IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, Petitioner	:	No. 1397 Disciplinary Docket No. 3
	:	No. 170 DB 2006
v.	:	
	:	Attorney Registration No. 49982
JANICE SHELBURNE HAAGENSEN, Respondent	:	(Lawrence County)

ORDER

PER CURIAM:

AND NOW, this 17th day of February, 2010, a Rule having been entered upon respondent by this Court on November 18, 2009, to show cause why she should not be suspended from the practice of law in this Commonwealth for a period of one year and one day and no response having been filed, it is hereby

ORDERED that the Rule is made absolute, respondent is suspended from the practice of law in this Commonwealth for a period of one year and one day and she shall comply with all the provisions of Rule 217, Pa.R.D.E.

A True Copy Patricia Nicola
As of: February 17, 2010
Attest: Patricia Nicola
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL Petitioner	:	No. 1397 Disciplinary Docket No. 3
	:	No. 170 DB 2006
v.	:	
	:	Attorney Registration No. 49982
JANICE SHELBURNE HAAGENSEN Respondent	:	(Lawrence County)

RECOMMENDATION FOR
PUBLIC CENSURE PURSUANT TO
DISCIPLINARY BOARD RULE §89.205(e)

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES
OF THE SUPREME COURT OF PENNSYLVANIA:

This matter commenced with the filing of a Petition for Discipline against Respondent by Office of Disciplinary Counsel on November 15, 2006. Respondent filed an Answer to Petition for Discipline on December 14, 2006. Disciplinary hearings were held on May 30, 2007 and December 18, 2007. The Committee filed a Report on February 26, 2008, concluding that Respondent violated the Rules of Professional Conduct as charged in the Petition for Discipline and recommending that Respondent be subject to Private Reprimand by the Board.

Respondent filed a Brief on Exceptions on March 17, 2008 and requested that the Board dismiss all charges against her. Respondent requested oral argument before the Board. Petitioner filed a Brief Opposing Exceptions on April 4, 2008. Oral argument was held before a three member panel of the Board on May 19, 2008.

This matter was adjudicated by the Board on May 21, 2008. By Order of May 22, 2008, the Board ordered that the findings, conclusions and recommendations of the Hearing Committee were accepted, and that Respondent be subjected to a Private Reprimand. Additionally, Respondent received a Revised Notice of Taxation of Expenses dated June 5, 2008, wherein Respondent was notified that she owed $1499.00 in taxed expenses within 30 days of the date of the Notice. Respondent did not pay her taxed expenses within 30 days, or at any time since.

Respondent filed a Petition for Review to the Supreme Court of Pennsylvania based upon her allegations that the Board had no jurisdiction over the conduct alleged in the Petition for Discipline filed against her. By Order of September 25, 2008, the Court denied the Petition for Review and referred the matter to the Board for imposition of a Private Reprimand.

By letter of October 10, 2008, Elaine Bixler, Secretary of the Board, notified Respondent that the Court had referred her matter to the Board for Private Reprimand. Shortly thereafter, Respondent filed a Plaintiff's Motion for Emergency Restraining Order in the United States District Court for the Western District of Pennsylvania against the Supreme Court, Disciplinary Counsel, Secretary of the Board, and others. It was received by the Board on November 14, 2008. Respondent sought to restrain the Defendants from subjecting her to sanctions or altering her status to practice law. Defendants filed a Motion to Dismiss.

By Order of March 3, 2009, the United States District Court for the Western District of Pennsylvania granted the Motion to Dismiss and the Motion for Emergency Temporary Restraining Order was dismissed as moot.

By Notice to Appear dated March 6, 2009, Respondent was directed to appear before the Board on March 26, 2009, at 1:00 p.m. to receive the Private Reprimand. Respondent received the notice on March 9, 2009, but did not appear for the Private Reprimand nor did she notify the Board that she would not appear.

