

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1551 Disciplinary Docket No. 3
Petitioner :
 : No. 183 DB 2009
v. :
 : Attorney Registration No. 200258
WAYNE D. BOZEMAN, :
Respondent : (Chester County)

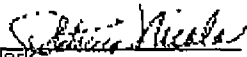
ORDER

PER CURIAM:

AND NOW, this 3rd day of October, 2011, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated May 31, 2011, 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 Wayne D. Bozeman is suspended on consent from the Bar of this Commonwealth for a period of five years retroactive to December 16, 2009, and he shall comply with all the provisions of Rule 217, Pa.R.D.E.

A True Copy Patricia Nicola
As Of 10/3/2011

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

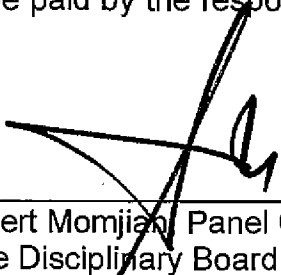
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RECOMMENDATION OF THREE-MEMBER PANEL
OF THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

The Three-Member Panel of the Disciplinary Board of the Supreme Court of Pennsylvania, consisting of Board Members Albert Momjian, Stewart L. Cohen, and Gabriel L. Bevilacqua, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on May 4, 2011.

The Panel approves the Joint Petition consenting to a five year suspension retroactive to December 16, 2009 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.



Albert Momjian, Panel Chair
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date: May 31, 2011

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 183 DB 2009
Petitioner :
 :
v. :
 :
WAYNE D. BOZEMAN : Attorney Reg. No. 200258
 :
Respondent : (Chester County)

JOINT PETITION IN SUPPORT
OF DISCIPLINE ON CONSENT
PURSUANT TO Pa.R.D.E. 215 (d)

Petitioner, the Office of Disciplinary Counsel by Paul J. Killion, Chief Disciplinary Counsel, and Harold E. Ciampoli, Jr., Disciplinary Counsel, and Respondent, Wayne D. Bozeman (hereinafter, "Respondent"), by and through his counsel, Barbara S. Rosenberg, Esquire, file this Joint Petition In Support of Discipline on Consent under Pennsylvania Rule of Disciplinary Enforcement ("Pa.R.D.E.") 215(d), and respectfully represent:

1. Petitioner, whose principal office is situated at Pennsylvania Judicial Center, 601 Commonwealth Ave., Suite 2700, P.O. Box 62485, Harrisburg, PA 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 prose-

FILED

MAY 04 2011

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

cute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Enforcement Rules.

2. Respondent, Wayne D. Bozeman, was born on December 18, 1947, and was admitted to practice law in the Commonwealth on October 12, 2005. His Attorney Registration No. is 200258.

3. Respondent's last registered office address was 301 Joseph Drive, West Chester, PA 19380.

4. On October 21, 2009, Petitioner and Respondent filed with the Supreme Court of Pennsylvania a Joint Petition to Temporarily Suspend an Attorney.

5. By Order dated December 16, 2009, the Court granted the Joint Petition; placed Respondent on temporary suspension; and referred the matter to the Disciplinary Board Pursuant to Rule 214(f)(1), Pa.R.D.E.

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

SPECIFIC FACTUAL ALLEGATIONS ADMITTED

7. On June 17, 2008, a federal grand jury for the Eastern District of Pennsylvania returned an indictment charging Attorney Bernard J. Bagdis and eleven other defendants, including Respondent, with tax offenses. Respondent was named in, and charged with, counts 75 through 87 of the indictment.

8. Respondent was a client of Bagdis and was the princi-

pal owner and operator of Keystone Game Supply, Inc. ("Keystone").

9. In October 1999, Bagdis assisted Respondent in using a corporation named Advanced Game Concepts ("AGC") to evade the assessment and payment of Bozeman's personal incomes taxes.

10. AGC ceased manufacturing operations in 2000.

11. With Bagdis's assistance, Respondent structured Keystone to pay his salary directly to a bank account registered to AGC.

12. Respondent used the funds from the Advanced Game Concepts bank account to pay his personal expenses, such as his mortgage, a brokerage account, lawn care and pool services, and a pre-paid funeral.

13. Respondent did not report his income from Keystone on his individual income tax returns.

14. Respondent and Bagdis filed corporate tax returns for Keystone that reported \$0 in officer compensation to Respondent during the tax years 1999 through 2005.

15. Bagdis prepared and Respondent knowingly signed and filed, false federal income tax returns for the years 2000 through 2007, by failing to report substantial additional income earned by the Respondent and paid to him by Advanced Game Concepts, Inc.

16. Respondent engaged in his conspiracy with Bagdis while he sought and after he obtained his law degree from Temple University's Beasley School of Law in May 2005, while he worked for the Camden County Prosecutors Office as a summer intern in 2004, and while he worked as a law clerk for a judge in Camden, New Jersey from 2005 through 2006.

17. During tax years 1999 through 2007, Respondent received approximately \$830,369 in unreported income.

18. The approximate tax loss caused by Respondent's evasion of the assessment and payment of his personal income taxes for the tax years 2000 through 2006 was \$137,635.00.

