

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 1918 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 177 DB 2013
v.	:	
	:	Attorney Registration No. 23691
JOSEPH F. LAWLESS, JR.,	:	
Respondent	:	(Montgomery County)

ORDER

PER CURIAM:

AND NOW, this 31st day of March, 2014, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated January 13, 2014, 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 Joseph F. Lawless, Jr., is suspended on consent from the Bar of this Commonwealth for a period of one year and one day, the suspension is stayed in its entirety, and he is placed on probation for a period of two years subject to the following conditions:

1. Respondent shall abstain from using alcohol, drugs, or any other mood-altering or mind-altering chemicals except for those medications prescribed by Respondent's physicians;
2. Respondent shall regularly attend meetings of Alcoholics Anonymous on a weekly basis;
3. Respondent shall obtain a sponsor in Alcoholics Anonymous and maintain weekly contact with that sponsor;

4. A sobriety monitor shall be appointed to monitor Respondent in accordance with Disciplinary Board Rule §89.293(c);
5. Respondent shall furnish his sobriety monitor with his Alcoholics Anonymous sponsor's name, address and telephone number;
6. Respondent shall establish his weekly attendance at Alcoholics Anonymous meetings by providing written verification on a Board-approved form to the Board;
7. Respondent shall undergo any counseling, out-patient or in-patient treatment, prescribed by a physician or alcohol counselor;
8. Respondent shall file with the Secretary of the Board quarterly written reports;
9. With the sobriety monitor, Respondent shall:
 - a) meet at least twice a month
 - b) maintain weekly telephone contact
 - c) provide the necessary properly executed written authorizations to verify his compliance with the required substance abuse treatment; and
 - d) cooperate fully.
10. The appointed sobriety monitor shall:
 - a) monitor Respondent's compliance with the terms and conditions of the order imposing probation;
 - b) assist Respondent in arranging any necessary professional or substance abuse treatment;
 - c) meet with Respondent at least twice a month, and maintain weekly telephone contact with him;

- d) maintain direct monthly contact with Respondent's Alcoholics Anonymous sponsor;
- e) file with the Secretary of the Board quarterly written reports; and
- f) immediately report to the Secretary of the Board any violations by the Respondent of the terms and conditions of the probation.

A True Copy Patricia Nicola
As Of 3/31/2014

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL : No. 177 DB 2013
Petitioner :
v. : Attorney Registration No. 23691
JOSEPH F. LAWLESS, JR. :
Respondent : (Montgomery 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 David A. Nasatir, Brian John Cali, and Lawrence M. Kelly has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on December 11, 2013.

The Panel approves the Petition consenting to a one year and one day suspension to be stayed in its entirety and a two year period of probation subject to the conditions set forth in the Joint Petition and recommends to the Supreme Court of Pennsylvania that the attached Joint 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.



David A. Nasatir, Panel Chair
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date: 1/13/2014

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. *17DB 2013*
Petitioner :
 : Board File Nos. C2-12-81 and 982
v. :
 : Attorney Reg. No. 23691
JOSEPH F. LAWLESS, JR., :
Respondent : (Montgomery 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 Paul J. Killion, Chief Disciplinary Counsel, and Barbara Brigham Denys, Disciplinary Counsel, and Respondent, Joseph F. Lawless, Jr. (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 Pennsylvania Judicial Center, 601 Commonwealth Avenue, 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 **FILED**

DEC 11 2013

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

brought in accordance with the various provisions of the aforesaid Enforcement Rules.

2. Respondent, Joseph F. Lawless, Jr., was born on April 17, 1951, and was admitted to practice law in the Commonwealth of Pennsylvania on November 1, 1976. Respondent is on active status and his current registered public access address is 119 Mill Creek Road #A3N, Ardmore, Pennsylvania 19003. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent's affidavit stating, *inter alia*, his consent to the recommended discipline in connection with Disciplinary Board File Nos. C2-12-81 (IOLTA account overdrafts) and C2-12-982 (Criminal Convictions for DUI) is attached hereto as Exhibit A.

