinion that this recommendation satisfies the goals of the disciplinary system to protect the public and maintain the public's confidence in the legal system.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Rhonda McCullough Anderson, be suspended from the practice of law for a period of three years retroactive to November 14, 2004.

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: _____
Sal Cognetti, Jr., Board Member

Date: November 21, 2006

Board Member Baer did not participate in the adjudication.

ORDER

PER CURIAM:

AND NOW, this 23rd day of February, 2007, upon consideration of the Report and Recommendations of the Disciplinary Board dated November 21, 2006, it is hereby

ORDERED that Rhonda McCullough Anderson be and she is suspended from the Bar of this Commonwealth for a period of five years retroactive to October 15, 2004, and she 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.