

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1492 Disciplinary Docket No. 3  
Petitioner :  
 : No. 179 DB 2007  
v. :  
 : Attorney Registration No. 83563  
STANLEY FUDOR, :  
Respondent : (Butler County)

ORDER

**PER CURIAM:**

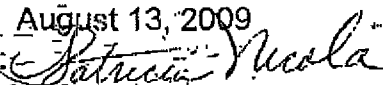
AND NOW, this 12<sup>th</sup> day of August, 2009, upon consideration of the Report and Recommendations of the Disciplinary Board and Dissenting Opinion dated May 6, 2009, it is hereby

ORDERED that Stanley Fudor is suspended 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.

It is further ORDERED that respondent shall pay costs to the Disciplinary Board pursuant to Rule 208(g), Pa.R.D.E.

A True Copy Patricia Nicola

As of: August 13, 2009

Attest:   
Chief Clerk

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 179 DB 2007
Petitioner	:	
	:	
v.	:	Attorney Registration No. 83563
	:	
STANLEY FUDOR	:	
Respondent	:	(Butler County)

REPORT AND RECOMMENDATIONS OF  
THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

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

Pursuant to Rule 208(d)(2)(iii) of the Pennsylvania Rules of Disciplinary Enforcement, the Disciplinary Board of the Supreme Court of Pennsylvania ("Board") herewith submits its findings and recommendations to your Honorable Court with respect to the above-captioned Petition for Discipline.

I. HISTORY OF PROCEEDINGS

On December 13, 2007, Office of Disciplinary Counsel filed a Petition for Discipline against Stanley Fudor. The Petition charged Respondent with professional misconduct arising out of allegations that he mishandled his clients' matter by missing a statute of limitations and subsequently misrepresenting the status of the matter to his clients. Respondent filed an Answer to Petition for Discipline on January 10, 2008.

A pre-hearing conference was held on February 12, 2008, during which time counsel exchanged exhibits, including "letters of concern" directed to Respondent by Office of Disciplinary Counsel for conduct arising out of his handling of other matters. On March 7, 2008, Respondent filed an Application for Protective Order objecting to the inclusion of prior dismissed complaints against Respondent. Petitioner filed an Answer to Application on March 24, 2008.

A hearing on the Application was held on March 27, 2008, before the Hearing Committee, after which the Committee granted Respondent's Application.

Respondent filed an Application for Protective Order with the Disciplinary Board with a request to resubmit the complaint against him to a new Hearing Committee member.

By Order of April 30, 2008, the Board denied Respondent's Application for Protective Order and concluded that the Hearing Committee could hear the case without prejudice. The Board remanded the matter to the Hearing Committee to take evidence on the Petition for Discipline.

A disciplinary hearing was held on August 13, 2008, before a District IV Hearing Committee comprised of Chair Jan C. Swensen, Esquire, and Members Susan Mondik Key, Esquire, and Mark Gordon, Esquire. Respondent was represented by Craig E. Simpson, Esquire.

Following the submission of briefs by the parties, the Hearing Committee filed a Report on December 19, 2008, finding that Respondent violated the Rules of Professional Conduct and recommending that he be suspended for a period of six months.

Respondent filed a Brief on Exceptions on January 30, 2009, and requested oral argument before the Board.

Petitioner filed a Brief Opposing Exceptions on February 20, 2009.

Oral argument was held on March 26, 2009, before a three member panel of the Disciplinary Board.

This matter was adjudicated by the Disciplinary Board at the meeting on March 31, 2009.

## II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is located at Suite 1400, 200 North Third Street, Harrisburg, Pennsylvania 17101, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, with the power and the duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Rules.

2. Respondent is Stanley Fudor. He was born in 1956 and was admitted to the practice of law in Pennsylvania in 1999. Prior to his admission to the practice of law, Respondent was a Pennsylvania state trooper for 20 years. Respondent's attorney registration mailing address is 902 Bay View Court, Cranberry Township, PA 16066. Respondent is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has a prior history of discipline consisting of an Informal Admonition imposed on September 13, 2006, involving two cases in which he failed to represent his clients diligently, failed to adequately communicate with them, failed to have a written fee agreement, failed to return the unearned portion of the fee that had been paid to him, and in one case, engaged in conduct involving dishonesty, fraud, deceit and misrepresentation.