19. On March 13, 2009, Respondent entered a guilty plea in the United States District Court for the Eastern District of Pennsylvania before the Honorable J. Curtis Joyner to one count of conspiracy to defraud the United States, in violation of 18 U.S.C. §371.

20. On September 17, 2009, Respondent was sentenced by Judge Joyner to a term of imprisonment of 22 months, supervised release of 3 years and restitution of \$137,635.00. The execution of his prison sentence was suspended until October 19, 2009, and counts 76 through 87 of the indictment were dismissed.

21. As of February 2010, Respondent has paid full restitution of \$137,635 to the United States Treasury.

22. Respondent's conviction is a "serious crime" as defined by Rule 214(i), Pa.R.D.E.

23. Respondent's conviction constitutes an independent basis for discipline, pursuant to Rule 203 (b)(1), Pa.R.D.E.

SPECIFIC RULE OF PROFESSIONAL CONDUCT VIOLATED

Respondent violated the following Rule of Professional Conduct:

RPC 8.4(b), which states that it is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects.

SPECIFIC RECOMMENDATION FOR DISCIPLINE

24. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a five-year suspension.

25. Respondent hereby consents to that discipline being imposed upon him by the Supreme Court of Pennsylvania. Attached to this Petition and marked Exhibit "A" is Respondent's executed Affidavit required by Rule Pa.R.D.E. 215(d), stating that he consents to the recommended discipline and including the mandatory acknowledgements contained in Rule 215(d)(1) through (4), Pa.R.D.E.

26. In support of Petitioner and Respondent's joint recommendation, it is respectfully submitted that the following mitigating circumstances are present:

- a) Respondent showed remorse by pleading guilty to his crimes;
- b) Respondent has paid the full restitution of \$137,635.00 that was imposed upon him by the Court as a result of his guilty plea;
- c) Respondent reported his conviction to Petitioner even before his sentencing, and apologized to the Disciplinary Board for his conduct and conviction in a letter dated October 16, 2009;
- d) Respondent has admitted engaging in misconduct and violating the charged Rule of Professional Conduct and Rule of Disciplinary Enforcement;
- e) Respondent requested and agreed to be placed on temporary suspension as evidenced by his participation in the filing of a Joint Petition to Suspend;
- f) Respondent is remorseful for his misconduct and understands he should be disciplined, as is evidenced by his cooperation with Petitioner and his consent to receiving a five-year suspension;
- g) Respondent has no record of discipline or disciplinary complaints;
- h) Respondent has no prior criminal history;
- i) Respondent is a military veteran, having volunteered to join the Marine Corps in 1967, during the Vietnam War, and served honorably as an electronics technician until his discharge in 1970 with the rank of corporal;
- j) Following his discharge from the service, Respondent created an Office of Veterans Affairs at

Cleveland State University, where he helped fellow veterans obtain benefits;

- k) Respondent has a long history of participation in community service, including volunteer projects;
- l) Respondent is a faithful attendee at his church and a participant in church-related charitable activities;
- m) Respondent has routinely volunteered his time and knowledge to assist friends, neighbors and even strangers with their personal, legal and business matters;
- n) Respondent has frequently participated in civic organizations, his community homeowners association, and his township's planning board and council meetings;
- o) Respondent is a loyal and devoted husband to his wife of forty-three years and a committed and involved parent to his three children, now responsible adults; and
- p) Between 2000 and 2002, Respondent and his wife took care of his elderly mother in their home.

27. A suspension of five years is appropriate in light of the specific facts of this case. Discipline imposed for tax evasion convictions ranges from a public censure to a three-year suspension. See, e.g., *In re Anonymous No. 86 DB 93* (Patrick C. Campbell), 28 Pa. D. & C. 4th 390 (1995) (attorney received public censure in connection with his plea of guilty to tax evasion of \$6,000.00-\$7,000.00 arising from his filing of a false and fraudulent tax return for tax year 1985); *In re Anonymous No. 87 DB 93* (Thomas L. McGill, Jr.) (1995) (attorney received public

censure in connection with his conviction of two counts of failure to pay \$30,906.93 in violation of 26 U.S.C. §7203 and one count of tax evasion of \$1,593.00 in violation of 26 U.S.C. §7201); *In re Anonymous No 18 DB 1994* (Yaier Yona Lehrer) (1996) (attorney suspended for two years in connection with his plea of guilty to tax evasion of \$15,515.00 over a two year period); *In re Anonymous No. 99 DB 92* (Nino Tinari), 24 Pa.D.&C.4th 279 (1994) (attorney suspended for 30 months in connection with his plea of guilty to tax evasion of \$475,000.00 arising from his intentional failure over a five year period to report as income cash fees from clients of his law practice in the amount of over a million dollars); *Office of Disciplinary Counsel v. Mark Anthony DeSimone*, No. 11 DB 2002 (2004) (attorney suspended for two years and eight months in connection with his plea of guilty to tax evasion of \$85,000.00 arising from his "sophisticated concealment" of income); *Office of Disciplinary Counsel v. Dean Ian Weitzman*, No. 24 DB 2000 (2002) (attorney suspended for three years in connection with his plea of guilty to tax evasion of \$197,828 arising from his failure over a three period to report legal fee income of \$575,569); *Office of Disciplinary Counsel v. John A. Havey*, No. 42 DB 2006 (2008) (attorney suspended on consent for three years in connection with his conviction of income tax evasion of \$205,532.00).

