

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1543 Disciplinary Docket No. 3
Petitioner :
 : No. 164 DB 2009
v. :
 : Attorney Registration No. 72657
JEFF FOREMAN, :
Respondent : (Dauphin County)

ORDER

PER CURIAM:

AND NOW, this 17th day of September, 2014, upon consideration of the Report and Recommendations of the Disciplinary Board dated May 19, 2014, it is hereby

ORDERED that Jeff Foreman is disbarred from the Bar of this Commonwealth retroactive to November 23, 2009, and he 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.

A True Copy Patricia Nicola
As Of 9/17/2014

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 1543 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 164 DB 2009
v.	:	
	:	Attorney Registration No. 72657
JEFF FOREMAN	:	
Respondent	:	(Dauphin 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 Order dated November 23, 2009, the Supreme Court of Pennsylvania placed Jeff Foreman on temporary suspension from the practice of law arising from his criminal conviction of two counts of theft by failure to make required disposition of funds received, one count of conflict of interest and one count of criminal conspiracy. Office of Disciplinary Counsel filed a Petition for Discipline on October 23, 2012 and charged

Respondent with violations of Pa.R.D.E. 203(b)(1) and RPC 8.4(b). Respondent filed an Answer to Petition on December 27, 2012.

A disciplinary hearing was held on July 31, 2013, before a District III Hearing Committee comprised of Chair Charles J. Vogt, Esquire, and Members Edward H. Jordan, Jr., Esquire, and Donna A. Walsh, Esquire. Respondent was represented by Royce L. Morris, Esquire.

Following the submission of Briefs by the parties, the Hearing Committee filed a Report on December 16, 2013, concluding that Respondent violated the Rules as contained in the Petition for Discipline, and recommending that he be suspended for a period of five years, retroactive to March 7, 2012.

No Briefs on Exception were filed by the parties.

This matter was adjudicated by the Disciplinary Board at the meeting on March 11, 2014.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Office of Disciplinary Counsel, whose principal office is located at 601 Commonwealth Avenue, Suite 2700, Harrisburg, Pennsylvania, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, with the power and the 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 the aforesaid Rules.

2. Respondent is Jeff Foreman. He was born in 1951 and was admitted to the practice of law in the Commonwealth of Pennsylvania in 1994. His attorney registration address is 4630 Center Boulevard, Apt. 1011, Long Island City, NY 11109-5730. He is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has no history of professional discipline in Pennsylvania.

4. From 2003 to 2006, Respondent held the position of Chief of Staff to State Representative Mike Veon, who was at that time Minority Whip of the House Democratic Caucus. (ODC-8 at 1)

5. As Chief of Staff, Respondent worked closely with Mr. Veon and directly supervised employees on Veon's legislative staff. (ODC-5 at 9; ODC-8 at 1; ODC-1 at 28)

6. While employed as Chief of Staff to Mr. Veon, Respondent was also employed as a partner at the law firm of Foreman & Foreman. His partner was his twin brother, Bruce Foreman. (R4, Exhibit D; ODC-1 at 65; ODC-3 at 7)

7. While he was employed as Chief of Staff for Mr. Veon, Respondent was involved in assigning legislative staffers to perform campaign work on state time. (ODC-1 at 27)

8. Respondent admitted that he was involved in circulating a memorandum that authorized the payment of government funds as bonuses to employees who performed campaign work and that he did so at the direction of Mr. Veon. (ODC-4 at 18)

9. Respondent received a bonus of \$14,000 in 2006 in addition to his salary of \$126,000.00. He received a bonus of \$5,565 and a salary of \$118,352 in 2005 and a bonus of \$8,315 and a salary of \$103,480 in 2004. (ODC-1 at 65)

10. Respondent mixed legislative work, private legal work for his firm and political campaign work during the workday and never submitted a leave slip or did anything else to account for the improper work he did on state time. (ODC-4 at 61)

11. Respondent's law firm work "continued all the time" while he was working as Chief of Staff. (ODC-4 at 60)

12. On three days in 2006, between law firm billings, his regular legislative hours, and comp time, Respondent claimed to have worked more than 24 hours per day. (ODC-1 at 66)

13. While serving as Chief of Staff, Respondent also had involvement in assisting to manage the economic development corporation called Beaver Initiative for Growth ("B.I.G.") which was funded by grants from the Commonwealth to finance economic development projects in Beaver County. It was treated as a legislative activity in the Veon office. (ODC-5 at 27-28)

