

**IN THE SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL, : No. 2567 Disciplinary Docket No. 3  
: :  
Petitioner : No. 161 DB 2018  
: :  
v. : Attorney Registration No. 47701  
: :  
WILLIAM J. WEISS, : (Philadelphia)  
: :  
Respondent :

**ORDER**

**PER CURIAM**

**AND NOW**, this 6<sup>th</sup> day of March, 2019, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board, the Joint Petition in Support of Discipline on Consent is granted, and William J. Weiss is suspended on consent from the Bar of this Commonwealth for a period of one year and one day. Respondent shall comply with all of the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board pursuant to Pa.R.D.E. 208(g).

A True Copy Patricia Nicola  
As Of 03/06/2019

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania



Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of said Rules of Disciplinary Enforcement.

2. Respondent, William J. Weiss, was born in 1961 and admitted to practice law in the Commonwealth on December 9, 1986.

3. Respondent's attorney registration address is 8033 Old York Road, Suite 210-A, Elkins Park, PA 19027.

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.

## **II. FACTUAL ADMISSIONS AND VIOLATIONS OF RULES OF PROFESSIONAL CONDUCT**

5. Respondent specifically admits to the truth of the factual allegations and conclusions of law contained in paragraphs 1 through 81 herein.

### **A. BACKGROUND**

6. Complainant, Richard Lepow, is the owner and president of Fifth Street Auto Parts, Inc., D/B/A Allegheny Auto Parts (hereinafter "Fifth Street").

7. On September 26, 2014, Mr. Lepow filed a *pro se* complaint on behalf of Fifth Street against Sonitrol Security Systems, Inc. and Stanley Convergent Solutions, Inc.

(collectively "Defendants") in Small Claims Court in Philadelphia County; the case was docketed at SC-14-09-26-5975.

- a. The Complaint alleged that Defendants provided defective security and monitoring services, which resulted in an undetected loss of 95% of Fifth Street's inventory; the Complainant sought reimbursement, damages, and court costs totaling \$11,118.86.

8. On October 27, 2014, Kristin E. Shicora, Esquire, filed an Entry of Appearance on behalf of Defendants.

9. On December 16, 2014, a trial was held before the Honorable T. Francis Shields.

10. At the conclusion of trial, Judge Shields found in favor of Fifth Street and against Defendants, in the amount of \$6,000.00, plus \$135.50 in costs, for a total award of \$6,135.50.

11. In or around the first week of January 2015, Mr. Lepow had a consultation with Respondent about filing a complaint in the Court of Common Pleas charging Defendants with intentional fraud.

- a. These charges were not in Mr. Lepow's original Small Claims Court complaint.

12. On January 13, 2015, Ms. Shicora filed a Notice of Appeal to the Court of Common Pleas, Praecipe for Rule to File a Complaint, and Certificate of Service; the appeal was docketed at No. 1379, January Term, 2015.

- a. The Praecipe requested that the Prothonotary issue a Rule upon Plaintiff to file a Complaint within twenty days or suffer Judgment of Non Pros.

13. The Standing Case Management Order entered by the Honorable Arnold New provided, in pertinent part, that:

- a. if the Plaintiff below were served with a Notice of Appeal, the Plaintiff must file a Complaint, Notice to Defend, and Proof of Service in conformity with the Pennsylvania Rules of Civil Procedure;
- b. the Complaint, Notice to Defend, and Proof of Service must be filed within twenty days after service of the Rule; and
- c. failure of Plaintiff to timely file the Complaint may result in the appeal being dismissed for lack of prosecution pursuant to Pa.R.Civ.P. 1037(a).

14. By letter dated January 13, 2015, Defendants mailed Fifth Street the Notice of Appeal, Standing Case Management Order, and Praecipe to File a Complaint.