On May 4, 2009, a Rule to Show Cause was issued by the Board upon Respondent to show cause why her neglect or refusal to appear for a Private Reprimand on March 26, 2009 should not be automatically converted into a recommendation to the Supreme Court for Public Censure pursuant to Disciplinary Board Rule 89.205(e), and why her failure to pay the costs assessed in these proceedings should not result in her being placed on administrative suspension in accordance with Rule 219(l), Pa.R.D.E. Respondent filed an Answer on June 5, 2009. (Appendix "A") Office of Disciplinary Counsel filed a Reply to Answer on June 12, 2009. (Appendix "B")

Respondent has not demonstrated good cause as to why she did not appear before the Board for the Private Reprimand scheduled for March 26, 2009. She continues to argue that the Supreme Court and the Board do not have jurisdiction over her actions. The Supreme Court has already rejected Respondent's arguments concerning jurisdiction. Respondent raises the issue of staleness for the first time in these proceedings. She argues that Disciplinary Board Rule 85.10 acts as a statutory bar to the disciplinary action against her. This Rule provides, in pertinent part, that "Disciplinary Counsel shall not

entertain any complaint arising out of acts or omissions occurring more than four years prior to the date of the complaint..." The underlying record of these proceedings demonstrates that the complaint file was opened on December 3, 2004, and the misconduct complained of was found to have continued until at least March of 2003, well within the four year time period. Disciplinary Board Rule 85.10(a) is not applicable in this situation.

Respondent having failed to provide good cause for not appearing for her Private Reprimand, the Board recommends that Public Censure be imposed by the Supreme Court. The Board further recommends that as Respondent has failed to pay her costs within 30 days of notification, Respondent be administratively suspended pursuant to Rule 219(l), Pa.R.D.E.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: _____
William A. Pietragallo, Board Chair

Date: 8/7/2009

BEFORE THE DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL Petitioner	:	No. 1397 Disciplinary Docket No. 3
	:	No. 170 DB 2006
v.	:	
	:	Attorney Registration No. 49982
JANICE SHELBURNE HAAGENSEN Respondent	:	(Lawrence County)

RESPONDENT'S ANSWER TO RULE TO SHOW CAUSE ISSUED MAY 4, 2009

AND NOW comes Atty. Janice Haagensen, the "alleged" Respondent, to answer the Disciplinary Board of the Supreme Court of Pennsylvania's issuance of a Rule to Show Cause, for the sole purpose of announcing to the Board its complete and fatal lack of jurisdiction in this matter as follows:

The U.S. Supreme Court has proclaimed:

> The fourteenth article of amendment of the constitution of the United States ... ordains: 'Nor shall any state deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.' These prohibitions extend to all acts of the state, whether through its legislature, its executive, or its judicial authorities. *Virginia v. Rives*, 100 U.S.313, 318, 319; *Ex parte Virginia*, Id. 339, 346; *Neal v. Delaware*, 103 U.S. 370, 397. And the first one, as said by Chief Justice Waite in *U.S. v. Cruikshank*, 92 U.S. 542, 554, repeating the words of Mr. Justice Johnson in *Bank v. Okely*, 4 Wheat. 235, 244, was intended 'to secure the individual from the arbitrary exercise of the powers of government, unrestrained by the established principles of private rights and distributive justice.'

Scott v. McNeal, 154 U.S. 34, 45 (1894).

No judgment of a court is due process of law, if rendered without jurisdiction in the court. "The words 'due process of law,' when applied to judicial proceedings, as was said by Mr. Justice Field, speaking for this court, 'mean a course of legal proceedings according to those rules and principles which have been established in our systems of

jurisprudence for the protection and enforcement of private rights. To give such proceedings any validity, there must be a tribunal competent by its constitution--that is, by the law of its creation--to pass upon the subject-matter of the suit; . . ." *Scott* at 46, citing *Pennoyer v. Neff*, 95 U.S. 714, 733 (1877).

"Without jurisdiction the court cannot proceed at all in any cause. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause. And this is not less clear upon authority than upon principle." *Ex parte McCardle*, 74 U.S. (7 Wall.) 506, 514 (1869).