4. On April 4, 2003, Lisa Silberg and two of her minor children were involved in a motor vehicle accident, in which all suffered personal injuries.

5. On March 21, 2004, Lisa Silberg telephoned Respondent and confirmed that she and her husband, Dr. Mark E. Silberg, wished for Respondent to proceed with a claim against the driver of the vehicle that struck her vehicle.

6. Respondent wrote to Erie Insurance Company to confirm representation of the Silbergs and to direct that all future communications be directed to him.

7. On July 23, 2004, a representative of Erie Insurance wrote to Respondent and requested that he forward evidence to establish injuries, medical bills and lost wages, so that the claim could be evaluated for settlement.

8. Respondent did not respond to the letter of July 23, 2004, nor to Erie Insurance letters issued to Respondent on September 2, October 13 and November 24, 2004, which once more requested information to assist Erie Insurance in evaluating the claim for the purposes of settlement.

9. Respondent communicated with the insurance company on January 6, 2005, at which time medical records of Mrs. Silberg were sent to the insurer.

10. Communications issued by Erie Insurance to Respondent on February 8, 2005, and July 28, 2005 were not responded to.

11. Respondent failed to file a praecipe for writ of summons or a complaint on behalf of Mrs. Silberg on or before the statute of limitations expired, and failed to preserve her claim for damages.

12. Thereafter, representatives of Erie Insurance made nine attempts to communicate with Respondent regarding the Silberg claim, with no attempt on the part of Respondent to respond.

13. On September 30, 2006, Respondent falsely represented to Dr. Silberg that he had obtained a settlement from Erie Insurance and that he was in the process of providing the "paperwork" to effectuate the settlement.

14. Respondent never consulted with the Silbergs regarding the settlement of their claims, nor were they apprised of any settlement offers.

15. The Silbergs never authorized Respondent to settle their respective claims.

16. On January 4, 2007, Respondent forwarded medical records for the two minors to Erie Insurance.

17. On January 26, 2007, Erie Insurance left word with Respondent's office, soliciting settlement discussions for the two minors.

18. Respondent did not respond to the January 26, 2007 inquiry.

19. From September 30, 2006 through January 31, 2007, the Silbergs attempted to contact Respondent on 20 to 25 occasions, but Respondent did not respond.

20. On January 31, 2007, Dr. Silberg wrote to Respondent terminating his representation and directing Respondent to submit all records to Howard Louik, Esquire.

21. On February 1, 2007, more than a year after previously soliciting settlement discussions from Respondent, Erie Insurance left a message with Respondent's secretary to have Respondent call to discuss settlement.

22. Erie Insurance reached Respondent on February 8, 2007, at which time Respondent and the representative discussed the settlement and Erie Insurance's counter-offer.

23. Respondent did not speak to the Silbergs regarding the counter-offer.

24. Respondent's representation to the Erie Insurance representative, that he would communicate its counter-offer, was falsely made.

25. Respondent failed to advise Erie Insurance that his status as counsel for the Silbergs had been terminated and he did not have authority to represent them.

26. On February 8, 2007, Respondent advised Howard Louik, Esquire, that he had resolved the case for the Silbergs and was awaiting releases from Erie Insurance. In said discussions, Attorney Louik encouraged Respondent to contact the Silbergs and advise them of the status of their claims.

27. At the time these discussions were held, Respondent had not, in fact, resolved the claims for the Silbergs, and his representations to Attorney Louik that he had done so were falsely made.

28. Thereafter, Respondent did not contact the Silbergs to confirm the status of their claims.

29. On February 9, 2007, Respondent reported to Erie Insurance that his clients had agreed to settle the bodily injury claims of the Silberg children.

30. At the time that Respondent confirmed settlement, his representation, that the Silbergs had approved the settlement and that he continued to represent their interests, was falsely made.

31. On March 2, 2007, Attorney Louik wrote to Respondent and confirmed that he was assuming the representation of the Silbergs.



32. On March 6, 2007, Dr. and Mrs. Silberg wrote to Respondent, confirming their prior efforts to discharge him and requesting that the contents of their file be forwarded to Attorney Louik.

33. Subsequent efforts made by Attorney Louik to secure Respondent's claim file were ignored by Respondent.

34. Respondent did not reply to the Silbergs' letter requesting submission of their file to Attorney Louik.

35. Multiple attempts were made by Erie Insurance to secure releases that had been forwarded to Respondent to assist in the resolution of the minors' claims.

