

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1922 Disciplinary Docket No. 3
Petitioner :
: No. 183 DB 2011
v. :
: Attorney Registration No. 19383
IVAN WILLE, :
Respondent : (Philadelphia)

ORDER

PER CURIAM:

AND NOW, this 30th day of May, 2013, upon consideration of the Report and Recommendations of the Disciplinary Board dated February 15, 2013, it is hereby

ORDERED that Ivan Wille is disbarred from the Bar of this Commonwealth 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 5/30/2013

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 183 DB 2011
Petitioner	:	
	:	
v.	:	Attorney Registration No. 19383
	:	
IVAN WILLE	:	
Respondent	:	(Philadelphia)

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 October 21, 2011, Office of Disciplinary Counsel filed a Petition for Discipline against Ivan Wille. The Petition alleged that Mr. Wille engaged in the unauthorized practice of law while on suspension by representing a banking institution in numerous commercial transactions over a period of four years. Respondent filed an Answer to Petition on November 16, 2011.

A disciplinary hearing was held on February 6 and February 22, 2012, before a District I Hearing Committee comprised of Chair Gerald E. Burns, Esquire, and Members Dion G. Rassias, Esquire, and Timothy A. Kulp, Esquire. Respondent appeared *pro se*.

Following the submission of a Brief by Petitioner, the Hearing Committee filed a Report on July 18, 2012, concluding that Respondent violated the Rules of Professional Conduct as charged in the Petition, and recommending that he be disbarred from the practice of law.

No Briefs on Exceptions were filed by the parties.

This matter was adjudicated by the Disciplinary Board at the meeting on October 18, 2012.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, Pennsylvania, is invested, pursuant to Pa.R.D.E. 207, with the power and duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of said Rules of Disciplinary Enforcement.

2. Respondent is Ivan Wille. He was born in 1947 and was admitted to practice law in the Commonwealth of Pennsylvania in 1974. His current attorney registration address is Suite 605, 230 S. Broad Street, Philadelphia PA 19102. He is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. On February 6, 1996, the Supreme Court of Pennsylvania transferred Respondent to inactive status for failure to comply with his Continuing Legal Education requirements. (ODC-56)

4. Although on inactive status, Respondent engaged in the unauthorized practice of law. As a result, by Order of January 24, 2006, the Supreme Court of Pennsylvania suspended Respondent on consent for a period of one year and one day, retroactive to October 7, 2005. (ODC-56)

5. Respondent never applied for reinstatement and remains a suspended attorney.

6. The Order of January 24, 2006 directed Respondent to comply with Pa.R.D.E. 217. (ODC-56)

7. By Affidavit filed with the Office of the Secretary of the Disciplinary Board, Respondent swore that "[t]he provisions of the [Supreme Court's] Order of October 7, 2005, [had] been fully complied with." (ODC-72)

8. For the period 2006 to 2010, Respondent acted as an attorney and drafted numerous Open-End Mortgages, Leases, Security Agreements and Mortgage Modifications, in connection with 49 commercial loans extended to borrowers by Beneficial Bank. (ODC-1 through ODC-49).

9. The commercial loans documented by Respondent were secured by real property. (ODC-1 through ODC-49)

10. Andrew J. Miller was the Executive Vice President and Chief Lending Officer at Beneficial from 2000 until 2011. A videotaped deposition of Mr. Miller was taken due to his anticipated absence from the Commonwealth on the scheduled date of the hearing.

11. Mr. Miller provided credible testimony. During the period 2006 until 2010, Beneficial engaged outside counsel to draft commercial loan documentation. (ODC-65 at 7-8)

12. As part of the representation, lawyers engaged by Beneficial as outside counsel to document commercial loans were also required to review the completed Department of Housing and Urban Development Settlement Statement ("HUD-1") prior to the loan closing, attend the closing, review the title commitment for liens, and ensure that the endorsements were as requested by Beneficial. (ODC-65 at 20-21, 28, 37-38, 44-45, 71-72)

13. Beneficial "[a]bsolutely" required that its outside attorneys documenting commercial loans have a valid law license and be members of the Bar in good standing. (ODC-65 at 45-46)

14. Beneficial engaged lawyers to document commercial loans because each loan was "different," many loans involved large amounts, the loans could be "complex" and lawyers "know more about the intricacies of the title insurance policy than a lender." (ODC-65 at 8-9, 44, 58-59)