14. In late 2003 or early 2004, Mr. Veon made arrangements for the Foreman & Foreman firm to receive a monthly retainer of \$4,000.00 from B.I.G. to perform the legal services that Respondent previously performed in Veon's office as part of his legislative duties. (ODC-5 at 30-32)

15. From January 2004 to March 2007, the Foreman & Foreman law firm received \$156,000.00 pursuant to the arrangement with B.I.G. (ODC-5 at 32, 44, 82)

16. The quality, substance and quantity of work that Respondent did for B.I.G. pursuant to the retainer contract was the “same” as that which he had been doing for B.I.G. as Chief of Staff prior to the contract, and his law firm did “nothing substantial” under the contract. (N.T. 21, 111-12; ODC-5 at 33, 112-13)

17. The “Bonusgate” prosecutor, Frank Fina, described B.I.G. as a “tremendous scam.” (N.T. 83-84)

18. Mr. Veon “tightly controlled” B.I.G., and used it as a “means of taking legislative grant money and amalgamating it through a single entity so that Veon could exercise control over disbursement of the money and take credit for the projects and money spent in his district.” (ODC-23 at 1-2)

19. Over the term of its existence, “every dollar received and spent by B.I.G. was from the taxpayers of Pennsylvania.” (ODC-23 at 2)

20. Between 2003 and 2006, B.I.G. received approximately \$9,000,000 in taxpayer money. (ODC-23 at 2,6)

21. Respondent met with representatives of the Attorney General’s Office in October 2007 after the investigation into the bonuses, known as “Bonusgate” in the media, became public. This was prior to Respondent's arrest. Prosecutors determined that Respondent was “minimizing” and was not being forthcoming and terminated the meeting. (ODC-4 at 50-55; ODC-5 at 77, ODC-6 at 39, N.T. 82, 108, 110)

22. Respondent admitted at the disciplinary hearing that he made “misrepresentations of omission” at the first meeting with prosecutors. (N.T. 109)

23. Respondent was named in a 24 count Information filed on November 4, 2008. Specifically, Respondent was charged with: four counts of engaging in a conflict

of interest; five counts of theft by unlawful taking or disposition; five counts of theft by deception; five counts of theft by services; four counts of theft by failure to make required disposition of funds; and two counts of conspiracy to commit conflict of interest and/or theft by unlawful taking. (ODC-22)

24. Both before and after criminal charges were filed, Respondent remained in contact with prosecutors through his counsel. He personally met with prosecutors again in January 2009 and thereafter became a cooperating witness.(N.T. 110)

25. On February 10, 2009, Respondent signed a Guilty Plea Agreement pursuant to which he agreed to plead guilty to two counts of theft by failure to make required disposition of funds in violation of 18 Pa.C.S.A. §3927, one count of conflict of interest in violation of 65 Pa.C.S.A §1103(a) and one count of criminal conspiracy in violation of 18 Pa.C.S.A. §903. Respondent also agreed to cooperate in the investigation and to testify as a witness when called upon to do so by the Commonwealth. (ODC-2)

26. On December 17, 2010, Respondent was sentenced by the Honorable Richard A. Lewis, Jr. to a term of incarceration of 11 ½ to 23 months to be served at the Dauphin County Work Release Center. He was also ordered to provide restitution to the Commonwealth in the amount of \$28,695.00. (ODC-9 at 18-20)

27. Respondent's participation in the "Bonusgate" matter generated extensive publicity and featured his status as a member of the Bar. (ODC-10-20)

28. Respondent provided significant cooperation to the Office of Attorney General in connection with its investigation and prosecution of public officials and government employees. Former Chief Deputy Attorney General Frank Fina characterized

Respondent's cooperation as "crucial." Fina testified at the disciplinary hearing: "[N]obody was as effective as [Respondent] was in both the investigation stage, in the explanatory stage, and indeed at the trials." (N.T. 75)

29. Respondent voluntarily surrendered his license by filing a Joint Petition To Temporarily Suspend License on November 23, 2009. The motion was granted by Order of the Supreme Court dated November 23, 2009.

30. Respondent paid his fine, restitution and costs in full and, on March 7, 2012, was discharged completely from parole and probation.