15. Mr. Lepow received the January 13, 2015 letter, with enclosures, on or before January 16, 2015.

**B. FAILURE TO PROVIDE A WRITTEN FEE AGREEMENT.**

16. On January 16, 2015, Mr. Lepow provided Respondent with a copy of the Defendants' January 13, 2015 letter with the enclosed Notice of Appeal, Case Management Order, and Praecipe to File a Complaint in No. 1379, January Term, 2015.

17. On January 22, 2015, Mr. Lepow met with Respondent and paid Respondent \$300.00 or \$400.00, in cash, to represent him on appeal in the Fifth Street matter.

18. Respondent failed to give Mr. Lepow a written fee agreement that set forth the basis or rate of Respondent's fee.

19. Respondent failed to notify Mr. Lepow that Respondent did not have professional liability insurance of at least \$100,000 per occurrence and \$300,000 in the aggregate per year.

**C. FAILURE TO COMPETENTLY AND DILIGENTLY HANDLE THE APPEAL.**

20. On January 23, 2015, the Sheriff served Mr. Lepow with the Notice of Appeal, Case Management Order, and Praecipe.

21. By letter dated February 9, 2015, from Respondent to Mr. Lepow, Respondent wrote that:

- a. Respondent did not have a chance to contact Mr. Lepow on Friday (February 6, 2015);
- b. the lawyer for Defendants (Ms. Shicora) had contacted Respondent on Friday (February 6, 2015) and stated she wanted to resolve the appeal;
- d. "we will not have to file a Complaint because she agreed not to take any action yet"; and
- e. Respondent will use Mr. Lepow's money and time trying to resolve the matter with Defendants.

22. Respondent failed to act with reasonable competence and diligence after Respondent's conversation with Ms. Shicora, when Respondent failed to take essential steps to protect his client's interest, in that Respondent failed to:

- a. enter his appearance on behalf of Fifth Street;  
and
- b. notify the Court of Common Pleas that the parties had agreed to forego deadlines on filing the Complaint on appeal.

23. By letter to Ms. Shicora dated February 18, 2015,

Respondent:

- a. stated that Respondent and Defendants were holding the matter in abeyance;
- b. requested Defendants' position on Mr. Lepow's case; and
- c. noted that Respondent "can't wait too long without having to answer to both the Court as well as my client."

24. By Order dated March 12, 2015, the Honorable Idee Fox issued a Rule Returnable upon Mr. Lepow to show cause as to why a judgment of non pros should not be entered for failure to prosecute the matter, and scheduled a Rule hearing for 9:30 a.m. on April 21, 2015.

- a. The Rule Returnable also provided that "[f]ailure to appear will result in the dismissal of the action and entry of judgment of non pros."

25. Respondent failed to act with reasonable competence and diligence after receiving the Notice of Appeal when Respondent failed to monitor the Court of Common Pleas docket in Mr. Lepow's legal matter.

26. Respondent failed to file a complaint or appear for the April 21, 2015 Rule hearing.

27. On April 21, 2015, Judge Fox entered an Order for a Judgment of Non Pros against Fifth Street as a result of Respondent's failure to file a complaint or appear at the Rule hearing.

28. Respondent failed to act with the knowledge and thoroughness necessary for the representation and promptly ascertain that a judgment of *non pros* had been entered against Mr. Lepow.

**D. FAILURE TO COMMUNICATE WITH MR. LEPOW.**

29. From time to time, Mr. Lepow would contact Respondent requesting information regarding the status of Respondent's filing a complaint in the Court of Common Pleas.

30. By email to Respondent dated February 23, 2015, sent at 5:15 p.m., Mr. Lepow inquired if Respondent should "proceed to [the Court of] Common Pleas."

31. By email to Respondent dated April 7, 2015, sent at 5:28 p.m., Mr. Lepow complained that Respondent failed to "get right back" to him as Respondent had agreed to do more than two weeks earlier.

32. By email to Respondent dated May 7, 2015, sent at 12:52 p.m., Mr. Lepow reiterated his question as to whether his legal matter was "Headed to [the Court of] Common Pleas?"