15. As was "standard practice" in the commercial lending arena, the fees of attorneys who documented commercial loans for Beneficial were paid by the borrower

and the legal fee would appear on the completed HUD-1 as a cost to the borrower at the loan closing. (ODC-65 at 13-14, 20. 48)

16. The loan commitment letter issued by Beneficial to a borrower specifically provided that the borrower shall pay the attorney's fees for the lawyer Beneficial engaged to document the loan; as such, Beneficial made a representation to the borrower that whomever Beneficial nominated to document the loan was, in fact, an attorney. (ODC-65 at 14-15)

17. The lawyer Beneficial engaged to document commercial loans was paid at that attorney's usual rate. (ODC-65 at 15-16)

18. In 2006, and for many years before that, Beneficial maintained a list of "approved attorneys" who could be engaged for outside legal representation. (ODC-65 at 83-84)

19. In 2006, Beneficial hired Stephanie Digan, a commercial lender who had previously worked at Sovereign Bank. At that time, when Ms. Digan began to bring in loans, she requested that Mr. Miller add Respondent and John Donahue, whom Mr. Miller believed was Respondent's law partner, to the list of approved attorneys. (ODC-65 at 11-12, 40)

20. Prior to working at Beneficial, Ms. Digan was employed by Sovereign from October 1998 through June 2006, working on commercial loans from 2001 forward. (N.T. 2/22/12 at 88)

21. At Sovereign, Ms. Digan was required to use an attorney in good standing to draft commercial loan documents. (N.T. 2/22/12 at 89)

22. While Ms. Digan was at Sovereign, Respondent was on the list of "approved attorneys," and Ms. Digan engaged him to prepare the documents in

connection with commercial loans that Sovereign was extending to borrowers. (N.T. 2/22/12 at 88-89)

23. While Ms. Digan was at Sovereign, she was unaware that Respondent did not have a valid license to practice law and/or that he had been suspended from the Pennsylvania Bar in 2006. (N.T. 2/22/12 at 89)

24. During Ms. Digan's employment at Beneficial from June 2006 through October 2010 as a Vice-President and Loan Officer, she handled commercial loans varying from a \$50,000 line of credit to a construction loan for \$31,000,000. (N.T. 2/22/12 at 87, 90-91)

25. While at Beneficial, Ms. Digan was required to use an outside lawyer to documents all loans she obtained from the bank. (N.T. 2/22/12 at 91)

26. Ms. Digan used Respondent to document commercial loans at Beneficial because, among other things, she brought borrowers from Sovereign with whom Respondent was familiar from his work at Sovereign, and Respondent was reasonably priced. (N.T. 2/22/12 at 91-92)

27. Apart from the actual drafting of the loan documents, one of the tasks of outside lawyers for Beneficial was to assist in ensuring that the bank's interests were protected in the loan transactions. (N.T. 2/22/12 at 93-94)

28. During Respondent's representations at Beneficial, Ms. Digan asked Respondent about legal aspects of the loans he was engaged to document; Respondent advised her concerning legal matters in connection with the loans, including how the Bank could protect its interests in the collateral for the loans; and Respondent conferred with the attorney for the borrower if the borrower was represented. (N.T. 2/22/12 at 93-95)

29. Respondent, as counsel to Beneficial, was required to review the completed HUD-1 prior to any closing on the loans. (N.T. 2/22/12 at 95)

30. In communications with Beneficial executives and lenders, Ms. Digan referred to Respondent as the Bank's "attorney." (ODC -50; in 2009, Ms. Digan told senior Beneficial lending personnel that she "asked [a delinquent borrower] repeatedly, both in person and by written notice from our attorney (Ivan Wille) for updated financials and global status"); (ODC -51; in 2010, Ms. Digan informed a borrower that "[o]ur attorney, Ivan Wille should be sending you out an agenda on this loan today.")