36. Respondent ignored these requests.

37. Respondent admitted that he engaged in misconduct.

38. He did not have a statute of limitations tickler file, which caused him to miss the statute with respect to Mrs. Silberg's claim. Respondent admitted that he received many communications from Erie Insurance reflecting who the insured was, who his clients were and the date of the Silberg accident.

39. Respondent never advised the Silbergs that the statute of limitations had expired on the claim.

40. Respondent explained that he "froze" and did not know "how to handle it" when he learned of his failure to timely file a pleading on Mrs. Silberg's behalf.

41. Respondent claims he was unaware that the Silbergs discharged him from the case. He claims that he did not receive Dr. Silberg's communication of January 31, 2007, which effectively discharged Respondent.

42. Respondent's explanation was that he stopped using his e-mail previously and the registered letter that accompanied the e-mail was either not received or not reviewed as Respondent was having difficulties with his secretary at that time.

43. Respondent's testimony that he was unaware of the termination of his services is not credible. Even assuming he had not received Dr. Silberg's e-mail and letter, Respondent received a certified letter from Attorney Louik re-affirming that the Silbergs terminated the relationship and re-affirming the request for the file materials. Respondent did not deny receipt of the certified letter.

44. Respondent was aware that the lawyer-client relationship had been terminated.

45. Respondent maintained at the hearing that he never lied to his clients and never told an untruth to any representative of Erie Insurance or to Attorney Louik.

46. Respondent admitted in his Answer to Petition for Discipline that he engaged in conduct involving dishonesty, fraud, deceit and misrepresentation.

47. Respondent has been embarrassed both professionally and personally with regard to his handling of the Silberg matters.

III. CONCLUSIONS OF LAW

By his conduct as set forth above, Respondent violated the following Rules of Professional Conduct:

1. RPC 1.3 - A lawyer shall act with reasonable diligence and promptness in representing a client.

2. RPC 1.4(a)(1) - A lawyer shall promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules.

3. RPC 1.4(a)(2) - A lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished.

4. RPC 1.4(a)(3) - A lawyer shall keep the client reasonably informed about the status of the matter.

5. RPC 1.4(a)(4) - A lawyer shall promptly comply with reasonable requests for information.

6. RPC 1.16(d) - Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

7. RPC 8.4(c) - It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

8. RPC 8.4(d) - It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

#### IV. DISCUSSION

This matter is before the Disciplinary Board on a Petition for Discipline charging Respondent with professional misconduct in his handling of a single client matter. Respondent admitted to violating all of the Rules of Professional Conduct contained in the Petition for Discipline.

Herein, Respondent accepted representation of Dr. and Mrs. Silberg and their two minor children within months of a motor vehicle accident. Respondent ignored numerous communications from representatives of the insurance company as well as the inquiries of his own clients. Respondent failed to pursue his clients' matter and allowed the expiration of the statute of limitations for the claims of Mrs. Silberg. Respondent did not advise his clients as to this situation. Further muddling this matter was Respondent's handling of the minors' claims. He advised the claim representative for the insurance company that the Silbergs had agreed to settle the claims, when in fact no such authority had been given by the Silbergs.

Ultimately, the Silbergs decided to terminate the representation, as they were receiving no information from Respondent after many repeated requests. The evidence establishes that Dr. Silberg, by letter and e-mail, informed Respondent that they no longer wished him to represent them and requested that their records be forwarded to Howard Louik, Esquire. Respondent's testimony regarding the communication from Dr. Silberg and his awareness of the termination of representation is less than credible, as the evidence demonstrates that he received communication from Attorney Louik as well and would have been put on notice of the termination issue. Respondent never responded to Dr. Silberg's communication or to Attorney Louik. Respondent never made any attempt to clarify representation. The record supports the conclusion that Respondent simply ignored the requests of his clients and of substitute counsel.

Respondent's worst offense in this matter was his continued dishonesty. In at least three instances, he made misrepresentations to his client, to Attorney Louik, and to the representative from the insurance company. Respondent falsely told Dr. Silberg that he had obtained a settlement and was in the process of providing paperwork to the insurance company. In fact, Respondent knew that no settlement had been reached. Respondent told Attorney Louik that he had settled the case for the Silbergs and was awaiting releases from the insurance carrier. In fact, Respondent had not settled the claims, nor did he have authority to do so. Respondent advised the insurance company representative that the Silbergs had agreed to settle the bodily injury claims of their minor children. In fact, the Silbergs had not agreed to settle the claims.