The Supreme Court of the United States has long held that the Due Process Clause limits the ability of states to exercise this power. *Scott v. McNeal*, *supra*; *Pennoyer v. Neff*, *supra*.

Judgment is also wholly void if a fact essential to jurisdiction of the court did not exist. Any state-court decree of condemnation rested on the existence of an order finding the alleged respondent guilty of violation of the rules of professional conduct after notice, hearing and trial in a federal court is wholly void, because respondent was ***never*** accused, ***never*** tried and ***never*** found guilty of any violation of the rules of professional conduct by any federal authority ***in any federal forum***.

Any attempt by members of the state judiciary to initiate an independent disciplinary proceeding de novo against a Pennsylvania lawyer practicing in a federal court is barred both by the Fourteenth Amendment and by the Supremacy Clause of the United States Constitution:

> Under the Supremacy Clause, state laws that are 'an obstacle to the accomplishment and execution of the full purposes and objectives of

> Congress' are invalid. *Hines v. Davidowitz*, 312 U.S. 52, 67 (1941). State rules regulating attorney conduct are subject to operation of the Supremacy Clause. See, e.g., *Supreme Court of Virginia v. Friedman*, 487 U.S. 59 (1988) (striking down discriminatory admissions requirements for nonresidents); *Goldfarb v. Virginia State Bar*, 421 U.S. 773 (1975) (invalidating minimum fee schedules); *Sperry v. Florida*, 373 U.S. 379 (1963). Thus, to the extent the enforcement of a state ethics rule might frustrate congressional ends, the Supremacy Clause would be a bar to any such enforcement.

County of Suffolk v. Long Island Lighting Co., 710 F.Supp. 1407, 1414-15 (E.D.N.Y. 1989) (West citations omitted.)

The United States District Court for the Western District of Pennsylvania was ***the only court in the U.S.*** with original jurisdiction over the *Grine* case, including its subject-matter and its parties. The Pa. Supreme Court's judgment, which it now attempts to enforce, is absolutely void for want of jurisdiction in the court that pronounced it. The formal proceeding now threatened in the name of the state, whose promoters are parties to the case now pending in a federal court, coerces the alleged respondent to surrender to the jurisdiction of a state court. This is a violation of the alleged respondent's right to due process of law.

"Where a state court and a court of the United States may each take jurisdiction of a matter, the tribunal where jurisdiction first attaches hold it, to the exclusion of the other, until its duty is fully performed and the jurisdiction involved is exhausted; and this rule applies alike in both civil and criminal cases. *Freeman v. Howe*, 24 How. 450; Buck v. Colbath, 3 Wall. 334; *Taylor v. Taintor*, 16 Wall. 366; *Ex parte Crouch*, 112 U.S. 178, 5 Sup. Ct. 96." *Harkrader v. Wadley*, 172 U.S. 148, 164 (1898).

The *Grine* plaintiffs properly invoked the jurisdiction of a federal district court, and their case was ***tried in a federal forum***; original and appellate jurisdiction attached in a federal district court. (The *Grine* case certainly ***never*** attached as a matter of first

impression ***in state court***.) The jurisdiction of the federal court could not be defeated or impaired by the institution, by one of the parties or by a presiding judicial officer, of subsequent proceedings, whether civil or criminal, involving the same questions, in a state court.