31. In June 2010, Mr. Miller wrote an e-mail to the commercial lending personnel at Beneficial, including Ms. Digan, in which Mr. Miller stated that the work of approved law firms had been monitored over the previous six months, and that as a result, Respondent was being dropped from the list of approved attorneys. (ODC-65 at 16-17, ODC-53)

32. Respondent was terminated because there were too many errors in loan documentation. Mr. Miller did not become aware until a later time that Respondent did not have a valid law license. (ODC-65 at 17-18, 77-78)

33. Respondent was on Beneficial's list of approved attorneys from 2006 until 2010, and never told Mr. Miller or any other member of Beneficial's lending group that he did not have a valid license to practice law. (ODC-65 at 49)

34. Upon receiving the 2010 communication from Mr. Miller stating that Respondent was to be terminated, Ms. Digan requested that Respondent be permitted to complete the transactions he was working on, to which Mr. Miller assented. (N.T. 2/22/12 at 96-98, 105-106)

35. Ms. Digan did not understand why Respondent had been terminated, and she subsequently asked Respondent whether everything was “okay”; in response, he told her that there had been “ a continuing education issue,” but that “everything was taken care of. Everything was okay.” (N.T. 2/22/12 at 99-100, 107-108)

36. Respondent’s representation to Ms. Digan was false as Respondent remained on suspension.

37. Between 2006 and 2011, Ms. Digan recommended Respondent to her sister, a friend, and her husband’s aunt for legal representation. (N.T. 2/22/12 at 100-101)

38. In the summer of 2011, Ms. Digan was deposed in a civil action brought by Beneficial against borrowers in default on loans that had been documented by Respondent, at which she was questioned about Respondent’s suspended status. (N.T. 2/22/12 at 108-112)

39. The fact that Beneficial engaged a suspended lawyer to document the borrowers’ loans created a “problem” for the Bank in the lawsuit. (N.T. 2/22/12 at 112)

40. Ms. Digan first learned that Respondent was suspended at the conclusion of the 2011 deposition. (N.T. 2/22/12 at 109)

41. Documentary evidence introduced by Petitioner, including many of Respondent’s own documents, reflects that, by acts of both omission and commission, Respondent concealed from Beneficial and from third parties involved in the loan transactions, that he had been suspended from the Bar and was ineligible to practice law in Pennsylvania.

42. Respondent’s invoices directed to Beneficial’s borrowers for documenting the loans stated that the invoices were for “professional services rendered,” in some instances on letterhead with Respondent’s office address at the time of his

suspension, and with charges for contacts with his "client." (230 So. Broad Street address: ODC-26e; R-1; R-7; R-14; R-20; R-29; R-54; R-62; R-92; R-95; R-97; R-99; R-101; R-106; R-108; R-112; R-121, R-125; R-127; R-132; R-135; R-139; R-143; R-145); (Wayne PA office address: ODC-9f; ODC-46c; R-24; R-25; R-32; R-40; R-67; R-91; R-122; R-138)

43. The HUD-1 statements for the Beneficial loans contained references to Respondent's receiving "legal fees" or "attorney's fees," and/or used the term "Esquire" after his name. (ODC-2b; ODC-6c; ODC-8e; ODC-9b; ODC-10c; ODC-14e; ODC-15c; ODC-17e; ODC-18d; ODC-21c; ODC-22c; ODC-26d; ODC-27c; ODC-28c; ODC-29j; ODC-30e; ODC-31c; ODC-32; ODC-34c; ODC-35c; ODC-36d; ODC-37c; ODC-38c; ODC-40c; ODC-41c; ODC-44c; ODC-47c; ODC-48c.)

44. Documents introduced by both parties confirm that Respondent routinely made a request to receive the HUD-1, which referenced Respondent as an attorney receiving legal fees. (R-2; ODC-37c; R-61; ODC-32; R-114; ODC-44c)

45. Petitioner's documentary evidence reflected that Respondent reviewed HUD-1 forms wherein he was referred to as an attorney receiving a legal fee. (ODC-63; ODC-38c; ODC-67; N.T. 2/6/12 at 52-54)

46. When loan closings took place at Respondent's Philadelphia office, the title company would send the HUD-1 to Respondent's office, after which Lisa Earl, Respondent's secretary from 2005 until 2011 would bring it to Respondent. (N.T. 2/6/12 at 57-59)

47. Ms. Earl offered credible testimony at the disciplinary hearing. She assembled the loan closing binders following the closing, and the HUD-1 was "always" in the binders. Respondent reviewed the binders to see if they were correctly put together. (N.T. 2/22/12 at 49-50)

48. When Ms. Earl was initially hired in 2005, Respondent told her that “we would be preparing loan documents,” that he was under suspension, and “that he was in the process of getting it taken care of eventually.” (N.T. 2/6/12 at 34,44)

49. Respondent never dictated a letter for Ms. Earl to send informing anyone that Respondent was not a lawyer. (N.T. 2/6/12 at 63, 64)