31. Both before and after his conviction, Respondent devoted significant time to volunteer work. Among other things, he participated in literacy and GED programs, Volunteers for America, Community Legal Resource Network ("CLRN") and Care of the Homeless. Respondent is currently a full-time employee of Care for the Homeless as its Director of Policy. (N.T. 66, 88-90)

32. Respondent expressed significant remorse for the conduct that led to his criminal conviction and the instant disciplinary proceedings. (N.T. 96, 104-05) Respondent stated that he "knew better" and that he holds himself "completely accountable." (N.T. 105, 117)

33. Respondent's experience, including the public humiliation that he suffered, changed his life and continues to impact his relationship with his family, particularly his son. (N.T. 96)

34. Respondent experienced anguish as a result of testifying as a witness at the criminal trials for former colleagues. (N.T. 98-99)

35. Respondent experienced financial losses that he suffered as result of his conviction, including losing his pension. (N.T. 99-101)

36. Respondent offered the testimony of Bruce Foreman, Esquire, his brother; Sandi Vito, his wife; Benjamin Porteous Flavin, Esquire; Frank Fina, Esquire; and George Robert Watts.

37. Bruce Foreman indicated that during the time that Respondent worked for the Foreman & Foreman firm, there were no client complaints concerning Respondent or the legal services he was providing. (N.T. 45-46) Mr. Foreman further indicated that even though clients were aware of Respondent's problems, a number of them "wanted to go with [Respondent]." (N.T. 49)

38. Ms. Vito, Mr. Flavin and Mr. Watts testified as to Respondent's volunteer activities in New York, where Respondent moved following his release from work release in 2012.

39. Mr. Fina was the leader of the team that investigated and prosecuted public corruption-related crimes involving the Pennsylvania General Assembly, including "Bonusgate." Mr. Fina testified that Respondent's cooperation "was as near complete as I have seen in a 22-year career as a prosecutor." (N.T. 74).

40. Mr. Fina admitted that Respondent was not completely forthcoming during his first proffer session with the Attorney General's Office in October 2007. (N.T. 80-81) Mr. Fina believed that Respondent was struggling with the loyalty he felt toward Mr. Veon. (N.T. 81)

III. CONCLUSIONS OF LAW

By his conduct as set forth above, Respondent violated the following Rule 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 a lawyer in other respects.

2. Pa.R.D.E. 203(b)(1) – Conviction of a crime shall be grounds for discipline.

IV. DISCUSSION

Respondent is charged with professional misconduct arising out of his conviction of the crimes of theft by failure to make required disposition of funds, conflict of interest and criminal conspiracy. When an attorney has been convicted of serious crimes, the sole issue to be determined is the extent of final discipline to be imposed. Pa.R.D.E. 214(f)(1). The events surrounding the criminal charge must be taken into account when determining an appropriate measure of discipline. Office of Disciplinary Counsel v. Valentino, 730 A.2d 479 (Pa. 1999). Consideration is to be given to any aggravating or mitigating factors. Office of Disciplinary Counsel v. Francis P. Eagen, No. 102 DB 2003, 73 Pa. D. & C. 4th 217 (2004). The ultimate issue is whether Respondent's character, as shown by his conduct, makes him unfit to practice law. Office of Disciplinary Counsel v. Casety, 512 A.2d 607 (Pa. 1986). Discipline is imposed on a case-by-case basis in light of

the totality of facts presented. Office of Disciplinary Counsel v. Cappuccio, 48 A.3d 1231 (Pa. 2012).

From 2003 through 2006, as Chief of Staff to Mike Veon, a House leader, Respondent was entrusted with the supervision and direction of numerous full-time public employees, and the power to allocate taxpayer funds and resources. Instead of using his education and position as a lawyer for the lawful purpose of governance, Respondent was a central participant in a concerted pattern of illegal conduct in which taxpayer dollars, equipment and other resources were misdirected to campaign efforts.

Respondent was Veon's top aide and maintained a close relationship to Veon, both personally and professionally. Respondent made no effort to deter Veon from this course of conduct, nor did Respondent take steps to extricate himself from the activities. Respondent helped drive its operation, took steps to conceal it from the public and required staffers to perform campaign work on state time.

In addition to these activities, Respondent conducted legal work for his private law firm, legislative work and political campaign work during the workday and never accounted for the political and legal work he did on state time. Respondent also received a monthly retainer fee paid from government funds earmarked for economic development through the Beaver Initiative for Growth ("B.I.G."), in return for no work. Any work that was performed on behalf of this entity was essentially the same as Respondent had performed in Veon's office as part of his legislative duties. Frank Fina of the Attorney General's Office described B.I.G. as a "tremendous scam."

Respondent operated with full knowledge that he was engaging in wrongful conduct. Although Respondent attempts to portray his situation as being absorbed into a

culture that had been created in the legislature, Respondent continued to work with Veon and never terminated his employment. Respondent was the supervisor of Veon's office and its staff, a member of the inner circle, and perpetuated the culture of dishonesty and corruption.