At the disciplinary hearing and under oath, Respondent denied that he was aware he had been terminated by the Silbergs, and he denied that he had lied to anyone. The evidence of record shows otherwise. Respondent, once recognizing that he failed to act with diligence and promptness, continuously engaged in conduct involving dishonesty, deceit and misrepresentation. While admitting the averments in the Petition, he did not own up to his actions, but provided a series of excuses that simply were not credible.

The Hearing Committee has recommended a suspension for a period of six months. In reaching this recommendation, the Committee specifically stated its finding that Respondent's testimony was not credible on certain issues, and its concern that Respondent still did not accept the premise that he engaged in dishonest conduct. The Board concurs with the Committee's conclusions as well as its recommendation. Respondent's actions warrant his removal from the practice of law for a period of time to send a message both to the public and to Respondent that dishonesty will not be tolerated. Another factor considered by the Board in its recommendation is that Respondent was admitted to the practice of law in 1999. In the time since his admission not quite ten years ago, he has received an informal admonition in 2006 and has had the instant charges brought against him. Respondent needs this period of suspension to assess how he practices law and what improvements can be made.

While Respondent claims that a suspension is too harsh of a sanction, the case law supports the imposition of a short suspension. In the matter of Office of Disciplinary Counsel v. Jonah Daniel Levin, 124 DB 2004, 1128 Disciplinary Docket No. 3

(Pa. May 5, 2006), the respondent engaged in misconduct involving three clients and seven separate matters. He neglected cases, failed to communicate, failed to return client fees, and misrepresented the status of cases to his client. He did not express adequate remorse and acceptance of responsibility. The Court suspended Mr. Levin for one year and one day. Similarly, in Office of Disciplinary Counsel v. Howard Goldman, 57 DB 2003, 1040 Disciplinary Docket No. 3 (Pa. Aug. 30, 2005), the respondent engaged in misconduct in four client matters. He failed to act with reasonable diligence and failed to communicate with his clients. He misrepresented the status of cases to disguise his neglect. The Court suspended Mr. Goldman for a period of one year and one day. These cases are similar to the instant case but for the fact that the instant matter involves a single client matter, as opposed to multiple client matters.

For the above reasons, the Board recommends that Respondent be suspended for a period of six months.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania recommends that the Respondent, Stanley Fudor, be suspended from the practice of law for a period of six months.

It is further recommended that the expenses incurred in the investigation and prosecution of this matter are to be paid by the Respondent.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

By: 

