

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2846 Disciplinary Docket No. 3
	:	
Petitioner	:	No. 162 DB 2021
	:	
v.	:	Attorney Registration No. 312642
	:	
	:	(Cumberland County)
	:	
SCOTT MICHAEL JOCKEN,	:	
	:	
Respondent	:	

ORDER

PER CURIAM

AND NOW, this 6th day of January, 2022, 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 Scott Michael Jocken is suspended on consent from the Bar of this Commonwealth for a period of one year and one day. Respondent shall comply with all the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board. See Pa.R.D.E. 208(g).

A True Copy Nicole Traini
As Of 01/06/2022

Attest: Nicole Traini
Chief Clerk
Supreme Court of Pennsylvania

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

OFFICE OF DISCIPLINARY COUNSEL,:	:	No. 162DB 2021
Petitioner	:	
v.	:	
	:	Attorney Reg. No. 312642
SCOTT MICHAEL JOCKEN,	:	
Respondent	:	(Cumberland County)

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

Petitioner, the Office of Disciplinary Counsel (hereinafter, "ODC") by Thomas J. Farrell, Chief Disciplinary Counsel and Marie C. Dooley, Disciplinary Counsel and Scott Michael Jocken, Esquire (hereinafter "Respondent"), respectfully petition the Disciplinary Board in support of discipline on consent, pursuant to Pennsylvania Rule of Disciplinary Enforcement ("Pa.R.D.E.") 215(d), and in support thereof state:

1. ODC, whose principal office is situated at Office of Chief Disciplinary Counsel, Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, PA 17106, 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

FILED 12/07/2021 The Disciplinary Board of the Supreme Court of Pennsylvania
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proceedings brought in accordance with the various provisions of the aforesaid Enforcement Rules.

2. Respondent was born on October 17, 1984 and was admitted to practice law in the Commonwealth on November 28, 2011. Respondent is on active status with a registered address of 16 Wheatfield Drive, Carlisle, PA 17015. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

SPECIFIC FACTUAL ALLEGATIONS ADMITTED

3. Respondent specifically admits to the truth of the factual allegations and conclusions of law contained in paragraphs 3 through 28 herein.

4. On January 20, 2020, Respondent joined Mooney & Associates (d/b/a Mooney Law) as an associate attorney in the firm's Gettysburg Office.

5. Between December 12, 2020 and March 3, 2021, without authorization from any managing partner or firm administrator, Respondent effectuated forty (40) unauthorized charges totaling \$18,559.79 on his firm AMEX Credit Card for personal expenses.

6. After the initial discovery of the unauthorized card use, in or around January of 2021, Respondent agreed to immediately cease the improper usage and repay the funds.

7. Mooney Law management agreed that approximately \$2,300 would be "deemed authorized."

8. Additionally, Mooney Law approved Respondent's repayment of approximately \$5,600 by payroll withholdings over twenty-three (23) pay periods.

9. Despite his promises to cease the unauthorized activity, after January 16, 2021, Respondent incurred 30 more charges.

10. All unauthorized charges against the AMEX Credit Card violated RPC 8.4(b).

11. Mooney Law chose not to pursue criminal charges.

12. On March 4, 2021, Mooney Law froze Respondent's AMEX Credit Card to prevent any additional charges.

13. On March 17, 2021, Mooney Law terminated Respondent's employment.

14. Respondent reimbursed \$2,389.29 of the unauthorized amounts through a payroll withholding arrangement, leaving an outstanding balance of \$16,210.50 owed to Mooney Law as of termination.

15. In a later agreement, Respondent agreed to pay Mooney Law a lump sum and the balance by payment plan but reneged on the agreement due to personal financial issues.

16. Ultimately, Mooney Law filed a claim with its insurer, Penn National Insurance, which reimbursed Mooney Law \$15,713.50, the balance owed \$16,213.50 minus the \$500.00 deductible.

17. By agreement, in April of 2021, Respondent paid Penn National \$12,000.00 in settlement of its subrogation claims against him.