33. By email to Respondent dated May 15, 2015, sent at 4:59 p.m., Mr. Lepow:



- a. complained that Respondent had failed to call him earlier in the week as Respondent had agreed to do;
- b. expressed concern that although he had won his Small Claims case, he had "no idea where this stands";
- c. stated that he "hope[d] these delays" would not impact his legal claims against Defendants;
- d. reiterated his desire to pursue his complaint in the Court of Common Pleas for other damages but noted that it was "now going on 5 months since I saw" Respondent; and
- e. complained that he had "to track [Respondent] down to get an [sic] answers" and did not "feel that's the way this should be handled."

34. By email to Respondent dated May 18, 2015, sent at 5:34 p.m., Mr. Lepow:

- a. inquired as to why Respondent "failed" to call him over the weekend as Respondent had agreed to do;
- b. complained that he had "no idea where [his] case stands nor where [his] attorney is";
- c. noted that "[t]his has been going on for quite a while now";
- d. expressed "hope [that] these delays that" Respondent was "causing do not reflect any decisions that the courts might take"; and
- e. requested that Respondent please do the job that Respondent was hired to do and at least let Mr. Lepow know what he should know.

35. Respondent repeatedly failed to keep Mr. Lepow informed about the status of the Fifth Street legal matter and respond to Mr. Lepow's reasonable requests for information.

**E. FAILURE TO FILE A COMPLAINT IN THE COURT OF COMMON PLEAS AND KNOWING AND INTENTIONAL MISREPRESENTATIONS CONCEALING RESPONDENT'S FAILURE TO FILE THE COMPLAINT.**

36. On June 16, 2015, Respondent met with Mr. Lepow at Respondent's office, during which time Respondent agreed to file a complaint against Defendants in the Court of Common Pleas on June 17, 2015.

37. At the time Respondent agreed to file a complaint and for a considerable time thereafter, Respondent continued to fail to:

- a. provide Mr. Lepow with a written fee agreement;
- b. enter his appearance in the Fifth Street case;
- c. check the docket entries of the Fifth Street case;
- d. learn that Judge Fox had entered an order of *non pros* in the Fifth Street case; and
- e. file a motion to open the judgment of *non pros*.

38. Respondent failed to file a complaint on June 17, 2015, as Respondent had agreed to do.

39. By email to Respondent dated June 22, 2015, sent at 4:54 p.m., Mr. Lepow asked, "Did you file the suit to Common Pleas as we discussed last week?"

40. By email to Respondent dated June 29, 2015, sent at 11:57 a.m., Mr. Lepow:

- a. stated, "you said you were going to file with Common Pleas on June 17<sup>th</sup>.... you said you would

contact me the following day on June 18<sup>th</sup>. That was 13 days ago!"; and

- b. inquired, "What is going on!! And why do I have to initiate contact with you to see what is going on?"

41. By email from Respondent to Mr. Lepow sent nine minutes later, Respondent replied, "Sorry Rich. I will call you today or tomorrow (criminal Defendant in here). I am trying to get her to move."

42. By email to Respondent dated July 1, 2015, sent at 1:43 p.m., Mr. Lepow complained, "Yet another promise thus another delay."

- a. By email from Respondent to Mr. Lepow sent two minutes later, Respondent admitted, "I know I've been bad but I fired my secretary and am stretched until I hire the new one."

43. By email to Respondent dated July 17, 2015, Mr. Lepow requested that all attempts at a settlement be halted and instructed Respondent to file a complaint by July 22, 2015.

44. By email to Respondent dated July 24, 2015, sent at 10:17 a.m., Mr. Lepow requested "a copy of the new filed complaint."

- a. By email to Mr. Lepow sent at 12:22 p.m. that day, Respondent replied that Respondent is "not delaying" and "will" file a complaint against the Defendants in the Court of Common Pleas.

