

**IN THE SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL, : No. 1675 Disciplinary Docket No. 3  
Petitioner :  
 : No. 165 DB 2010  
v. :  
 : Attorney Registration No. 69872  
MARC D. COLLAZZO, :  
Respondent : (Chester County)

**ORDER**

**PER CURIAM**

**AND NOW**, this 30<sup>th</sup> day of November, 2010, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated November 1, 2010, the Joint Petition in Support of Discipline on Consent is hereby granted pursuant to Rule 215(g), Pa.R.D.E., and it is

**ORDERED** that Marc D. Collazzo is suspended on consent from the Bar of this Commonwealth for a period of one year and one day, and he shall comply with all the provisions of Rule 217, Pa.R.D.E.

A True Copy Patricia Nicola

As of: November 30, 2010

Attest:   
Chief Clerk

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

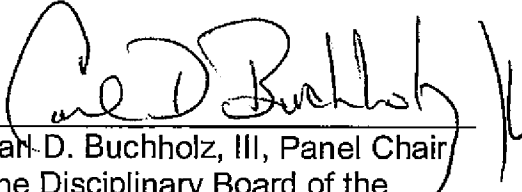
OFFICE OF DISCIPLINARY COUNSEL : No. 165 DB 2010  
Petitioner :  
v. : Attorney Registration No. 69872  
MARC D. COLLAZZO :  
Respondent : (Chester County)

RECOMMENDATION OF THREE-MEMBER PANEL  
OF THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

The Three-Member Panel of the Disciplinary Board of the Supreme Court of Pennsylvania, consisting of Board Members Carl D. Buchholz, III, David A. Nasatir and Gerald Lawrence, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on August 25, 2010.

The Panel approves the Joint Petition consenting to a one year and one day suspension and recommends to the Supreme Court of Pennsylvania that the attached Petition be Granted.

The Panel further recommends that any necessary expenses incurred in the investigation and prosecution of this matter shall be paid by the respondent-attorney as a condition to the grant of the Petition.

  
Carl D. Buchholz, III, Panel Chair  
The Disciplinary Board of the  
Supreme Court of Pennsylvania

Date: November 1, 2010

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

OFFICE OF DISCIPLINARY COUNSEL,	:	No. <i>165</i> DB 2010
Petitioner	:	
	:	ODC File No. C2-09-760
v.	:	
	:	Attorney Reg. No. 69872
MARC D. COLLAZZO,	:	
Respondent	:	(Chester County)

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

Petitioner, the Office of Disciplinary Counsel (hereinafter, "ODC") by Paul J. Killion, Chief Disciplinary Counsel, and Harold E. Ciampoli, Jr., Disciplinary Counsel and by Respondent, Marc D. Collazzo, Esquire and Walter J. McHugh, Esquire, Respondent's counsel, respectfully file the within Joint Petition in Support of Consent Discipline, 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 601 Commonwealth Ave., Suite 2700, P.O. Box 62485, Harrisburg, Pennsylvania 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 proceedings brought in accordance with the various provisions of the aforesaid Enforcement Rules.

**FILED**

AUG 25 2010

Office of the Secretary  
The Disciplinary Board of the  
Supreme Court of Pennsylvania

2. Respondent, Marc D. Collazzo, was born on April 14, 1968, and was admitted to practice law in the Commonwealth on January 6, 1994. Respondent is on active status and his registered address is Armstrong & Carosella PC, 882 South Matlack Street, Suite 101, West Chester, PA 19382.

3. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

4. Respondent's affidavit stating, *inter alia*, his consent to the recommended discipline is attached hereto as Exhibit "A."

#### **SPECIFIC FACTUAL ALLEGATIONS ADMITTED**

5. On February 7, 2007, Respondent's former law firm entered into an agreement to represent Ms. Deborah VonBerg in her potential claims against the City of Philadelphia and Philadelphia Police Department.