50. Respondent’s facsimile cover sheet included a “CONFIDENTIALITY NOTE,” which stated in bold, upper-case letter, “THE DOCUMENTS ACCOMPANYING THIS TELECOPY TRANSMISSION CONTAIN INFORMATION WHICH IS CONFIDENTIAL AND/OR LEGALLY PRIVILEGED, FROM THE OFFICE OF IVAN WILLE...IF YOU ARE NOT THE INTENDED RECIPIENT,...ANY DISCLOSURE ...IS STRICTLY PROHIBITED...THE DOCUMENTS SHOULD BE RETURNED TO THIS FIRM IMMEDIATELY.” (R-19;R-23; R-30; R-36; R-51; R-65; R-66; R-70; R-84; R-88; R-107; R-128; R-129; R-131)

51. Respondent also used an alternate form of facsimile cover sheet with the same “CONFIDENTIALITY NOTE,” but stating that the communication was “CONFIDENTIAL AND/OR LEGALLY PRIVILEGED. FROM THE LAW FIRM OF IVAN WILLE.” (R-38; R-72; R-75; R-77; R-78; ODC-49a)

52. Ms. Earl confirmed that when Respondent worked for Beneficial, he used the same template for the Beneficial loan documents that he had previously used for the Sovereign documents, and “the work [Respondent] was doing...in 2005 wasn’t really much difference than what he did in 2006 or 2007.” (N.T. 2/6/12 at 66)

53. Respondent had notice that Beneficial considered him their outside counsel, and referred to him as such, as he was copied on communications in which he was referred to as Beneficial’s “Attorney.” (ODC-52; ODC-18c; ODC-29g)

54. Respondent received letters from other lawyers and third parties addressed to "Ivan Wille, Esquire," at the office address he used at the time of his suspension. (ODC-3e; ODC-7b; ODC-29i; ODC-68)

55. Respondent's name was listed in the 2006, 2007, 2008, 2009 and 2010 Legal Directories, with the following information: "Law Offices of Ivan Wille, 230 S. Broad St., Ste. 605." (ODC-58, 59, 60, 61, 62)

56. Respondent explained that he never applied for reinstatement because he had financial problems, including tax issues that had been "left in a bit of a mess," and "many things that [he] created [himself], but yet, they had to be done" before he could be reinstated. (N.T. 2/6/12 at 85-57)

57. Respondent "fully admitted" preparing all of the loan documents because, in his "opinion[,]...preparing loan documents isn't necessarily a legal matter" and he "wasn't acting as an attorney." (N.T. 2/6/12 at 89,96)

58. Respondent claimed Ms. Digan was aware that he was unable to practice law while she worked for Sovereign and later at Beneficial. Respondent claimed he told Ms. Digan that since he was "under suspension," Attorney John J. Donahue would have to "review [his] documents." (N.T. 2/6/12 at 94-95) He also claimed Ms. Digan was at a meeting at Sovereign and was "fully aware of [his] status." N.T. 2/6/12 at 93-94).

59. Respondent claims that in response to Ms. Digan's request that Respondent do loan documentation for Beneficial, he allegedly told her that he would "have to do it under the same basis that I did it with Sovereign," in that since he was "under suspension," Attorney Donohue would have to "review [his] documents." (N.T. 2/6/12/ at 94-95)

60. Respondent's testimony that he disclosed to Ms. Digan that he was ineligible to practice law when Ms. Digan was working as a loan officer for Sovereign and for Beneficial, where a lawyer in good standing was required for the representation, was not credible.

61. In response to a question from the Hearing Committee as to why Respondent needed to have an attorney review his work, Respondent stated that it was "out of an abundance of caution, just so nobody could argue," although he "was just preparing documents," and "wasn't acting as an attorney." (N.T. 2/6/12 at 95-96)

62. Respondent described Mr. Donahue's role as conducting a non-paid review of loan documents prepared by Respondent that Respondent would leave for Mr. Donohue "in a pile...in the conference room" to review. (N.T. 2/22/12 at 27-28)

63. Respondent indicated that Mr. Donohue and he had the same office number because Mr. Donahue "used the conference room" in his suite of offices. (N.T. 2/22/12 at 56-57)

64. When one of the unsigned, purported Donahue letters was shown to Respondent on cross-examination, he could not recall who wrote the letter, and whether the letter came from his computer or Mr. Donahue's. (N.T. 2/22/12 at 54-57)