William A. Pietragallo, Chair

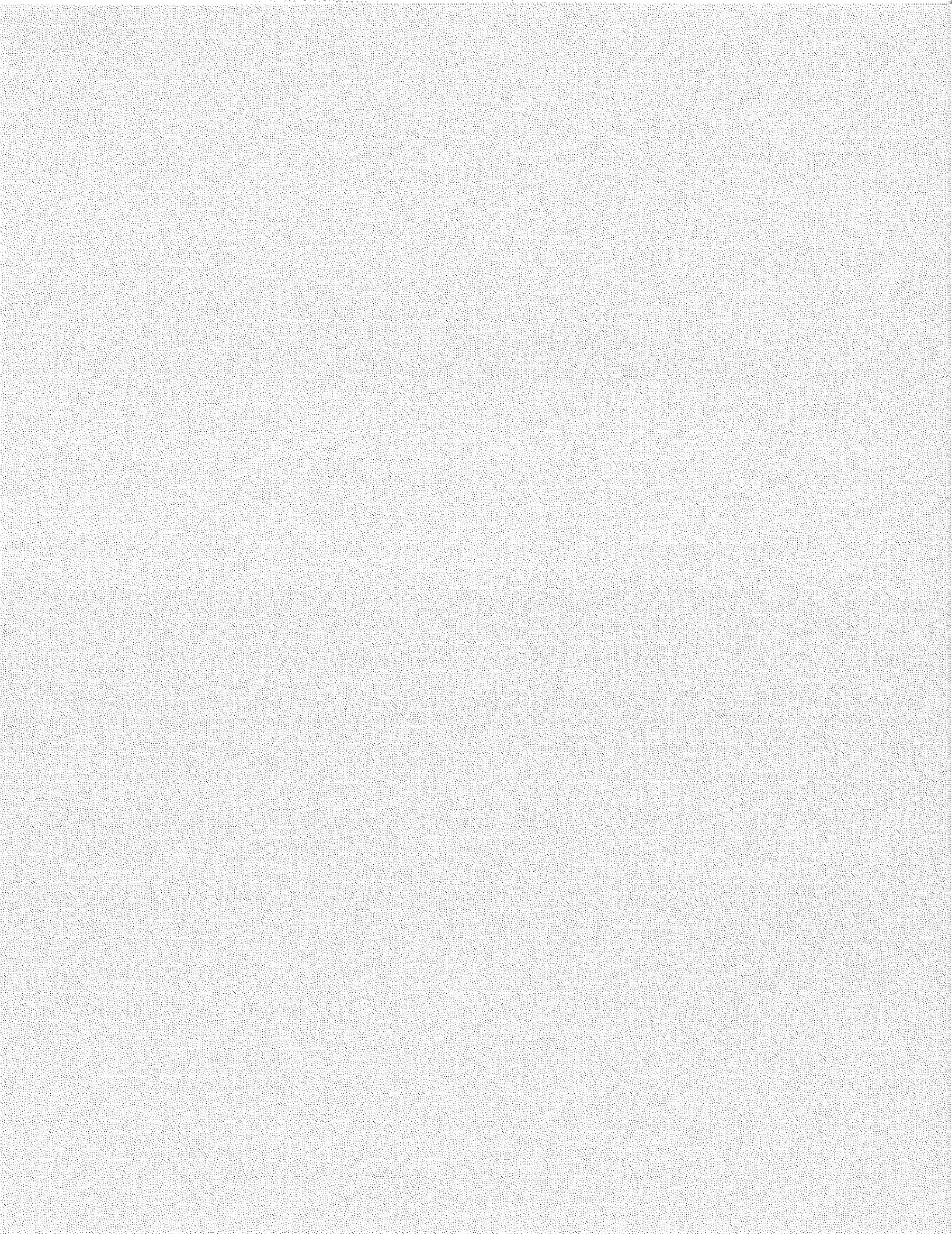
Date: May 6, 2009

Board Member Gentile did not participate in the adjudication.

Board Member Jefferies was absent and did not participate in the adjudication

Board Members Gephart and Bevilacqua dissent and would recommend a suspension of one year and one day.





BEFORE THE DISCIPLINARY BOARD OF THE  
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Petitioner	:	
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v.	:	Attorney Registration No. 83563
	:	
STANLEY FUDOR	:	
Respondent	:	(Butler County)

DISSENTING OPINION

DISCUSSION

I respectfully dissent from the recommendation that Respondent be suspended for a period of six (6) months. I do so despite agreeing with the Board majority (and the Hearing Committee) that a suspension is required to allow the Respondent to assess how he practices law and what improvements he must make to his client dealings. I dissent because six months is an inadequate term given the consistently demonstrated practice problems of the Respondent. Deceit, dishonesty and material misrepresentation was engaged in by Respondent far too often during his all too short professional work life. Admitted in 1999 Respondent has been the focus of numerous complaints and an informal admonition that was administered in 2006. All to no effect. In the instant matter, Respondent has demonstrated a continuing inability to accept responsibility for his failings. Instead during his sworn testimony, he continued to obfuscate and lie. The majority charitably describes the Hearing Committee's evaluation of his testimony as being "not credible". A more accurate characterization and one amply supported by the record is that Respondent committed perjury before the panel by lying under oath. That should be reason enough for a longer suspension for one (1) year and one (1) day. Certainly, a more appropriate

sanction than a six month suspension. However, there is more. Respondent has failed to change his practice patterns despite prior complaints and prior discipline. It is in the public interest to require Respondent to demonstrate fitness to practice before being again inflicted on an unsuspecting public. This can only be achieved by imposing a suspension for one year and one day. For this salutary remedial reason and because Respondent failed to accept responsibility for his unprofessional behavior, I dissent.

Respectfully submitted,

By: Gabriel Bevilacqua  
Gabriel L.I. Bevilacqua, Board Member

Dated: May 6, 2009

Board Member Smith Barton Gephart joins in this Dissent.