Plaintiff has filed her cause of action against the defendants in a federal court and has sufficiently alleged in her complaint that federal courts can enjoin the enforcement of a void judgment. Plaintiff has appealed the dismissal of her claims to the Third Circuit Court of Appeals, arguing that she has the right to file an amended complaint and that she has sufficiently pled therein that as an officer of a federal court she is within the dominion and exclusive jurisdiction of another government, i.e., the United States, and no process issued under state authority can pass over the line of division between the two sovereignties. Plaintiff is protecting her right of property inherent in the continued practice of her chosen profession: "It is well settled that, where property rights will be destroyed, unlawful interference by criminal proceedings under a void law or ordinance may be reached and controlled by a decree of a court of equity." *Dobbins v. Los Angeles*, 195 U.S. 223-241 (1904); and *see Davis & Farnum Mfg. Co. v. Los Angeles*, 189 U.S. 207, 217-18 (1903). *Accord Smyth v. Ames*, 169 U.S. 466 (1898). Because the defendants have commenced a quasi-criminal proceeding against the alleged respondent even though they are already parties to a suit pending in a court of equity, and since the quasi-criminal proceeding is being brought to enforce the same right that is being put in issue before the federal court, the federal court of equity can enjoin the sought-after criminal proceedings. *Davis & Farnum Mfg. Co. v. Los Angeles*, 189 U.S. at 217-18. "When [an] indictment or proceeding is brought to enforce an

alleged unconstitutional [judgment], which is the subject-matter of inquiry in a suit already pending in a Federal court, the latter court, having first obtained jurisdiction over the subject-matter, has the right, in both civil and criminal cases, to hold and maintain such jurisdiction, to the exclusion of all other courts, until its duty is fully performed. Prout v. Starr, 188 U.S. 537, 542-544 [(1903)]." Ex parte Young, 209 U.S. 123, 161-162 (1908).

Defendants in the now-ongoing federal case are seeking during the pendency of that case to take the plaintiff-respondent into the custody of state officials for alleged crimes against the state; however, the alleged respondent has the right, given the supreme authority of the United States, to be released from state custody and discharged by a federal court or judge, because the state judicial officers' assertion of jurisdiction and attempted seizure of her property is an affirmative act in violation of the Supremacy Clause of the U.S. Constitution.

The Supreme Court has explained:

> Young's applicability has been tailored to conform as precisely as possible to those specific situations in which it is necessary to permit the federal courts to vindicate federal rights and hold state officials responsible to the supreme authority of the United States.

Children's Healthcare Is A Legal Duty, Inc. v. Deters, 92 F.3d 1412, 1417-18 (Sixth Cir.1996) (internal quotation marks omitted), quoting Papasan v. Allain, 478 U.S. 265, 277 (1986), and Pennhurst State School and Hospital v. Halderman, 465 U.S. 89, 105 (1984). As the Supreme Court in Young explained:

> [I]individuals who, as officers of the state, are clothed with some duty in regard to the enforcement of the laws of the state, and who threaten and are about to commence proceedings, either of a civil or criminal nature, to enforce against parties affected an unconstitutional act, violating the

> Federal Constitution, may be enjoined by a federal court of equity from such action.

Young, 209 U.S. at 155-56.

"No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it. Chief Justice Marshall spoke for a unanimous Court in saying that: 'If the legislatures of the several states may, at will, annul the judgments of the courts of the United States, and destroy the rights acquired under those judgments, the constitution itself becomes a solemn mockery . . . .' *United States v. Peters*, 5 Cranch 115, 136 [(1809)]." *Cooper v. Aaron*, 358 U.S. 1, 18 (1958). *And see Bush v. Orleans Parish School Board*, 364 U.S. 500, 501 (1960) ("The conclusion is clear that ***interposition is not a constitutional doctrine***. If taken seriously, ***it is illegal defiance of constitutional authority***.") (emphasis added).

"In many States, the judges are dependent for office and for salary on the will of the legislature. When we observe the importance which that Constitution attaches to the independence of judges, we are the less inclined to suppose that it can have intended to leave these constitutional questions to tribunals where this independence may not exist, in all cases where a State shall prosecute an individual who claims the protection of an act of Congress." *Cohens v. Virginia*, 19 U.S. (6 Wheat) 264, 386-387 (1821). Pennsylvania's state court judges have not been endowed by virtue of the state's constitution with a roving commission to police the federal courts for the purpose of making either founded or unfounded accusations against federal officers. Where congress has granted the federal courts jurisdiction, a state court's judiciary is not free to repudiate that authority. The power to control the jurisdiction of the lower federal courts is assigned by the Constitution to Congress, not to a state court judiciary:

> Upon the state courts, equally with the courts of the Union, rests the obligation to guard, enforce, and protect every right granted or secured by the constitution of the United States and the laws made in pursuance thereof, whenever those rights are involved in any suit or proceeding before them; for the judges of the state courts are required to take an oath to support that constitution, and they are bound by it, and the laws of the United States made in pursuance thereof, and all treaties made under their authority, as the supreme law of the land, 'anything in the constitution or laws of any state to the contrary notwithstanding.'