18. Although Respondent failed to self-report the misconduct, in his DB-7 Answer, Respondent admitted to the underlying misconduct, and provided context to his recent relapse, and lengthy struggle with alcoholism and depression due, in part, to the sudden and unexpected loss of his father in 2013.

19. Although Respondent has not established *Braun* mitigation, Respondent would seek to testify about his struggles with alcohol if this matter were to go to hearing.

20. In April of 2021, Respondent contacted Lawyers Concerned for Lawyers, obtained an Alcohol Monitor and an Alcohol Anonymous (AA) Sponsor and attended regular meetings.

21. To determine an appropriate treatment plan, on April 27, 2021, Respondent participated in an initial alcohol assessment at Mazzitti and Sullivan.

22. In accordance with Mazzitti and Sullivan's recommendations:

a. from May 10, 2021 through July 15, 2021, Respondent completed an intensive outpatient program; and

b. from July 16, 2021 through September 15, 2021, Respondent completed a general outpatient group therapy program.

23. In or around August of 2021, Respondent suffered serious health issues, which required hospital admittance and multiple procedures.

24. On September 15, 2021, Mazzitti and Sullivan reported Respondent's successful discharge from the outpatient program.

25. Due to Respondent's continued health issues, Respondent is currently working with his AA Sponsor remotely.

26. Respondent has fully cooperated with ODC's investigation.

27. Respondent is ready to accept discipline for his misconduct.

28. Respondent is embarrassed and ashamed and has offered sincere apologies for his behavior.

SPECIFIC RULES OF PROFESSIONAL CONDUCT VIOLATED

29. Respondent violated the following Rules of Professional Conduct:

A. RPC 8.4(b), which states “[i]t 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. RPC 8.4(c), which states “[i]t is professional misconduct for a lawyer to: . . . engage in conduct involving dishonesty, fraud, deceit or misrepresentation.”

SPECIFIC RECOMMENDATION FOR DISCIPLINE

30. Upon review of the facts and circumstances, as a result of Respondent’s knowing and dishonest financial misconduct, admitted long time alcohol abuse and recent relapse, and failure to promptly take responsibility for his misconduct, Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent’s admitted violations is a suspension of one year and one day, which requires a reinstatement hearing in which Respondent must prove his fitness to practice.

31. Such discipline is consistent with the range of suspensions imposed in similar cases involving misappropriation of funds from law firms under similar circumstances.

32. Knowing financial misconduct often results in criminal charges pursuant to Pennsylvania Criminal Code 18 Pa.C.S. § 3921 for theft by unlawful taking or disposition.

33. Precedent establishes that the Disciplinary Board considers an attorney's theft from his or her law firm serious misconduct in violation of RPC 8.4(c). See e.g., *In re Anonymous*, No. 115 DB 2000, 718 DD No. 3 (D.Bd. Rpt. 11/19/2001; S.Ct. Order 01/31/2002) (“...[t]he fact that Respondent converted money from his law firm, rather than from a client, is of no moment because the conversion of law firm funds is no less egregious than conversion of client funds”).

34. In *In re Anonymous*, 8 DB 1997, No. 402 DD No. 3 (D.Bd. Rpt. 02/26/1998; S.Ct. Order 04/20/1998), the Supreme Court imposed a one year and one day suspension on an attorney who diverted an unspecified amount of fees from his law firm through receipt of cash retainers over a 13-month period. The attorney reported the misconduct to ODC, cooperated with the investigation and immediately went on inactive status.

The attorney had no prior history and participated in psychological counseling after resigning from the law firm. The attorney agreed to pay \$53,000.00 in restitution, which was equal to the amount of time the firm spent conducting an audit of the attorney's files and fees. As here, the firm did not bring criminal charges against the attorney.