SPECIFIC FACTUAL ALLEGATIONS ADMITTED

A. IOLTA Overdrafts (File No. C2-12-81)

4. On December 23, 2011, and December 28, 2011, the Pennsylvania Lawyers Fund For Client Security, pursuant to Pa.R.D.E. 221, received notification from Wells Fargo Bank that two checks had been presented against Respondent's IOLTA account (numbered *****2401) for which there were insufficient funds, creating a \$2,780.31 shortfall in the account.

5. By letter dated December 29, 2011, the Pennsylvania Lawyers Fund for Client Security issued Respondent an inquiry letter requesting a verified explanation as to why the overdrafts occurred along with related documentation.

6. Respondent replied by letter dated January 12, 2012, enclosing copies of his IOLTA account bank statements for July 2011 through December 2011. In the January 12, 2012 letter, Respondent explained that the funds he held in the IOLTA account at the time of the overdrafts were not client funds, but instead were his own funds.

7. On January 25, 2012, ODC mailed to Respondent a DB-7 Request for Statement of Respondent's Position charging violation of Rule 1.15(h) of the Pennsylvania Rules of Professional Conduct. In the course of ODC's investigation, ODC also sought and obtained additional bank statements and other materials relating to Respondent's IOLTA account.

8. Respondent fully complied with ODC's investigation and readily admitted that he violated Rule 1.15(h) by holding his own funds in his IOLTA account. At the time of the overdrafts, the only funds in the IOLTA account were funds belonging to Respondent. Respondent also acknowledges that in 2010, before the overdrafts of his IOLTA account, Respondent commingled his own funds with funds of his clients then held in his IOLTA

account in violation of RPC 1.15(b).

9. ODC's investigation of Respondent has revealed nothing to suggest any misappropriation of client funds.

B. Delaware County Criminal Convictions (File No. C2-12-982)

Docket Number CP-23-CR-0001332-2012

10. On July 22, 2011, Respondent was operating a black Mercedes-Benz SUV and was involved in a one-car crash across from 789 East Lancaster Avenue, Villanova, Delaware County, Pennsylvania. The responding Radnor Township Police Officer arrived at the scene and observed Respondent through the driver's side window slumped over with open liquor bottles in the vehicle. Medics arrived at the scene and began to treat Respondent. Respondent was transported to Bryn Mawr Hospital for further treatment.

11. The laboratory examination of Respondent's blood drawn at Bryn Mawr Hospital showed a blood alcohol concentration of greater than .30% at the time of the July 22, 2011 accident.

12. On August 26, 2011, a criminal complaint charging Respondent with driving under the influence/highest rate was filed in the matter of *Commonwealth v. Joseph F. Lawless, Jr.*, Criminal Docket Number MJ-32129-CR-0000121-2011.

13. On February 28, 2012, Respondent waived a preliminary hearing.

14. On March 29, 2012, a criminal information was filed against Respondent charging him with driving under the influence/highest rate and a related charge in the matter captioned *Commonwealth v. Joseph Francis Lawless Jr.*, Criminal Docket Number CP-23-CR-0001332-2012, in the Delaware County Court of Common Pleas.

Docket Number CP-23-CR-0000984-2012

15. On November 2, 2011, Respondent was involved in a one-car accident at 101 West Eagle Road at the intersection of West Eagle Road and Grasslyn Avenue in Haverford Township, Delaware County, Pennsylvania. The responding Haverford Township Police Officer arrived at the scene to find Respondent in the driver's seat of a black Mercedes-Benz SUV which was at rest against the northbound curb of Grasslyn Avenue facing eastbound. There was an empty liquor bottle in the vehicle.

16. Respondent was uninjured as a result of the accident, but was transported by medics to the Delaware Memorial Hospital Emergency Room due to Respondent's apparent high level of intoxication. At the Delaware County Memorial Hospital Emergency Room, Respondent consented to provide blood evidence.

17. On November 3, 2011, a criminal complaint charging Respondent with driving under the influence and a related offense were filed in the matter of *Commonwealth v. Joseph Lawless*, Criminal Docket Number MJ-32125-CR-0000154-2011. Respondent waived a preliminary hearing.