6. Respondent undertook the representation of Ms. VonBerg.

7. On August 9, 2007, Respondent filed a complaint on behalf of Ms. VonBerg, captioned: *Deborah V. VonBerg v. City of Philadelphia, et al.*, in the United States District Court for the Eastern District of Pennsylvania, Docket No. 07-3323.

8. The complaint alleged, *inter alia*, that Ms. VonBerg:

- a) was sexually assaulted by former neighbor Daniel Clarkson when she was between the ages of 4 and 6;
- b) revealed the assault to her mother when she was age 10, at which time her mother immediately took her to the Philadelphia Sex Crimes Unit. Ms. VonBerg was interviewed by Officer Costello, who then falsely advised the VonBerg family that the statute of limitations had expired and the family should just "forget about it;"

- c) suffered from mental illness due to lack of closure;
- d) was admitted to Horsham Clinic at the age of 14, at which time she and her family were advised by a physician that the statute of limitations had not expired. Ms. VonBerg's mother then re-reported the crime to the police, at which time an investigation was conducted, concluding in the arrest and conviction of Mr. Clarkson; and
- e) had discovered that the Philadelphia Sex Crimes Unit had a hidden history of "burying and deep-sixing" sex crimes.

9. On November 26, 2007, the City of Philadelphia filed a Motion to Dismiss Ms. VonBerg's complaint based on the statute of limitations.

10. On December 18, 2007, Respondent filed a Response to Defendant's Motion to Dismiss.

11. By Order dated January 29, 2008, the Honorable John P. Fullam:

- a) granted the Motion to Dismiss;
- b) held that Ms. VonBerg's suit was time-barred because it had not been filed by May 19, 2007;
- c) dismissed Ms. VonBerg's complaint as to all defendants on the basis of being untimely filed; and
- d) directed the case-file to be closed.

12. The January 29, 2008 Order was served upon and received by Respondent.

13. From at least February 2008, Respondent was aware that Ms. VonBerg's complaint had been dismissed and that her case was closed.

14. At no time did Respondent inform Ms. VonBerg that her complaint was dismissed and her case had been closed.

15. Respondent failed to timely advise Ms. VonBerg of her right to appeal Judge Fullam's Order.

16. On May 29, 2008, Petitioner and Respondent filed a Joint Petition in Support of Discipline on Consent for a three-month suspension. The Petition was in connection with Respondent's misconduct relating to his representation of Philip and Libby Klear in their May 23, 2003 automobile accident. The Petition was docketed to No. 85 DB 2008. Respondent's disciplinary proceeding relating to 85 DB 2008 will be hereinafter referred to as "the Klear Disciplinary Proceeding."

17. Respondent admitted in the Joint Petition that he had made numerous knowing and intentional false representations to the Klears and his former supervising attorney over the course of approximately a year time period.

18. On June 10, 2008, a Three-Member Panel of the Disciplinary Board approved the Joint Petition in the Klear Disciplinary Proceeding.

19. In August 2008, Respondent:

- a. met with Ms. VonBerg for approximately an hour at Respondent's office on Bustleton Avenue;
- b. represented to Ms. VonBerg that her case was getting progressively worse but she would eventually go to court; and
- c. promised to call Ms. VonBerg and advise her of a court date.

20. Respondent's representation to Ms. VonBerg that her case would eventually go to court was false and he knew it to be false when he made it because he was aware her case had been dismissed.

21. In November 2008, Respondent spoke with Ms. VonBerg and suggested a meeting in January 2009.

22. By Order dated March 6, 2009, The Supreme Court of Pennsylvania denied the Joint Petition in the Klear Disciplinary Proceeding.

23. On April 22, 2009, a Petition for Discipline was filed in connection with the Klear Disciplinary Proceeding.

24. In May 2009, Respondent and Ms. VonBerg engaged in a telephone conversation at which time Respondent:

- a) represented to Ms. VonBerg that there was a hearing in connection with her case scheduled for July 30, 2009, at 9:30 a.m., somewhere in Philadelphia; and
- b) offered to drive her to the hearing if she couldn't procure transportation.