35. Suspensions of greater length have also been imposed. However, such cases generally involve additional rule violations, more egregious conduct, a longer period of deception and/or client funds in addition to firm funds. See *ODC v. Atlas*, 171 DB 2001 (D.Bd. Rpt. 03/24/2004; S.Ct. Order 06/29/2004)(the Supreme Court imposed a three-year suspension on Atlas for knowing and intentional misappropriation of funds including \$35,500 in firm funds); *In re Anonymous*, 89 DB 1997, 44 Pa. D. & C. 4th 265 (D.Bd. Rpt. 10/12/1999; S.Ct. Order 12/09/1999)(the Supreme Court imposed a five-year suspension on an attorney with an admitted gambling addiction who misappropriated more than \$350,000 from his law firm over a three-month period; matter involved criminal charges and additional active concealment); *In re Anonymous*, 56 DB 1994, 28 Pa. D. & C. 4th 398 (D.Bd. Rpt. 10/30/1995; S.Ct. Order 11/30/1995)(the Supreme Court imposed a three-year suspension on an

attorney for diversion of client funds through deposit into a personal account rather than the firm trust account and use of the funds to support a cocaine habit over a period of four years; the matter involved criminal charges); *In re Anonymous*, 32 DB 1989, 13 Pa. D. & C. 4th 478 (D.Bd. Rpt. 02/14/1992; S.Ct. Order 02/14/1992)(the Supreme Court imposed a three-year suspension for, among other things, misappropriation of a total of \$7,500 in firm funds over a three-year period).

36. Finally, in at least two additional cases, suspensions of less than a year and a day have been imposed for similar misconduct. However, these cases can be distinguished in that they involved one act of theft and concealment. See *ODC v. Staropoli*, No. 97 DB 2002, 925 DD No. 3 (Pa. July 8, 2004)(the Supreme Court imposed a one-year suspension for Staropoli's failure to advise his firm he had received settlement fund, deposited the funds into his personal account and retained \$3,000 without distributing any portion to the firm); *In re Anonymous*, No. 115 DB 2000, 718 DD No. 3 (D.Bd. Rpt. 11/19/2001; S.Ct. Order 01/31/2002)(the Supreme Court imposed a one-year suspension on an attorney for conversion of \$5,895.23 check; in mitigation, the attorney also

presented strong character testimony at his disciplinary hearing, including testimony from partners of his former law firm).

37. In mitigation, Respondent has practiced for over nine (9) years without discipline.

38. After thought and consideration, Respondent has admitted his misconduct and accepted responsibility for the harm caused to his former firm and taken corrective action.

39. Further, Respondent has taken steps to address his alcohol abuse issues and recent relapse.

40. Finally, Respondent provided restitution to the firm and its insurer.

41. Nonetheless, Respondent's violations reflect serious financial misconduct that calls into question his fitness to practice.

42. A suspension for one year and one day is the appropriate discipline under the circumstances.

43. While Respondent is on the right path, Respondent must prove at a reinstatement hearing that he has maintained sobriety and is fit to practice law.

44. In light of the knowing and dishonest misconduct and the admitted substance abuse, Respondent hereby consents to the proposed discipline. 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).

WHEREFORE, Petitioner and Respondent respectfully request that your Honorable Board:

- (a) approve this Petition and recommend that the Supreme Court of Pennsylvania enter an Order imposing a suspension of one year and one day; and
- (b) pursuant to Pa.R.D.E. 215(i), enter an order for Respondent to pay the necessary expenses incurred in the investigation and prosecution of this matter.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

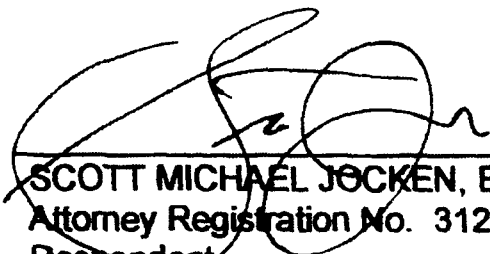
Thomas J. Farrell,
Chief Disciplinary Counsel

12/6/2021
DATE

Marie C. Dooley
MARIE C. DOOLEY, ESQUIRE
Disciplinary Counsel

Attorney Registration No. 203681
Office of Disciplinary Counsel
601 Commonwealth Ave., Suite 5800
P.O. Box 62675
Harrisburg, PA 17106-2675

12/3/2021
DATE



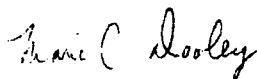
SCOTT MICHAEL JOCKEN, ESQUIRE
Attorney Registration No. 312642,
Respondent

VERIFICATION

The statements contained in the foregoing *Joint Petition in Support of Discipline on Consent Discipline* are true and correct to the best of my knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.