18. On March 7, 2012, a criminal information was filed against Respondent charging him with driving under the influence/highest rate and related offenses in the matter captioned *Commonwealth v. Joseph Lawless*, Criminal Docket Number CP-23-CR-0000984-2012, in the Delaware County Court of Common Pleas.

19. On April 10, 2012, attorney Wendy Roberts, Esquire, entered her appearance on Respondent's behalf in each of the two criminal matters that were then pending against Respondent in the Delaware County Court of Common Pleas.

Guilty Plea & Sentencing

20. On April 13, 2012, Respondent pled guilty to the following charges:

- a) Count 2 (CP-23-CR-0001332-2012): driving under the influence of alcohol or controlled substance, 75 Pa.C.S.A. §3802(c) highest rate of alcohol; and

- b) Count 2 (CP-23-CR-0000984-2012): driving under the influence of alcohol or controlled substance, 75 Pa.C.S.A. §3802(c) highest rate of alcohol.

21. On the same date, Judge Kevin F. Kelly sentenced Respondent on each of those Counts to six (6) months of intermediate punishment consisting of ten (10) days of incarceration at George W. Hill Correctional Facility and the balance under probationary supervision, to run consecutively. On each Count, Respondent was also required to pay a \$1,000.00 fine, a cost assessment and, in the case of Information CP-23-CR-0000984-2012, restitution in the amount of \$998.00. Specific conditions included completion of a CRN evaluation, alcohol highway safety school, and a drug and alcohol evaluation with completion of recommendations of Diagnostic Services, ninety-six (96) hours of community service, and compliance with the general and DUI rules and regulations governing probation.

C. Montgomery County Criminal Convictions (File No. C2-12-982)

Docket Number CP-46-CR-0003286-2011

22. On February 18, 2011, Respondent was operating a black Mercedes-Benz SUV traveling north on Mt. Moro Road in Lower Merion Township, Montgomery County, Pennsylvania. Respondent swerved from one side of the road to another, left the roadway, and struck a fire hydrant, an area of shrubs and a fence at 835

Mt. Moro Road. Lower Merion Police Officers arrived on the scene to find Respondent in the driver's seat of the vehicle and unable to exit the vehicle or stand without assistance. An open bottle of liquor was located in plain view on the front passenger seat.

23. Respondent was placed under arrest, transported to Bryn Mawr Hospital, and consented to provide blood evidence. The results of the examination of Respondent's blood showed a blood alcohol concentration of .281%.

24. On March 13, 2011, a criminal complaint charging Respondent with driving under the influence/highest rate and related offenses was filed in the matter of *Commonwealth v. Joseph Lawless*, Criminal Docket Number MJ-38106-CR-0000106-2011.

25. On April 21, 2011, Respondent waived a preliminary hearing.

26. On May 19, 2011, J. David Farrell, Esquire, entered his appearance on Respondent's behalf.

27. On June 20, 2011, a criminal information was filed against Respondent charging him with driving under the influence/highest rate and related charges in the matter captioned *Commonwealth v. Joseph Lawless*, Criminal Docket Number CP-46-CR-0003286-2011, in the Montgomery County Court of Common Pleas.

28. On April 29, 2011, Respondent was operating a black Mercedes-Benz SUV in the area of 1601 Hepburn Drive, Villanova, Pennsylvania. Respondent traveled off the roadway and struck a tree. Lower Merion Police Department responded to the scene to find Respondent sitting in the driver's seat of the vehicle. Respondent stated to the responding Officer that he was "drunk." Respondent was unable to exit the vehicle without assistance.

29. Respondent was transported to Bryn Mawr Hospital and consented to having his blood drawn before being turned over to Bryn Mawr Hospital for medical treatment. The results of the examination of Respondent's blood showed a blood alcohol concentration of .274%.

30. On May 16, 2011, a criminal complaint charging Respondent with driving under the influence/highest rate and related offenses was filed in the matter of *Commonwealth v. Joseph Lawless*, Criminal Docket Number MJ-38106-CR-0000156-2011.