25. Respondent's representation to Ms. VonBerg that there was a hearing in connection with her case scheduled for July 30, 2009, was false and he knew it to be false when he made it because he was aware her case had been dismissed.

26. On May 29, Respondent filed an Answer to the Petition for Discipline in connection with the Klear Disciplinary Proceeding.

27. On June 30, 2009, a Pre-Hearing Conference was conducted in connection with the Klear Disciplinary Proceeding.

28. A Disciplinary Hearing in connection with the Klear Disciplinary Proceeding was originally scheduled for July 30, 2009, but ultimately re-scheduled to August 27, 2009.

29. A few days before July 30, 2009, Respondent and Ms. VonBerg engaged in a telephone conversation at which time Respondent:

- a) advised Ms. VonBerg that her hearing scheduled for July 30, 2009, was cancelled and her case was on the waiting list again;
- b) was admonished by Ms. VonBerg for not taking her case seriously and for providing poor representation; and
- c) informed Ms. VonBerg that if she felt that way he was dropping her case and would not represent her further.

30. Respondent's representation to Ms. VonBerg that her hearing scheduled for July 30, 2009, had been cancelled and re-scheduled was false and Respondent knew it to be false when he made it because he was aware there had never been a hearing scheduled for July 30, 2009.

31. In late July and early August 2009, Ms. VonBerg left numerous voice mail messages for Respondent to contact her.

32. Respondent did not respond to Ms. VonBerg's numerous voicemail messages.

33. On August 5, 2009, Ms. VonBerg filed a complaint against Respondent with the Disciplinary Board.

34. On or about August 25, 2009, Ms. VonBerg sent a letter to Respondent, requesting him to provide her with a written status update of his representation.

35. On August 27, 2009, there was a Disciplinary Hearing conducted in connection with the Klear Disciplinary Proceeding. Both the Hearing Committee and the Disciplinary Board recommended that Respondent receive a public censure for his misconduct in the Klear Disciplinary Proceeding. By Order dated August 13, 2010, the Supreme Court of Pennsylvania ordered that Respondent be subjected to public censure.

36. On September 4, 2009, counsel for Petitioner provided Respondent's counsel with a copy of Ms. VonBerg's disciplinary complaint against Respondent and her August 25, 2009 letter to Respondent.

37. By letter dated September 11, 2009, Respondent:

- a) purported to provide Ms. VonBerg the contents of her file;
- b) informed Ms. VonBerg that he had not been able to obtain direct evidence to corroborate her allegations; and



c) told Ms. VonBerg that he was unable to continue to represent her.

38. Respondent's September 11, 2009 letter did not advise Ms. VonBerg that her case had been dismissed in January 2008.

39. Respondent's September 11, 2009 correspondence did not include a copy of the Motion to Dismiss, the Response to Defendant's Motion to Dismiss, or Judge Fullam's January 29, 2008 Order and Opinion.

**SPECIFIC RULES OF PROFESSIONAL CONDUCT AND  
RULES OF DISCIPLINARY ENFORCEMENT VIOLATED**

40. Respondent violated the following RPCs:

A. RPC 1.1, which provides 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 1.3, which provides that “[a] lawyer shall act with reasonable diligence and promptness in representing a client;”

C. RPC 1.4(a)(2), which provides that “[a] lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished;”

D. RPC 1.4(a)(3), which provides that “[a] lawyer shall keep the client reasonably informed about the status of the matter;”

E. RPC 1.4(a)(4), which provides that “[a] lawyer shall promptly comply with reasonable requests for information;”

F. RPC 1.4(b), which provides that “[a] lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;”

G. 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

H. RPC 8.4(d) which states that it is professional misconduct for a lawyer to “engage in conduct prejudicial to the administration of justice.”