12/6/2021

DATE



MARIE C. DOOLEY, ESQUIRE
Disciplinary Counsel

DATE

SCOTT MICHAEL JOCKEN, ESQUIRE
Respondent

VERIFICATION

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DATE

MARIE C. DOOLEY, ESQUIRE
Disciplinary Counsel

12/3/2021

DATE



SCOTT MICHAEL JOCKEN, ESQUIRE
Respondent

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

OFFICE OF DISCIPLINARY COUNSEL,:	No. DB 2021
Petitioner :	
v. :	
SCOTT MICHAEL JOCKEN, :	Attorney Reg. No. 312612
Respondent :	(Cumberland County)

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 204 Pa. Code §89.22 (relating to service by a participant).

First Class and Overnight Mail, as follows:

Scott Michael Jocken
16 Wheatfield Drive
Carlisle, PA 17015

Dated: 12/7/2021

Marie C. Dooley

MARIE C. DOOLEY, ESQUIRE
Disciplinary Counsel
Attorney Registration No. 203681
Office of Disciplinary Counsel
601 Commonwealth Ave., Suite 5800
P.O. Box 62675
Harrisburg, PA 17106-2675
820 Adams Avenue, Suite 170
Trooper, PA 19403

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SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL, :	No. DB 2021
Petitioner :	
v. :	
:	Attorney Reg. No. 312612
SCOTT MICHAEL JOCKEN, :	
Respondent :	(Cumberland County)

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

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF CUMBERLAND:

SCOTT MICHAEL JOCKEN, being duly sworn according to law, deposes and hereby submits this affidavit consenting to the imposition of a year and a day suspension in conformity with Pa.R.D.E. 215(d) and further states as follows:

1. He is an attorney admitted in the Commonwealth of Pennsylvania, having been admitted to the bar on or about November 28, 2011.
2. He desires to submit a Joint Petition in Support of Discipline on Consent pursuant to Pa.R.D.E. 215(d).

3. His consent is freely and voluntarily rendered; he is not being subjected to coercion or duress, and he is fully aware of the implications of submitting this affidavit.

4. He is aware that there is presently pending a proceeding into allegations that he is guilty of misconduct as set forth in the Joint Petition in Support of Discipline on Consent pursuant to Pa.R.D.E. 215(d) to which this affidavit is attached.

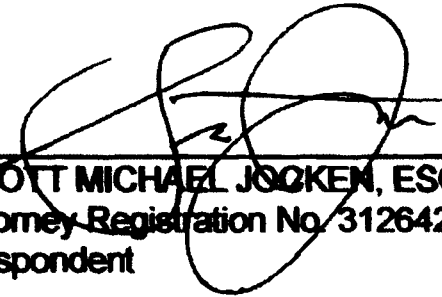
5. He acknowledges that the material facts set forth in the Joint Petition are true.

6. He submits the within affidavit because he knows that if charges predicated upon the matter under investigation were filed, or continued to be prosecuted in the pending proceeding, he could not successfully defend against them.

7. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant proceeding. He has not retained, consulted and acted upon the advice of counsel, in connection with his decision to execute the within Joint Petition.

It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S.A. §4904 (relating to unsworn falsification to authorities).

Signed this 3RD day of December, 2021.



SCOTT MICHAEL JOCKEN, ESQUIRE
Attorney Registration No. 312642
Respondent

Sworn to and subscribed
before me this 3rd day
of December 2021.

Christina Wintermyer
Notary Public

Commonwealth of Pennsylvania - Notary Seal
Christina Wintermyer, Notary Public
Cumberland County
My commission expires September 27, 2025
Commission number 1403956
Member, Pennsylvania Association of Notaries

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: Marie C. Dooley
Name: Marie C. Dooley
Attorney No. (if applicable): 203681