31. On September 13, 2011, Respondent waived a preliminary hearing.

32. On November 1, 2011, J. David Farrell, Esquire, entered his appearance on Respondent's behalf.

33. On November 2, 2011, a criminal information was filed against Respondent charging him with driving under the

influence/highest rate and related charges in the matter captioned *Commonwealth v. Joseph Lawless*, Criminal Docket Number CP-46-CR-0006817-2011, in the Montgomery County Court of Common Pleas.

Docket Number CP-46-CR-0003053-2012

34. On August 26, 2011, Respondent was operating a black Mercedes-Benz SUV on the Pennsylvania Turnpike. A Pennsylvania Turnpike employee found Respondent in the vehicle on the Pennsylvania Turnpike with the vehicle parked on an angle. The key to the vehicle was in the ignition, and the engine was running. Respondent was in the driver's seat of the vehicle in a semi-conscious condition. The Pennsylvania Turnpike employee called for a Pennsylvania State Police officer and an EMS unit.

35. Respondent was removed from the vehicle and placed under arrest for suspicion of driving under the influence/highest rate and related offenses.

36. Respondent was transported to Abington Hospital and consented to having his blood drawn. The results of the examination of Respondent's blood indicated a blood alcohol concentration of .257%.

37. On September 22, 2011, a criminal complaint charging Respondent with driving under the influence/highest rate and related offenses was filed in the matter of *Commonwealth v.*

Joseph Francis Lawless, Jr., Criminal Docket Number MJ-38108-CR-0000157-2011.

38. On April 17, 2012, Respondent waived a preliminary hearing.

39. On May 1, 2012, J. David Farrell, Esquire, entered his appearance on Respondent's behalf.

40. On May 23, 2012, a criminal information was filed against Respondent charging him with driving under the influence/highest rate and related charges in the matter captioned *Commonwealth v. Joseph Francis Lawless, Jr.*, Criminal Docket Number CP-46-CR-0003053-2012, in the Montgomery County Court of Common Pleas.

Guilty Plea & Sentencing

41. On October 12, 2012, an order was entered revoking Respondent's bail on all criminal matters then pending against him in the Montgomery County Court of Common Pleas, and Respondent was imprisoned. Bail was revoked because Respondent was visibly intoxicated when he appeared in Court on that date for the purpose of entering a guilty plea.

42. On October 25, 2012, Respondent entered an open plea of guilty to the following charges:

- a) Count 2 (CP-46-CR-0006817-2011): driving under the influence of alcohol or controlled substance, 75 Pa.C.S.A. §3802(c) highest rate of alcohol;
- b) Count 2 (CP-46-CR-0003286-2011): driving under the influence of alcohol or controlled substance, 75 Pa.C.S.A. §3802(c) highest rate of alcohol; and
- c) Count 2 (CP-46-CR-0003053-2012): driving under the influence of alcohol or controlled substance, 75 Pa.C.S.A. §3802(c) highest rate of alcohol.

43. On the same date, President Judge William J. Furber, Jr. sentenced Respondent on each of those Counts to six (6) months of intermediate punishment consisting of ten (10) days of incarceration at the Montgomery County Correctional Facility and the balance, probationary supervision, to run consecutively. Respondent was given credit for the thirteen (13) days Respondent had already served as a result of the revocation of Respondent's bail. On each Count, Respondent was also required to pay a \$1,000.00 fine plus costs.

44. Special conditions of Respondent's sentence included intensive addict supervision to include wearing an alcohol monitoring bracelet. Respondent was also required to participate in a 12-Step Alcoholics Anonymous ("AA") program to

include attendance at ninety (90) meetings in the ninety (90) days following his release from prison, to attend Lawyers Concerned For Lawyers meetings on a monthly basis, to continue treatment with his physicians, to complete a CRN evaluation and treatment and alcohol highway safety school, to otherwise comply with special conditions of probation, to pay the monthly offender supervision fee, and to perform two hundred (200) hours of community service.