65. Although Respondent characterized Mr. Donahue's role as "oversight" for Respondent, in one instance Mr. Donahue acted as Respondent's "co-counsel" for Beneficial, as evidenced by a HUD-1 wherein Mr. Donahue was paid \$1,500 for "Opinion Counsel/Environmental," and Respondent was paid "Lender Legal Fee to Ivan Wille, Esquire. \$7,400." (N.T. 2/6/12 at 88; ODC-27c)

66. According to records of the Disciplinary Board, as of December 19, 2011, "neither [Respondent] nor a supervising attorney, had filed a Notice of Engagement or Notice of Termination of Engagement, pursuant to Rule 217(j)(5), Pa.R.D.E." (ODC-57)

67. Respondent did not correct correspondence he sent using letterhead reflecting he was an attorney, nor did he correct a HUD-1 referring to him as an attorney where he was present at the closing. (N.T. 2/22/12 at 22-23, 49 – 52)

68. In response to a question from the Hearing Committee as to why he didn't cross out references to himself as "Esquire" or as receiving an attorney's fee," Respondent stated:

I mean, short of wearing a yoke around my neck –I mean, I can't help how these people perceive who I am and what I'm doing. I don't think I have an onus to tell them to change it.

I've told everybody that I represent or were doing work for[,] my status. They know it. I've sent out the invoices. I've sent out letters of instructions. I've done—do I have to go over and say, you're making mistakes? No. (N.T. 2/6/12 at 106)

69. Respondent believed he had no responsibility to inform those who used "Esquire" after his name that he had been suspended:

I said I didn't think I had to wear a scarlet letter and walk in and tell people in advance that I wasn't a member of the bar. If somebody had that opinion, I can't help that. (N.T. 2/22/12 at 14-15)

70. Respondent explained his concept of his obligations under the disciplinary rules as follows:

The rules required that I hold myself [out] not as an attorney, which I did not, and as to what people's perception of me are [sic] if I'm doing the correct thing, it is not my responsibility to correct their way of thinking. (N.T. 2/22/12 at 29-30)

71. Respondent charged varying fees for his loan documentation work, ranging from \$500 to over \$7,000. (R-54; R-20; R-91; R-125; R-67; ODC-27c)

72. Respondent did not offer any character evidence at the hearing.

73. It is an aggravating factor that Respondent's testimony before the Hearing Committee was evasive and contradictory.

74. It is an aggravating factor that Respondent made misrepresentations in his Answer to Petition for Discipline concerning his efforts to comply with the suspension Order of the Supreme Court of Pennsylvania.

III. CONCLUSIONS OF LAW

By his actions as set forth above, Respondent violated the following Rules of Professional Conduct and Rules of Disciplinary Enforcement:

1. RPC 5.5(a) – A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

2. RPC 7.1 – A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.

3. RPC 7.5(a) – A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1

4. RPC 8.4(b) - 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.

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

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

7. Pa.R.D.E. 203(b)(3) – Willful violation of any other provision of the Enforcement Rules, shall be grounds for discipline, *via*:

(a) Pa.R.D.E. 217(a) - A formerly admitted attorney shall promptly notify, or cause to be notified, by registered or certified mail, return receipt requested, all clients being represented in pending matters, other than litigation or administrative proceedings, of the disbarment, suspension, administrative suspension or transfer to inactive status and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status and shall advise said clients to seek legal advice elsewhere.

(b) Pa.R.D.E. 217(c)(1) - A formerly admitted attorney shall promptly notify or cause to be notified, of the disbarment, suspension, administrative suspension or transfer to inactive status, by registered or certified mail, return receipt requested: all persons or their agents or guardians to whom a fiduciary duty is or may be owed at any time after the disbarment, suspension, administrative suspension or transfer to inactive

status. The responsibility of the formerly admitted attorney to provide notice required by this subdivision shall continue for as long as the formerly admitted attorney is disbarred, suspended, administratively suspended or on inactive status;

(c) Pa.R.D.E. 217(c)(2) - A formerly admitted attorney shall promptly notify, or cause to be notified, of the disbarment, suspension, administrative suspension, or transfer to inactive status, by registered or certified mail, return receipt requested: all other persons with whom the formerly admitted attorney may at any time expect to have professional contacts under circumstances where there is a reasonable probability that they may infer that he or she continues as an attorney in good standing. The responsibility of the formerly admitted attorney to provide the notice required by this subdivision shall continue for as long as the formerly admitted attorney is disbarred, suspended, administratively suspended or on inactive status;