Robb v. Connolly, 111 U.S. 624, 637 (1884).

As was held in *Young*, the state has no power to impart to its officers any immunity from responsibility to the supreme authority of the United States. State judicial officers have no authority to strip the *Grine* plaintiffs and their counsel of due process and the most basic of constitutional rights by demanding that their counsel defend herself against retaliatory accusations by forced re-litigation and review of the entire *Grine* case, in a state court.

There is no doubt that Chief Counsel Paul J. Killion knows these principles. In his dismissal of a year ago, he dismissed a complaint filed against John Choon Yoo, where Killion revealed that he understood that:

> [His] office, like any other prosecutorial agency, has the burden of proof. Each and every allegation of ethical misconduct must be proven by "clear and convincing" evidence, a standard of proof greater than the "preponderance" standard applicable in a civil proceeding. Surmise, conjecture or even a strong suspicion, will not suffice.

Pa. Office of Disciplinary Counsel, letter of May 7, 2008.

In a civil adversary proceeding in a federal forum, as Killion acknowledges, the preponderance of the evidence standard governs. In a formal disciplinary prosecution, ***clear and convincing*** evidence must be found to establish guilt. Killion was fully aware that the alleged respondent, Ms. Haagensen, was a participant in a civil adversary

proceeding in a federal court, and never a participant in a criminal trial for personal "misconduct."

Killion was also obviously aware of the absolute bar to Pennsylvania's investigation and prosecution of an attorney whose activities lay within the jurisdiction and control of the federal government:

> As a preliminary matter, although Mr. Yoo is a Pennsylvania lawyer, it is not clear that the Pennsylvania Rules of Professional Conduct govern his conduct. ***Pa.R.P.C. 8.5 provides***, in pertinent part, that "[i]n the exercise of the disciplinary authority of this jurisdiction, the rules of professional conduct to be applied shall be as follows: . . . (2) . . . the ***rules of the jurisdiction in which*** **the lawyer's** ***conduct occurred, or,*** if the predominant ***effect*** of the conduct is ***in a different jurisdiction, the rules of that jurisdiction shall be applied*** to the conduct." * * * Furthermore, both the [Federal] Office of Professional Responsibility and the House Judiciary Committee have significant resources and are already dedicated to conducting [that] investigation. In light of the above, ***this office will defer*** to the investigations being conducted by the [Federal] Office of Professional Responsibility and the House Judiciary Committee.

Id., (emphasis added).

Chief Disciplinary Counsel Killion ***deferred to federal authority*** because he had ***no choice but to do so***, and more importantly ***for Ms. Haagensen's defense, he made no attempt to impair or defeat the jurisdiction of the federal entities*** responsible for supervision of the conduct of John Yoo because Killion knew that the federal initial and independent findings of fact and investigative conclusions would establish the law of the case, which could not be altered at will or on review by Pennsylvania lawyers. Killion and the other defendants in Ms. Haagensen's pending federal case ***must abide by their own jurisdictional mandate***, which as they have recognized does not and cannot confer on them the ability to take up a complaint against an individual like John Yoo, an attorney who functioned ***in the territories of the federal system***. ***Likewise***, Ms. Haagensen's conduct as a lawyer ***only took place in***

federal territory, i.e., ***in*** the venue and jurisdiction of the United States District Court for the Western District of Pennsylvania, ***in*** the Third Circuit Court of Appeals, and ***in*** the United States Supreme Court. These are federal, not state, forums.