45. Each of the five (5) DUI incidents was treated under the law as a first offense because Respondent had not yet been convicted in connection with any single DUI incident when each was committed.

46. On November 11, 2012, Respondent was released from the Montgomery County Correctional Facility under the supervision of the Montgomery County Adult Probation and Parole Department for the remainder of his sentence, which runs through April 25, 2014.

47. Respondent has completed the two hundred (200) hours of community service ordered as a special condition of Respondent's Montgomery County sentence.

48. Respondent has paid all outstanding restitution, fines and costs in connection with his criminal matters.

49. Respondent is a recovering alcoholic who was first treated for the disease in 1996. Following an arrest for DUI in 1996, for which Respondent received an accelerated rehabilitative disposition ("ARD"), and a twenty-eight (28) day stay at Father Martin's Ashley, a rehabilitation facility in Maryland, Respondent maintained continuous sobriety for fifteen (15) years until his 2011 relapse. Respondent's relapse and series of criminal convictions and other misconduct were contemporaneous with the dissolution of his twenty-one (21) year marriage.

50. Respondent learned in connection with treatment following his 2011 relapse that he also suffers from bipolar disorder.

51. Respondent has submitted a report prepared by his current treating psychiatrist, Dr. Marja Matilla-Evenden, a specialist in general and addiction psychotherapy, which establishes the causal connection between Respondent's alcoholism and bipolar disorder and Respondent's criminal conduct necessary to qualify for mitigation under *Office of Disciplinary Counsel v. Braun*, 553 A.2d 894 (Pa. 1989).

52. Respondent reported to ODC his progress in regaining control of his sobriety through various means. As part of Respondent's renewed commitment to recovery following his 2011

relapse, Respondent reengaged in his participation with AA and his adherence to the Twelve Steps of that program, which had been instrumental in Respondent's earlier, long-term sobriety. In addition to AA, Respondent sought in-patient treatment at the Caron Foundation from May 5, 2011 to June 5, 2011. On December 15, 2011, Respondent entered treatment at the O'Brien Center for the Treatment of Addictions at the University of Pennsylvania, for which Respondent pays out of pocket. At the O'Brien Center, Respondent was initially under the treatment of Dr. Kyle Kampman, addiction psychiatrist and former medical director of the O'Brien Center, and Dr. Tracy Steen, a psychologist. Dr. Kampman specializes in treating patients with a dual diagnosis and explained to Respondent that the nature of bipolar disorder would have significantly increased, and likely did, impact the possibility of Respondent's relapse. In January 2013, Respondent came under the care of Dr. Matilla-Evenden, who replaced Dr. Kampman as medical director of the O'Brien Center.

53. The information Respondent supplied concerning the treatment of his alcoholism and bipolar disorder and substantial progress he has made toward his recovery has been substantiated by reports prepared by Dr. Matilla-Evenden, his current treating psychiatrist, Dr. Steen, his current treating psychologist, and the Delaware County and Montgomery County Probation Departments.

54. Dr. Mattila-Evenden has supplied ODC with Respondent's treatment history at the O'Brien Center, confirming that Respondent entered treatment there on December 15, 2011. During the course of Respondent's treatment, all BAC testing performed at the O'Brien Center has been negative for the presence of alcohol in Respondent's blood. According to Dr. Mattila-Evenden, Respondent has been fully compliant with his treatment for alcohol dependence and bipolar disorder, Respondent's addiction and mood disorder are under good control, and Respondent's prognosis is excellent. Respondent's treatment with Dr. Mattila-Evenden is continuing.

55. Dr. Steen, Respondent's clinical psychologist, began treating Respondent in 2011 in conjunction with Dr. Kampman when Dr. Steen was the clinical director of the O'Brien Center. Dr. Steen is now in private practice in Center City, Philadelphia. Respondent's individual psychotherapy with Dr. Steen is continuing.