**SPECIFIC RECOMMENDATION FOR DISCIPLINE**  
**ONE-YEAR-AND-ONE-DAY SUSPENSION**

41. Precedent establishes that misrepresentations to clients about the status of their case frequently warrants some form of public discipline, which will vary depending upon the aggravating or mitigating circumstances. See *In re Anonymous No. 126 DB 90 (William D. Anthony)*, 22 Pa. D. &C. 4<sup>th</sup> 163 (1994) (attorney suspended for two years when he willfully made false statements of fact and law to two separate clients about the status of their cases, including creating fictitious legal documents and presenting them to his clients as official court papers; neglected to pursue a client's claim and attempted to remedy his neglect by payment of personal funds); *Office of Disciplinary Counsel v. Goldman*, No. 157 DB 2003, 78 D&C 4th 538 (2005) (attorney suspended for one year and one day when he neglected four different client matters during a four year time period, failed to communicate with clients and intentionally misrepresented to two clients the status of their case and the work he had done, such as fabricating accounts of hearings that were supposedly to occur); *In re Anonymous No. 58 DB 1995 (Eric Solomon)*, (attorney suspended for one year when he didn't abide by his client's

decision to reject a settlement offer and accepted it without authority, then intentionally misrepresented to his client and to ODC that he was continuing to negotiate with the insurance company, leading to a "settlement" which he intended to pay out of his own funds); *Office of Disciplinary Counsel v. Robert A. Krug*, No. 66 DB 2006, (S.Ct. Order 9/24/2007) (attorney received a public censure when he failed to pursue his client's claim for equitable distribution, then made several misrepresentations to her to mislead her into believing that her equitable distribution claim was progressing.)

42. In support of Petitioner and Respondent's joint recommendation, it is respectfully submitted that the following factors warrant a one-year-and-one-day suspension:

- a) Respondent's misconduct in this matter is aggravated by the circumstances that occurred surrounding the Klear Disciplinary Proceeding.
- b) Respondent had engaged in almost identical misconduct in the Klear representation by making numerous intentional and material misrepresentations to Mr. and Mrs. Klear throughout his representation.
- c) Respondent's conduct in the VonBerg representation indicates that there are still substantial questions about Respondent's fitness to practice law and capability of being honest. Contrary to the testimony of Respondent and his psychiatrist at Respondent's August 27, 2009 Disciplinary Hearing that Respondent was successfully using techniques to address the issues that had led to his previous misrepresentations, Respondent was perpetrating a fraud on Ms. VonBerg throughout the entire period of his pending disciplinary proceeding and after he had started counseling with his psychiatrist.
- d) A one-year-and-one-day suspension will require that Respondent demonstrate his fitness to practice law prior to being re-admitted. It will provide time for Respondent to continue psychotherapy treatment and will require that he demonstrate by clear and convincing evidence that he has overcome his propensity for misrepresentations.
- e) A one-year-and-one-day suspension is within the range of discipline imposed for similar misconduct involving misrepresentation to a client.

43. In support of Petitioner and Respondent's joint recommendation, it is respectfully submitted that the following factors constitute mitigating circumstances:

- a) Respondent has admitted engaging in misconduct and violating the charged Rules of Professional Conduct;
- b) Respondent has fully cooperated with Petitioner, as is evidenced by Respondent's admissions herein and his consent to receiving a one-year-and-one-day suspension;
- c) Respondent is remorseful for and embarrassed by his misconduct and understands that he should be disciplined, as is evidenced by his consent to receiving a suspension of one-year-and-one-day.

WHEREFORE, Joint Petitioners respectfully pray that your Honorable Board:

- a) Approve this Petition; and
- b) File a recommendation for a one-year-and-one-day suspension and this

Petition with the Supreme Court of Pennsylvania.