Finally, the Disciplinary Board's jurisdictional statutes of limitation, Disciplinary Board Rules §85.10, alternatively is clearly an absolute bar to any investigation and prosecution of Ms. Haagensen because the conduct and activities which allegedly gave rise to any complaint against her took place in a federal forum over four years before the Board gave her notice of its desire to sanction her.

Respectfully submitted,

Date: June 5, 2009, Friday

Janice Haagensen, PA 49982
349 New Road
Enon Valley, PA 16120
tel 724 336-5962, cel 724 730-0260
janhaagensen@aol.com

CERTIFICATE OF SERVICE

I certify this day that a copy of the foregoing document was faxed and sent by regular U.S. mail to the Pennsylvania Disciplinary Board, as follows:

Fax 717-731-0491; 412-565-7620

Mail: Disciplinary Board of the
Supreme Court of Pennsylvania
Two Lemoyne Drive, First Floor
Lemoyne, PA 17043-1226

Office of Disciplinary Counsel
Frick Bldg, Suite 1300
437 Grant St.
Pittsburgh, PA 15219

Date: June 5, 2009, Friday

Janice Haagensen

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BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 1397, Disciplinary Docket No. 3
Petitioner	:	
	:	No. 170 DB 2006 - Disciplinary Board
v.	:	
JANICE SHELBURNE HAAGENSEN,	:	Attorney Registration No. 49982
Respondent	:	(Lawrence County)

REPLY TO ANSWER TO RULE TO SHOW CAUSE

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION
CHIEF DISCIPLINARY COUNSEL

Samuel F. Napoli
Disciplinary Counsel
The Disciplinary Board of the
Supreme Court of Pennsylvania
Suite 1300, Frick Building
437 Grant Street
Pittsburgh, PA 15219
Telephone: (412) 565-3173

APPENDIX "B"

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 1397, Disciplinary Docket No. 3
Petitioner	:	
	:	No. 170 DB 2006 - Disciplinary Board
v.	:	
JANICE SHELBURNE HAAGENSEN,	:	Attorney Registration No. 49982
Respondent	:	(Lawrence County)

REPLY TO ANSWER TO RULE TO SHOW CAUSE

AND NOW, comes the Office of Disciplinary Counsel, by Paul J. Killion, Chief Disciplinary Counsel, and Samuel F. Napoli, Disciplinary Counsel, and files the following Reply to Answer to Rule to Show Cause filed by Janice Shelburne Haagensen.

1. 42 Pa.C.S.A. §725 provides that:

> The Supreme Court shall have exclusive jurisdiction of appeals of final orders of the following constitutional and judicial agencies:
>
> . . .
>
> (5) The agency vested with the power to discipline or recommend the discipline of attorneys at law.

The specific provision of the Constitution of Pennsylvania vesting such authority in your Honorable Court is Article V §10(c).

2. The Disciplinary Board, after formal disciplinary proceedings, determined that this matter be concluded by Private Reprimand. Ms. Haagensen filed a Petition for Review to the Supreme Court of Pennsylvania, based upon her allegation that the Disciplinary Board had no jurisdiction over the conduct alleged in the Petition for Discipline filed against her in this matter.

3. By Order dated September 25, 2008, the Supreme Court of Pennsylvania denied Respondent's Petition for Review and referred the matter to the Disciplinary Board for imposition of a Private Reprimand.

4. By Notice to Appear dated March 6, 2009, Respondent was directed to appear before the Disciplinary Board on March 26, 2009, at 1:00 p.m. for the purpose of receiving a Private Reprimand.

5. Respondent received the Notice to Appear on March 9, 2009.

6. Respondent did not appear for the Private Reprimand.

7. Respondent did not notify the Disciplinary Board that she would not appear for the Private Reprimand scheduled for March 26, 2009.

8. Respondent's Answer to the Disciplinary Board's Rule to Show Cause is based upon the same jurisdictional grounds earlier presented by her to the Supreme Court of Pennsylvania.