56. Dr. Steen's submission to ODC included a description of the medication currently prescribed to Respondent. Respondent takes lamotrigine for treatment of his mood disorder, which Dr. Steen reports has been effective in normalizing Respondent's mood. Respondent also takes disulfiram, which was

prescribed to Respondent at Respondent's request, under the supervision of his building superintendent.¹ That medication results in what Dr. Steen describes as "an extremely adverse physical reaction when alcohol is consumed." Respondent also takes acamprostate, a medication intended to reduce baseline cravings for alcohol. According to Dr. Steen, Respondent's medication regimen "appears to be effective."

57. Dr. Steen has also reported that Respondent "has been successful in building a sober support network which suggests a commitment to long-term sobriety."

58. Respondent has also produced favorable letters from the Probation Departments in Delaware County and Montgomery County. Respondent has successfully completed all conditions of his Delaware County probation. To date, Respondent has also fully complied with the terms and conditions of his Montgomery County probation, which runs through April 25, 2014. Respondent's Montgomery County probation includes intensive

¹ Respondent enlisted the daily supervision of his building superintendent because Respondent has lived in his current apartment, alone, since separating from his wife. No other consistent, daily assistance has been available to him. By way of further explanation, Dr. Kampman, who initially prescribed the disulfiram, would not agree to do so without some arrangement that provided sufficient assurance that Respondent would continue to take the medication. Dr. Kampman was satisfied that daily monitoring by Respondent's building superintendent was sufficient and agreed to Respondent's request for the disulfiram.

alcohol monitoring. From the date of Respondent's release from prison through February 8, 2013, Respondent wore an alcohol monitoring bracelet. From February 8, 2013, to the present, Respondent has been monitored on a handheld device that requires self-testing four times per day. Neither device has reported the presence of alcohol in Respondent's system.

59. Respondent continues to be a member of AA, regularly attends meetings, and has a permanent sponsor. In addition, in June 2013, Respondent entered into a pre-order Sobriety Monitor Program Contract through Lawyers Concerned for Lawyers and has been appointed a pre-order sobriety monitor.

60. Respondent has been completely free of alcohol since October 12, 2012.

61. Respondent is currently working as a professional actor and is also President and CEO of GoingLong Productions, a film production company which operates in association with Longitude Entertainment in Los Angeles. He is represented by Bohemia Entertainment Group in New York and California. Respondent has appeared in two upcoming feature films, has been granted membership in SAG-AFTRA (the Screen Actors Guild and American Federation of Television and Radio Artists), and is in the process of obtaining his Actors' Equity card.

62. Respondent is also an author. Most recently, Respondent completed and released the 2013 supplement to his treatise, Prosecutorial Misconduct: Law, Procedure, Forms, 4th Ed. (LEXIS 2009).

63. At present, Respondent has no active clients and is providing no legal service. Following Respondent's November 2011 arrest, Respondent discontinued taking on new clients to focus on his recovery. Respondent remains committed, to returning to the practice of law after the discipline to be imposed for his misconduct has been resolved.

64. Respondent has acknowledged the serious nature of his misconduct, has accepted full responsibility for it and for its negative impact on the profession, and has expressed his sincere remorse.

65. Although Respondent did not self-report his convictions to the Disciplinary Board, Respondent has otherwise fully cooperated with ODC's investigation by supplying ample information to reflect that his condition has markedly improved since he began treatment and that he is fully committed to his continued recovery.

66. Respondent is sixty-two (62) years old, has been practicing law for nearly thirty-six (36) year, and has no history of discipline.

SPECIFIC RULES OF PROFESSIONAL CONDUCT AND
RULES OF DISCIPLINARY ENFORCEMENT VIOLATED

67. Respondent violated the following Rules of Professional Conduct and Rules of Disciplinary Enforcement:

- a. RPC 1.15(b), which provides a lawyer shall hold all Rule 1.15 Funds and property separate from the lawyer's own property, and that such property shall be identified and appropriately safeguarded;
- b. RPC 1.15(h), which provides that a lawyer shall not deposit the lawyer's own funds in a Trust Account except for the sole purpose of paying service charges on that account, and only in an amount necessary for that purpose;
- c. RPC 8.4(b), which provides that it is professional misconduct for a lawyer to commit a criminal act that reflects on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects; and
- d. Pa.R.D.E. 203(b)(1), which provides that conviction of a crime shall be grounds for discipline.