45. Respondent did not file a complaint on July 24, 2015, or at any time thereafter, as Respondent had agreed to do.

46. By email to Respondent dated August 27, 2015, sent at 12:31 a.m., Mr. Lepow inquired, "When are you available to file the claim?"

47. By email dated August 27, 2015, sent at 8:32 a.m., Respondent explained that Respondent had to attend "an all day CLE tomorrow" and agreed to meet with Mr. Lepow on August 31.

48. By email dated August 31, 2015, sent at 9:55 a.m., Respondent wrote cancelling Respondent's meeting with Mr. Lepow because "It looks like my mother-in-law suffered a stroke and I am driving wife to NYC."

49. On September 8, 2015, Respondent met with Mr. Lepow at Respondent's office and received \$185 from Mr. Lepow to file the complaint.

50. By email to Respondent dated September 18, 2015, sent at 11:35 a.m., Mr. Lepow instructed Respondent to "File the complaint."

51. Respondent failed to abide by Respondent's client's decisions concerning the objectives of the representation and file the complaint.

52. By email to Respondent dated November 17, 2015, sent at 4:39 p.m., Mr. Lepow inquired, "When are you filing????????????????? What's the problem!!"

a. By email to Mr. Lepow sent two minutes later, Respondent answered, "Fell behind. Woukld [sic]

say tomorrow but Thursday. [I did not even deposit your check]."

53. By email to Respondent dated December 4, 2015, sent at 1:28 p.m., Mr. Lepow asked Respondent for the court date.

a. By email to Mr. Lepow sent seven minutes later, Respondent replied that the court date "[w]ill be on the case management order when it's issued[.]"

54. Respondent knowingly and intentionally engaged in deceitful conduct when Respondent failed to disclose to Mr. Lepow that Respondent had failed to file a complaint.

55. By email to Respondent dated January 26, 2016, sent at 3:30 p.m., Mr. Lepow asked whether a "two month wait [for a case management order was] normal."

a. By email to Mr. Lepow sent twenty-three minutes later, Respondent replied, "Unfortunately yes[.]"

56. Again, Respondent knowingly and intentionally engaged in deceitful conduct when Respondent failed to disclose to Mr. Lepow that Respondent had failed to file a complaint.

57. By emails to Respondent dated March 8 and 11, 2016, Mr. Lepow requested documentation confirming that Respondent had filed a complaint against Defendants.

58. By email dated March 11, 2016, sent at 9:50 a.m., Respondent wrote, "Please give me until Monday. My daughter is getting married Sunday and I am simply not in today."

59. By email to Respondent dated March 29, 2016, sent at 10:56 a.m., Mr. Lepow again asked, "Can you please email me a

copy of the filing lawsuit against Stanley/Sonitrol for my records?"

- a. Two minutes later, Respondent replied, "Will. In Elkins Park on a shitty case[.]"

60. By email to Respondent dated April 1, 2016, sent at 4:06 a.m., Mr. Lepow wrote, "I'm still waiting for the court filings you did from 6 months ago. Can you please send me a copy? This is my 5<sup>th</sup> request."; later that evening, Respondent replied, "Omg. your [sic] right. Yes."

61. By email to Respondent dated April 12, 2016, sent at 2:51 a.m., Mr. Lepow:

- a. stated that he has waited over 6 months for confirmation of the court filing;
- b. noted that he has received nothing;
- c. inquired whether Respondent had been lying to him; and
- d. demanded proof within the next forty-eight hours that Respondent had filed a complaint or he would file a legal malpractice action against Respondent.

62. By emails dated April 13, 2016, Respondent agreed to meet Mr. Lepow on April 15, 2016, and deliver copies of the "complaint" that Respondent had purportedly filed on his behalf.

63. Respondent engaged in a knowing and intentional pattern of deceitful communications concealing Respondent's failure to file a complaint against Defendants.