9. The Supreme Court of Pennsylvania has rejected Respondent's argument concerning jurisdiction.

10. Respondent has made similar arguments in her action filed in United States District Court for the Western District of Pennsylvania, ***Haagensen v. Supreme Court of Pennsylvania, et al***, No. 2:08-CV-1560.

11. In the case referred to in paragraph 10, above, Respondent's request for injunctive relief was denied and, by Order dated March 3, 2009, as amended by Order dated March 27, 2009, Respondent's action was dismissed with prejudice.

12. Respondent has appealed to the United States Third Circuit Court of Appeals the Federal District Court's dismissal of her action.

13. Despite Respondent's request to the Federal District Court, no stay has been granted as to these proceedings, either before March 26, 2009, the date scheduled for her appearance for imposition of a Private Reprimand, or thereafter.

14. Respondent, in her Answer to the Rule to Show Cause cites, for the first time in these proceedings, Disciplinary Board Rule §85.10 as a statutory bar to the disciplinary action against her.

15. Disciplinary Board Rule §85.10(a) provides, in relevant part, that "Disciplinary Counsel shall not entertain any complaint arising out of acts or omissions occurring more than four years prior to the date of the complaint . . .."

16. The date of the opening of the complaint file in this matter is December 3, 2004.

17. While Respondent's misconduct in this matter may have begun as long ago as 1997, it was found to have continued until at least March of 2003, less than two years prior to the opening of the complaint file in this matter.

18. Respondent's "acts or omissions" were a continuing course of conduct which did not end until about one year before the opening of the disciplinary complaint file against her on December 3, 2004.

19. Because the complaint file in this matter was opened well within the four year time period referred to in that Rule, Disciplinary Board Rule §85.10(a) is not applicable in this matter.

20. Respondent has not shown good cause why she did not appear for the Private Reprimand scheduled for March 26, 2009.

21. Respondent's failure to appear for her Private Reprimand, without good cause, was willful.

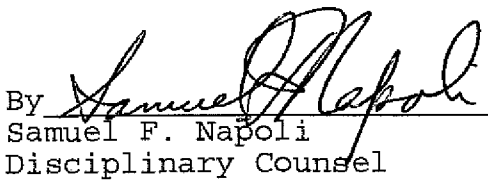
22. Further, Respondent gave no reason why she has not paid the costs assessed for her disciplinary proceedings.

WHEREFORE, the Private Reprimand should be converted to a recommendation to the Supreme Court of Pennsylvania for Public Censure, and she should be placed on administrative suspension for failure to pay the costs of these proceedings pursuant to Rule 219(i), Pa.R.D.E.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION
CHIEF DISCIPLINARY COUNSEL

By 
Samuel F. Napoli
Disciplinary Counsel

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 1397, Disciplinary Docket
	:	No. 3
Petitioner	:	
	:	No. 170 DB 2006 - Disciplinary
v.	:	Board
	:	
JANICE SHELBURNE HAAGENSEN,	:	Attorney Registration No. 49982
	:	
Respondent	:	(Lawrence County)

VERIFICATION

The statements contained in the foregoing Reply to Answer to Rule to Show Cause 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. §4904, relating to unsworn falsification to authorities.

June 10, 2009
Date

Samuel F. Napoli
Disciplinary Counsel

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 1397 Disciplinary Docket
	:	No. 3
Petitioner	:	
	:	No. 170 DB 2006 - Disciplinary
v.	:	Board
	:	
JANICE SHELBURNE HAAGENSEN,	:	Attorney Registration No. 49982
	:	
Respondent	:	(Lawrence County)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served by first class mail the foregoing Reply to Answer to Rule to Show Cause 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:

Janice Shelburne Haagensen, Esquire (724) 336-5962
349 New Road
Enon Valley, PA 16120

June 10, 2009
Date

Samuel F. Napoli, Reg. No. 35303
Disciplinary Counsel
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