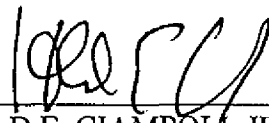
Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION,  
Attorney Reg. No. 20955  
Chief Disciplinary Counsel

Date:

8/23/10



HAROLD E. CIAMPOLI, JR.,  
Disciplinary Counsel  
Attorney Registration Number 51159  
820 Adams Avenue, Suite 170  
Trooper, PA 19403  
(610) 650-8210

Date:

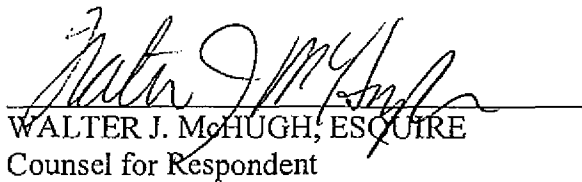
8-19-2010



MARC D. COLLAZZO  
Respondent  
Attorney Registration No. 69872

Date:

8-19-10



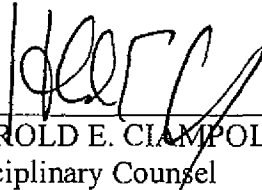
WALTER J. McHUGH, ESQUIRE  
Counsel for Respondent

**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.

8/23/10

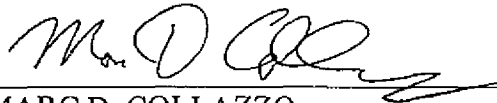
Date



HAROLD E. CIAMPOLI, JR.  
Disciplinary Counsel

8-19-2010

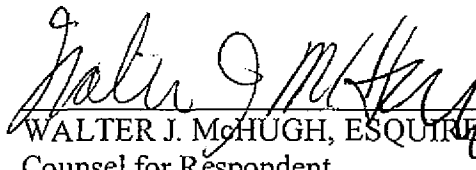
Date



MARC D. COLLAZZO  
Respondent

8-19-10

Date



WALTER J. McHUGH, ESQUIRE  
Counsel for Respondent

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. DB 2010  
Petitioner :  
 :  
v. :  
 : Attorney Reg. No. 69872  
MARC D. COLLAZZO :  
Respondent : (Chester County)

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

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CHESTER

MARC D. COLLAZZO, being duly sworn according to law, deposes and hereby submits this affidavit consenting to the recommendation of a one year and one day suspension from the practice of law in the Commonwealth of Pennsylvania 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 January 6, 1994.
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 are presently pending investigations into allegations

that he has been guilty of misconduct as set forth in the Joint Petition in Support of Discipline on Consent of which this affidavit is attached hereto.

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 retained, consulted and acted upon the advice of counsel, Walter J. McHugh, Esquire in connection with his decision to execute the within Joint Petition.

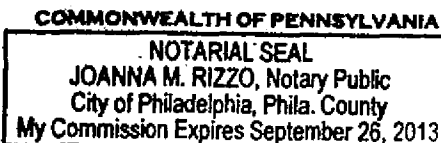
It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S.A. §4904 (relating to unsworn falsification to authorities).

Signed this 13<sup>th</sup> day of August, 2010

  
MARC D. COLLAZZO

Sworn to and subscribed  
before me this 13 day  
of August 2010

  
Notary Public





BEFORE THE DISCIPLINARY BOARD OF  
THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL : No. DB 2010  
Petitioner :  
: ODC File No. C2-09-760  
v. :  
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MARC D. COLLAZZO , :  
Respondent : (Chester County)

CERTIFICATE OF SERVICE

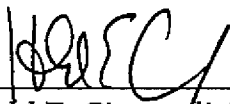
I hereby certify that I have this day served by first class mail the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 204 Pa. Code §89.22 (relating to service by a participant).

By First Class Mail:

Walter J. McHugh, Esquire  
McMonagle, Perri, McHugh, & Mischak  
One Penn Square West, Suite 701  
30 S. 15<sup>th</sup> Street  
Philadelphia, PA 19102

Counsel for Respondent

August 23, 2010

  
\_\_\_\_\_  
Harold E. Ciampoli, Jr.  
Disciplinary Counsel  
Atty. Reg. No. 51159  
District II Office  
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