**F. FALSE DOCUMENTS AND MISLEADING COMMUNICATIONS.**

64. On April 15, 2016, Respondent met with Mr. Lepow and provided him with a copy of a civil complaint against Sonitrol.

65. By email dated June 16, 2016, sent at 12:34 p.m., Mr. Lepow requested that Respondent provide him with a stamped copy of the complaint Respondent claimed to have filed against Defendants.

66. By email to Mr. Lepow dated June 16, 2016, sent at 12:39 p.m., Respondent stated that Respondent was currently in North Jersey, but would send him a copy.

67. On June 17, 2016, Respondent filed a Petition to Set Aside the Judgment of Non Pros (Petition to Set Aside), therein alleging that Respondent filed the Petition to Set Aside "on the day [Respondent] discovered" Judge Fox's non pros order.

68. Respondent failed to inform Mr. Lepow that Respondent had filed a Petition to Set Aside.

69. Respondent failed to explain the matter to Mr. Lepow to the extent necessary to enable Mr. Lepow to make an informed decision regarding the representation.

70. By email to Respondent dated July 1, 2016, sent at 10:32 a.m., Mr. Lepow reiterated his request for a stamped copy of the complaint.

71. By email to Mr. Lebow dated July 1, 2016, sent at 10:45 a.m., Respondent wrote, "Mailed to your fifth street [sic] address."

72. Respondent's statement that Respondent mailed a stamped copy of the complaint to Mr. Lepow's Fifth Street address was knowingly false.

73. By email to Respondent dated July 8, 2016, sent at 11:16 a.m., Mr. Lepow:

- a. set forth the fact that he had emailed Respondent "at least 20 times" confirming that Respondent had filed the lawsuit against the Defendants;
- b. noted that Respondent had shown him an unstamped copy of a complaint Respondent purportedly filed in May 2015;
- c. explained that he had just checked the Internet and discovered Respondent had "filed the claim on June 17, 2016 and the court has denied to open the case";
- d. stated that Respondent had advised him that it might take up to one year to get a court date;
- e. asked Respondent to confirm that he had "filed the suit in May of 2015 and [has]n't lied"; and
- f. attached an image of the proposed order denying the Petition to Set Aside Judgment of Non Pros.

74. Twenty-one minutes later, Respondent replied, "good court has done nothing. This asshole is engaging in a battle with me and that is her proposed order. what [sic] [Ms. Shicora] has done is unlawful and I am going to win this one."



75. On July 7, 2016, Defendants filed an answer to the Petition noting that Respondent had failed to present any "reasonable explanation for [Respondent's] failure to exercise due diligence in responding to this Court's Rule Returnable and entry of non pros in this matter, nor has Plaintiff presented any reasonable excuse for its untimely filing of the instant Petition."

76. On July 10, 2016, Respondent hand-delivered a letter dated June 24, 2016 to Mr. Lepow, falsely accusing Ms. Shicora of filing a request for a non pros, stating that Respondent "hate[d] Ms. Shicora, calling Ms. Shicora "a bitch," and belatedly providing Mr. Lepow with a copy of the Petition to Set Aside.

77. On July 12, 2016, Judge Fox entered an Order denying Fifth Street's Petition to Set Aside.

78. Respondent failed to promptly advise Mr. Lepow of the denial of the Petition to Set Aside.

79. By email to Respondent dated September 2, 2016, sent at 5:29 a.m., Mr. Lepow:

- a. provided a detailed chronology of the communication between himself and Respondent over the last eighteen months;
- b. explained that he planned to take this information to the Disciplinary Board of the Supreme Court of Pennsylvania; and

- c. advised Respondent that he planned to pursue a legal malpractice case against Respondent.

80. Respondent's failure to competently and diligently handle Mr. Lepow's legal matter was conduct prejudicial to the administration of justice in that it needlessly utilized the court system's limited time and resources.