28. Petitioner and Respondent submit that a five-year suspension, retroactive to the date of temporary suspension, is a fair and appropriate resolution based upon the specific facts of this case and analysis of prior cases. The parties agree that Respondent's conspiracy to evade his tax responsibility for over seven years merits a severe sanction of at least a three-year suspension. Respondent acknowledges that the following factors distinguish his situation from the previously cited cases and elevate the appropriate sanction to a five-year suspension:

- a) At the time Respondent was participating in a major conspiracy to defraud the Government, he attended law school; sat for two bar exams; served as an intern in a prosecutor's office; and clerked for a Judge of the Superior Court New Jersey; and
- b) As a relatively new attorney, Respondent cannot point to years of an unblemished record as an attorney.

29. In sum, the jointly proposed discipline of a five-year suspension is appropriate when considering the specific facts of Respondent's misconduct. Additionally, a five-year suspension is equitable in comparison to the discipline received by two other co-conspirators, who were also attorneys. Respondent's conduct was not as egregious as that of Bernard Bagdis (107 DB 2010). Bagdis initiated and implemented the scheme for numerous


clients and was disbarred on consent. Respondent's misconduct was more serious than that of Michael Klein (105 DB 2009); Klein assisted Bagdis in implementing the scheme, but cooperated extensively with the government in its investigation and prosecution of numerous defendants and received an eighteen-month suspension.

WHEREFORE, Petitioner and Respondent respectfully request that, pursuant to Pennsylvania Rules of Disciplinary Enforcement 215(e) and 215(g), a three member panel of the Disciplinary Board review and approve the Joint Petition in Support of Discipline on Consent and file a recommendation with the Supreme Court of Pennsylvania that Respondent receive a five-year suspension, retroactive to December 16, 2009, and that Respondent be ordered to pay all necessary expenses incurred in the investigation and prosecution of this matter as a condition to the grant of the Petition.

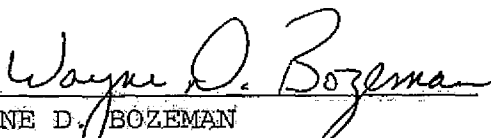
Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL
PAUL J. KILLION
Attorney Reg. No. 20955
Chief Disciplinary Counsel

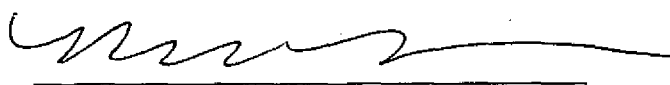
Date: 5/2/11


HAROLD E. CIAMPOLI, JR.
Disciplinary Counsel
Attorney Reg. No. 51159
820 Adams Avenue, Suite 170
Trooper, PA 19403
(610) 650-8210

Date: 4/29/11


WAYNE D. BOZEMAN
Respondent

Date: 4/29/11


BARBARA S. ROSENBERG, ESQUIRE
Attorney for Respondent
Attorney Reg. No. 18522
Law Office of Barbara S. Rosenberg
1060 First Avenue, Suite 400
King of Prussia, PA 19406

VERIFICATION

The statements contained in the foregoing *Joint Petition In Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d)* 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.

5/2/11

Date

H. E. Ciampoli, Jr.

HAROLD E. CIAMPOLI, JR.
Disciplinary Counsel

4/29/11

Date

Wayne D. Bozeman

WAYNE D. BOZEMAN
Respondent

4/29/11

Date

Barbara S. Rosenberg

BARBARA S. ROSENBERG, Esquire
Attorney for Respondent

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

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF CHESTER:

WAYNE D. BOZEMAN, being duly sworn according to law, deposes and hereby submits this affidavit consenting to the recommendation of a five-year 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 October 12, 2005.

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, Barbara S. Rosenberg, 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 29th day of April, 2011.


WAYNE D. BOZEMAN

Sworn to and subscribed
before me this 29th day
of April, 2011.


Notary Public

County of Montgomery
State of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Cindy R. Hartman, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires Sept. 19, 2014
Member, Pennsylvania Association of Notaries

BEFORE THE DISCIPLINARY BOARD OF THE
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Respondent : (Chester County)

CERTIFICATE OF SERVICE


I hereby certify that I am this day serving the fore-
going document upon all parties of record in this proceeding in
accordance with the requirements of 204 Pa. Code §89.22 (relat-
ing to service by a participant).

First Class and Overnight Mail, as follows:

Barbara S. Rosenberg, Esquire
Law Office of Barbara S. Rosenberg
1060 First Avenue, Suite 400
King of Prussia, PA 19406

Dated: _____

5/2/11



HAROLD E. CIAMPOLI, JR.
Disciplinary Counsel
Attorney Reg. No. 51159
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820 Adams Avenue
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