A particularly weighty aggravating factor is the harm Respondent caused to the reputation of the bar. The adverse publicity about "Bonusgate", which was widespread in the Pennsylvania media and beyond, repeatedly invoked Respondent's status as a lawyer. While Respondent was not an elected official, the public nature of his position as Chief of Staff to an influential legislative member increased the notoriety of the events. Both the Board and the Court have considered the impact of a respondent's misconduct on the reputation of the bar to be a factor in assessing the measure of discipline. In the Matter of Lawrence D. Greenberg, 749 A.2d 434 (Pa. 2000) ("Petitioner's misdeeds did not escape the attention of the nationally circulated financial newspaper, *The Wall Street Journal*"); Office of Disciplinary Counsel v. Ernest Preate, Jr., 731 A.2d 129 (Pa. 1999) ("Respondent's misconduct dealt a serious blow to the public's perception of the legal profession").

We recognize that Respondent has expressed sincere remorse for his misconduct and has taken responsibility for his actions. Although he was not fully cooperative with the government at the first meeting of the parties, Respondent shortly thereafter became a cooperating witness. The testimony of Frank Fina was persuasive as to the critical nature of Respondent's help to the authorities. Respondent has no prior discipline, devotes significant time to volunteer activities, and presented evidence of good character.

Convictions for similar crimes involving public corruption have occasioned either a lengthy suspension of five years or disbarment. In Office of Disciplinary Counsel v. Eilberg, 441 A.2d 1193 (Pa. 1982), Eilberg was a member of Congress who also practiced law with a firm. The firm obtained as a client a hospital that received a multimillion dollar federal appropriation. Eilberg's firm received a fee, which he shared. He pleaded guilty to violating a federal statute which prohibited members of Congress from receiving compensation for services rendered for a federal agency. Although a single instance of misconduct, the Supreme Court imposed a five year suspension.

A five year suspension was the result in a matter wherein the respondent assisted the City Treasurer of Philadelphia to fraudulently enrich himself. Office of Disciplinary Counsel v. Rhonda McCullough Anderson, No. 156 DB 2003 (Pa. 2007). At the suggestion of Corey Kemp, then the Assistant City Treasurer, Ms. Anderson began a business as an asset locator, which involved finding the owners of unclaimed City bonds and assisting them in obtaining payment. Mr. Kemp explained that he wanted a financial interest in Ms. Anderson's efforts, in the amount of 35% of her earnings in cash. Ms. Anderson performed the work properly and charged legally approved fees. She received a total of \$9,100 as her gross fees from the locator business and paid Mr. Kemp his agreed share. Ms. Anderson eventually concluded that the payments to Mr. Kemp were improper and she stopped making them. Ms. Anderson cooperated with the government and entered a plea agreement wherein she agreed to plead guilty to one count of mail fraud. Although the Board recommended a suspension of three years for the misconduct, the Supreme Court rejected that recommendation for the more severe suspension of five years.

A Common Pleas Judge who was convicted of misdemeanor obstructing justice for lying to the FBI and withholding evidence was disbarred. Office of Disciplinary Counsel v. Eagen, 102 DB 2003 (Pa. 2005). We also note the case of Office of Disciplinary Counsel v. Tumini, 453 A.2d 310 (Pa. 1982), wherein a lawyer who was counsel for the Philadelphia Redevelopment Authority was disbarred after he laundered checks, gave perjured testimony and delivered a bribe to a public official. These disbarment cases involve matters of clear and overt dishonesty.

Based on this record, we are persuaded that disbarment is appropriate. Respondent's conduct was fundamentally dishonest. He failed to live up to the high standards of professionalism expected of lawyers who perform a public function in serving the citizens of this Commonwealth. Respondent willingly chose financial enrichment and involvement in an illegal scheme over integrity, and such a lawyer cannot be allowed to practice in this Commonwealth. See Office of Disciplinary Counsel v. Kent Edward Conshafter, No. 84 DB 1996 (Pa. 1997).

For the above reasons, the Board recommends that Respondent be disbarred, retroactive to March 7, 2012, which represents the date that Respondent was completely discharged from his criminal sentence. We recommend retroactivity in light of Respondent's sincere remorse and cooperation.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Jeff Foreman, be Disbarred from the practice of law retroactive to March 7, 2012.

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: 
Tracey McCants Lewis, Member

Date: May 19, 2014

Board Member McLemore abstained.