81. By his conduct as alleged in paragraphs 6 through 80 above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.1, which states that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation;
- b. RPC 1.2(a), which states that subject to paragraphs (c) and (d), 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;
- c. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- d. RPC 1.4(a)(2), which states that a lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished;

- e. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;
- f. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information;
- g. RPC 1.4(c), which states that a lawyer in private practice shall inform a new client in writing if the lawyer does not have professional liability insurance of at least \$100,000 per occurrence and \$300,000 in the aggregate per year, subject to commercially reasonable deductibles, retention or co-insurance, and shall inform existing clients in writing at any time the lawyer's professional liability insurance drops below either of those amounts or the lawyer's professional liability insurance is terminated. A lawyer shall maintain a record of these disclosures for six years after the termination of the representation of a client;
- h. RPC 1.5(b), which states that 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;
- i. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation; and
- j. 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.

### **III. JOINT RECOMMENDATION FOR DISCIPLINE**

82. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a one-year-and-one-day suspension.

83. Respondent hereby consents to the discipline being imposed by the Supreme Court of Pennsylvania. Attached to this Petition is Respondent's executed Affidavit required by Pa.R.D.E. 215(d), which states that he consents to the recommended discipline and the mandatory acknowledgements contained in Pa.R.D.E. 215(d)(1) through (4).

84. Respondent and ODC respectfully submit that there are the following aggravating factors:

- a. By Order dated October 6, 2008, Respondent was suspended for two years for his mishandling client funds, unauthorized practice of law, and failure to cooperate with ODC's investigation. (**Office of Disciplinary Counsel v. William J. Weiss**, No. 42 DB 2007, D.Bd. Rpt. 5/23/2008 (S.Ct. Order 10/6/2008));
- b. Mr. Lepow suffered financial damage as a result of Respondent's neglect and was unable to recover his losses in a subsequent lawsuit due to the passage of time. **Fifth Street Auto Parts, Inc. v. Sonitrol Security Systems**, No. 16110290, Court of Common Pleas, Philadelphia County; and
- c. By Order dated November 21, 2016, the United States District Court for the Eastern District of Pennsylvania (EDPA) denied Respondent's Petition for Reinstatement due, in part, to Respondent's lack of candor and failure to accept responsibility for his conduct that resulted in the Pennsylvania Supreme Court's suspending him for two years.

85. By Pennsylvania Supreme Court Order dated April 24, 2013, Respondent was reinstated to practice law in the Commonwealth. **In the Matter of William J. Weiss**, No. 42 DB 2007, D.Bd. Rpt. 2/12/2013 (S.Ct. Order 4/24/2013). The Disciplinary Board found that the misconduct that "resulted in

[Respondent's] suspension was inextricably linked to his addiction to opioids following treatment for a severe case of diverticulitis." (D.Bd. Rpt. at p. 11) In recommending Respondent's reinstatement, the Board found that Respondent had overcome his addiction and rehabilitated himself. (*Id.* at p. 12)

86. Respondent and ODC respectfully submit that there are the following mitigating factors:

- a. After Respondent was reinstated to practice law, Respondent suffered personal difficulties, including having a heart attack, catching pneumonia, and separating from his wife; and
- b. Respondent cooperated with ODC's investigation and admitted to most of his wrongdoing.

87. Attorneys who fail to diligently handle their client's cases and engage in misrepresentations to conceal their neglect often receive public discipline. See, e.g., *Office of Disciplinary Counsel v. John Marcus Franklin, Jr.*, No. 51 DB 2015 (adm. 6/11/2015) (Franklin, who had a record of private discipline, received a Public Reprimand for failing to file a complaint in a medical malpractice matter and making misrepresentations to his client that his matter was proceeding in due course, when in fact, Franklin had filed a praecipe to discontinue his client's case); *Office of Disciplinary Counsel v. Robert A. Krug*, No. 66 DB 2006, D.Bd. Rpt. 6/14/2007 (S.Ct. Order 9/24/2007) (Supreme Court imposed a Public Censure on Krug, who failed to pursue his client's equitable distribution

claim, misled his client to believe that her legal issues were being appropriately handled, and had previously received a Private Reprimand for similar misconduct).