SPECIFIC RECOMMENDATION FOR DISCIPLINE

ODC and Respondent jointly recommend that an appropriate discipline for Respondent's admitted misconduct is a suspension of his license for a period of one year and one day, stayed in its entirety, accompanied by a two (2) year period of substance abuse probation governed by Disciplinary Board Rules §89.291 and §82.293.

The proposed discipline is supported by precedent. See e.g. *ODC v. Bonavita*, 184 DB 2007. In *ODC v. Bonavita*, the respondent was convicted of DUI charges associated with two incidents. He was serving a three-year suspension for indecent assault when he was convicted of the DUI charges, and had also been privately reprimanded and informally admonished in the past for misconduct involving his representation of clients. Among the mitigating factors presented by joint petition for discipline on consent were: a long history of alcoholism, maintenance of sobriety for a period of months, involvement in AA, completion of a rehabilitation program and intensive outpatient program, evidence that respondent's alcoholism was a contributing factor in his being charged with DUI, evidence of an excellent prognosis for long term recovery, and acceptance of responsibility and remorse. The Pennsylvania Supreme Court approved a suspension on consent for a period of two years, the

suspension stayed in its entirety, and placement on probation for a period of two years, subject to conditions that included a sobriety monitor.

In support of a stayed suspension, which was deemed to be appropriate to address Bonavita's misconduct caused by alcoholism when the respondent was in the early stages of recovery, the parties cited to the following other similar cases: *In re Anonymous No. 79 DB 1994*, 32 Pa. D.&C.4th 104 (1995) (imposing a three-year stayed suspension with three years of probation for DUI conviction where respondent had been previously suspended in connection with a prior conviction for unlawful possession of a weapon); *In re Anonymous No. 114 DB 1990*, 19 Pa. D. & C.4th 197 (1993) (imposing a three-year stayed suspension with three years of probation in a matter involving two DUI convictions and other prior convictions for DUI). In the matters cited above, the recommendation of placing the lawyer on probation was found to adequately protect the interests of both the public and the Bar and enable the lawyer to continue to make a positive contribution to the practice of law in the Commonwealth.

In this case, a suspension for one year and one day, stayed in its entirety, and accompanied by two years of probation would serve the purpose of protecting the public while enabling the

Respondent to continue to make a positive contribution to the practice of law should he choose to do so. A suspension exceeding one year and one day is not required. The facts presented here, while involving a series of five DUI convictions, are otherwise distinguishable from the cases cited above. Here, Respondent has absolutely no history of discipline in his more than thirty-six (36) years of practice, and is currently functioning well. Given the early stages of Respondent's recovery, however, probation subject to the conditions set forth above is appropriate.

Considering all of the circumstances, ODC and Respondent recommend a suspension for one year and one day, stayed in its entirety, accompanied by a two (2) year period of substance abuse probation governed by Disciplinary Board Rules §89.291 and §82.293. A violation of the terms of probation would be grounds for further action pursuant to Enforcement Rule 208(h) and Disciplinary Board Rule §89.292.

WHEREFORE, ODC and Respondent respectfully pray that Your Honorable Board:

- A. Approve this Joint Petition.
- B. File with the Supreme Court of Pennsylvania a recommendation that the Supreme Court enter an Order imposing a one year and one day suspension, stayed in its entirety,

accompanied by two years of probation, to begin at the same time as the stayed suspension and subject to the following conditions:

1. Respondent shall abstain from using alcohol, drugs, or any other mood-altering or mind-altering chemicals except for those medications prescribed by Respondent's treating physicians;
2. Respondent shall regularly attend meetings of Alcoholics Anonymous on a weekly basis;
3. Respondent shall obtain a sponsor in Alcoholics Anonymous and maintain weekly contact with that sponsor;
4. A sobriety monitor shall be appointed to monitor Respondent in accordance with Disciplinary Board Rule § 89.293(c);
5. Respondent shall furnish his sobriety monitor with his Alcoholics Anonymous sponsor's name, address and telephone number;
6. Respondent shall establish his weekly attendance at Alcoholics Anonymous meetings by providing written verification on a Board approved form to the Board;
7. Respondent shall undergo any counseling, out-patient or in-patient treatment, prescribed by a physician or alcohol counselor;
8. Respondent shall file with the Secretary of the Board quarterly written reports;
9. With the sobriety monitor, Respondent shall:
 - (a) Meet at least twice a month;
 - (b) Maintain weekly telephone contact;
 - (c) Provide the necessary properly executed written authorizations to verify his

compliance with the required substance abuse treatment; and

(d) Cooperate fully.

10. The appointed sobriety monitor shall:

(a) Monitor Respondent's compliance with the terms and conditions of the order imposing probation;

(b) Assist Respondent in arranging any necessary professional or substance abuse treatment;

(c) Meet with Respondent at least twice a month, and maintain weekly telephone contact with Respondent;

(d) Maintain direct monthly contact with Respondent's Alcoholics Anonymous sponsor;

(e) File with the Secretary to the Board quarterly written reports; and

(f) Immediately report to the Secretary to the Board any violations by the Respondent of the terms and conditions of the probation.

C. Enter an order for Respondent to pay all necessary expenses incurred in the investigation and prosecution of this matter as a condition to the grant of the Petition, pursuant to Enforcement Rule 215(i).


Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION,
Chief Disciplinary Counsel

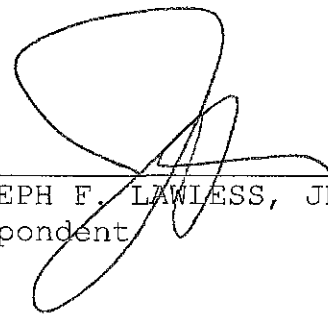
Date: 12/9/13

BY:


BARBARA BRIGHAM DENYS
Disciplinary Counsel
District II Office
Attorney Registration No. 78562
Suite 170, 820 Adams Avenue
Trooper, PA 19403
(610) 650-8210

Date: 12/6/13

BY:


JOSEPH F. LAWLESS, JR.
Respondent

VERIFICATION

The statements contained in the foregoing *Joint Petition In Support of Discipline on Consent* 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.

Date: 12/9/13

BY:



BARBARA BRIGHAM DENYS,
Disciplinary Counsel

Date: 12/6/13

BY:



JOSEPH F. LAWLESS, JR.,
Respondent

consulted or followed the advice of counsel in connection with his decision to consent to execute the within Joint Petition.

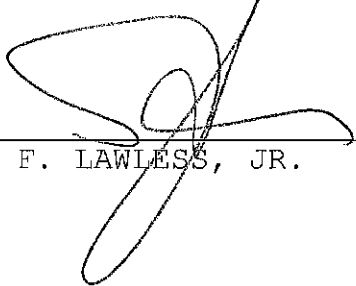
4. He is aware that there is presently pending an investigation into allegations that he has been guilty of misconduct as set forth in the Joint Petition.

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

6. He consents 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.


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).

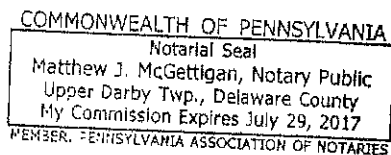
Signed this 6th day of December, 2013.



JOSEPH F. LAWLESS, JR.

Sworn to and subscribed
before me this 6th day
of DECEMBER, 2013


Notary Public



BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. DB
Petitioner :
 : Board File Nos. C2-12-81 and 982
v. :
 : Attorney Reg. No. 23691
JOSEPH F. LAWLESS, JR., :
Respondent : (Montgomery 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 Mail, as follows:

Joseph F. Lawless, Jr.
119 Mill Creek Road #A3N
Ardmore, PA 19003

Date: 12/5/13

BY:


BARBARA BRIGHAM DENYS
Disciplinary Counsel
District II Office
Attorney Registration No. 78562
Suite 170, 820 Adams Avenue
Trooper, PA 19403
(610) 650-8210