Greater discipline may be imposed if an attorney's misconduct involved: multiple cases (**Office of Disciplinary Counsel v. Ronald James Gross**, No. 174 DB 2014, D.Bd. Rpt. 3/20/2014 (S.Ct. Order 4/10/2015) (on consent) (Gross, who had a record of private discipline for making misrepresentations in a motion, received a six-month suspension for failing to diligently handle a will contest matter and making misrepresentations about the matter to one client, and having an *ex parte* communication with a judge in an unrelated client matter); making misrepresentations to third parties as well as the client to conceal the attorney's neglect (**Office of Disciplinary Counsel v. Jamie Ray-Leonetti**, No. 182 DB 2017, D.Bd. Rpt. 2/12/2018 (S.Ct. Order 3/19/2018) (on consent) (Leonetti, who had **Braun** mitigation and had received a private reprimand with conditions for similar misconduct, received a suspension of one year and one day for failing to file a medical malpractice complaint and then engaging in an pattern of deception to her client and third parties to conceal her neglect); elaborate misrepresentations over the course of many years (**Office of Disciplinary Counsel v. Stephen R. Greenberg**, No. 146 DB 2007, D.Bd. Rpt. 11/15/2008 (S.Ct. Order 2/25/2009)

(Supreme Court ordered that Greenberg, who had no record of discipline, receive a two-year stayed suspension with the condition that he continue to make \$5,000 monthly restitution payments to his client for Greenberg's failing to timely pursue his client's employee pension matter and crafting an eleven-year charade involving imaginary settlement offers, meetings with judges, and conversations with opposing counsel to mask his inaction); and failing to answer the petition for discipline (*In re Anonymous No. 40 DB 88 (Louis DeLuca)*, 4 Pa. D.&C.4th 275 (1989) (DeLuca, who had an extensive record of private discipline for similar misconduct and failed to deliver his client's file to the new attorney, received a two-year suspension for neglecting a client's personal injury matter).<sup>1</sup>

88. Notably, the attorneys in all of the foregoing cases, with the exception of Greenberg, had a record of private discipline. But unlike these other attorneys, Respondent has a record of public discipline. Moreover, Respondent's public discipline involved a lengthy term of suspension. Although Respondent's prior misconduct was causally connected to his addiction, upon reinstatement, Respondent should have undertaken

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<sup>1</sup> DeLuca also misrepresented the status of the case as going to court "in the fall" after the statute of limitations had already run without suit having been filed, had previously been the subject of a legal malpractice action for failing to file suit before the expiration of the statute of limitations, and did not return the client's telephone calls or respond to a letter from another attorney engaged by the client to inquire about the claim.

measures to ensure vigilant compliance with the Rules of Professional Conduct. Respondent's failure to do so merits his receipt of another term of suspension, albeit not as lengthy as his prior term.

89. With respect to the aforementioned attorneys who received a term of suspension, Respondent's matter is: dissimilar to **Gross**, as Respondent's misconduct involved a single client matter; dissimilar to **Ray-Leonetti**, as Respondent did not make any representations to third parties and is not suffering from a mental illness; dissimilar to **Greenberg**, as Respondent's misrepresentations did not involve any trickery and spanned less than two years; and dissimilar to **DeLuca**, as Respondent answered the Petition for Discipline and admitted to most of his misconduct.

90. Furthermore, if this matter would go to a hearing, Respondent would present evidence that he was no longer being treated for substance abuse or depression. In addition, Respondent would testify that after he was reinstated, he underwent personal hardship, including having a heart attack, catching pneumonia, and separating from his wife. A respondent's extreme personal problems that exist when the misconduct occurs may be considered in mitigation of the discipline. See, e.g., **Office of Disciplinary Counsel v. Richard S. Ross**, No. 42 DB 2017 (S.Ct. Order 2/12/18) (on consent) (health



problems that may have impacted the respondent's conduct); **Office of Disciplinary Counsel v. Jarrett Rand Smith**, 4 DB 2011 (S.Ct. Order 5/4/11) (on consent) (misconduct occurred when the respondent and his law partner, who was his wife, dissolved their partnership and divorced); and **In re Anonymous No. 111 DB 89**, 9 Pa. D.&C.4<sup>th</sup> 526, 536 (1990) ("During the time period in which the conversion occurred, respondent was having serious personal difficulties including family and health problems.").

91. ODC and Respondent agree that a logical synthesis of the foregoing cases and application of the relevant aggravating and mitigating factors would result in Respondent's receipt of a suspension of one year and one day. This term of suspension, which requires Respondent to prove his fitness to return to the practice of law, addresses the seriousness of the misconduct, protects the public, and should deter Respondent from the commission of future misconduct. See **Office of Disciplinary Counsel v. Keller**, 509 Pa. 573, 579, 506 A.2d 872, 875 (1986) (goals of attorney discipline system are to protect the public and to maintain the integrity of the profession and the courts); **In re Iulo**, 564 Pa. 205, 766 A.2d 335 (2001) (another goal of attorney discipline is deterrence).

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 enter an Order that Respondent receive a suspension of one year and one day; 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 after notice transmitted to the Respondent of taxed expenses.

Respectfully and jointly submitted,  
OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION  
CHIEF DISCIPLINARY COUNSEL

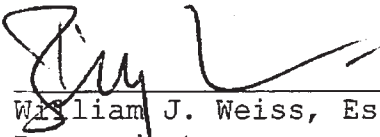
12/21/2018

Date


By

Harriet R. Brumberg  
Harriet R. Brumberg  
Disciplinary Counsel

12/31/2018  
Date

By   
William J. Weiss, Esquire  
Respondent

12/31/18  
Date

By   
Samuel C. Stretton, Esquire  
Attorney for Respondent

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :  
Petitioner :  
: No. 161 DB 2018  
v. :  
: Atty. Reg. No. 47701  
WILLIAM J. WEISS, :  
Respondent : (Montgomery County)

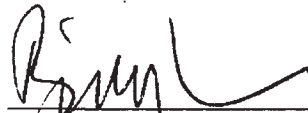
VERIFICATION

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.

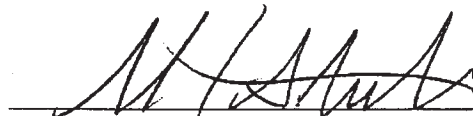
12/21/18  
Date

  
Harriet R. Brumberg  
Disciplinary Counsel

12/31/2018  
Date

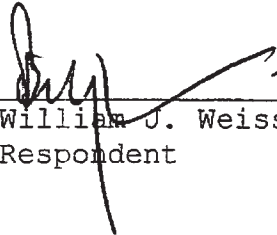
  
William J. Weiss, Esquire  
Respondent

12/31/18  
Date

  
Samuel C. Stretton, Esquire  
Counsel for Respondent



4. He knows that if the charges continued to be prosecuted in the pending proceeding, he could not successfully defend against them.

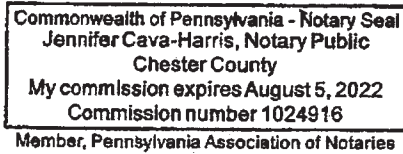


William J. Weiss, Esquire  
Respondent

Sworn to and subscribed

before me this 31<sup>st</sup>

day of December, 2018.

  
Notary Public

**CERTIFICATE OF COMPLIANCE**

I certify that this exhibit 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: Harriet R. Brumberg, Disciplinary Counsel

Attorney No. (if applicable): 31032