(d) Pa.R.D.E. 217(j)(1) - All law-related activities of the formerly admitted attorney shall be conducted under the supervision of a member in good standing of the bar of this Commonwealth who shall be responsible for ensuring that the formerly admitted attorney complies with the requirements of this subdivision (j). If the formerly admitted attorney is engaged by a law firm or other organization providing legal services, whether by employment or other relationship, an attorney of the firm or organization shall be designated by the firm or organization as the supervising attorney for purposes of this subdivision;

(e) Pa.R.D.E. 217(j)(3) - A formerly admitted attorney may have a direct communication with a client or third party regarding a matter being handled by the attorney, organization or firm for which the formerly admitted attorney works only if the communication is limited to ministerial matters such as scheduling, billing, updates, confirmation of receipt or sending of correspondence and messages. The formerly admitted attorney shall clearly indicate in any such communication that he or she is a legal assistant and identify the supervising attorney;

(f) Pa.R.D.E. 217(j)(4) - Without limiting the other restrictions in this subdivision (j), a formerly admitted attorney is specifically prohibited from engaging in any of the following activities: (ii) performing any law-related services from an office that is not staffed by a supervising attorney on a full time basis; (iv) representing himself or herself as a lawyer or person of similar status; (v) having any contact with clients either in person, by telephone, or in writing, except as provided in paragraph (3);(vi) rendering legal consultation or advice to a client; and (ix) negotiating or transacting any matter for or on behalf of a client with third parties or having any contact with third parties regarding such a negotiation or transaction.

IV. DISCUSSION

Respondent is alleged to have engaged in the unauthorized practice of law while on suspended status by representing a banking institution in numerous commercial transactions over a period of four years.

In March 1996, by Supreme Court Order, Respondent was transferred to inactive status for failing to complete his required Continuing Legal Education obligations. Nevertheless, he continued to be listed in the Legal Directory for the following seven years, represented clients in twelve matters, held himself out as a lawyer, and maintained an office for the practice of law. This misconduct warranted a suspension of one year and one day, imposed on Respondent by Order of the Supreme Court dated January 24, 2006, retroactive to October 7, 2005.

Respondent's conduct following the imposition of the Supreme Court Order is the conduct which is at the heart of the instant disciplinary proceeding. The evidence of Petitioner and Respondent overwhelmingly demonstrates that Respondent practiced law and held himself out as a lawyer in numerous "representations" on behalf of Beneficial Bank commencing in approximately October 2006.

While at Beneficial and by his own admission, Respondent was preparing the same types of loan documents that he prepared before he was suspended. Respondent not only drafted the loan documents, but also advised Beneficial on how to protect its interests in the loan transactions, assessed the title to the collateral, reviewed the HUD-1 statements, conferred with the borrowers' counsel, and attended closings.

According to Andrew J. Miller, who was Beneficial's Chief Lending Officer, it was "absolutely" required that Beneficial's outside attorneys documenting commercial loans have a valid law license and be members of the bar in good standing. Mr. Miller believed that Respondent had a valid law license in Pennsylvania. Stephanie Digan, a commercial loan officer who requested that Respondent be added to the approved attorney list for Beneficial, shared the same belief that Respondent was a validly licensed lawyer in Pennsylvania. It would be years before either Mr. Miller or Ms. Digan discovered

that Respondent was ineligible to practice law in Pennsylvania. Ms. Digan stated very clearly that she first learned that Respondent was suspended at the conclusion of her 2011 deposition, and that she always thought that Respondent was an attorney in good standing.

Knowing that his status was suspended, and knowing that he was prohibited from practicing law or holding himself out as an attorney, Respondent nevertheless did so in violation of a Supreme Court Order, all the while attempting to duplicitously claim on one hand that he was not an attorney, but on the other, acting and performing and being paid for legal services.

The facts are replete with instances where Respondent referred to himself as an attorney in correspondence and invoices, had others referring to himself as an attorney, referred to his "client," collected fees for "professional services" and otherwise repeatedly conducted himself as a real estate/transactional lawyer. For a period of years, Respondent took no steps to remove his name from the Legal Directory and used a facsimile cover sheet which contained misleading wording about his "Law Firm."

Respondent was aware that Beneficial and others considered him a lawyer, as evidenced by communications on which he was copied and in which he was referred to as Beneficial's "attorney." He received letters from other lawyers and third parties addressed to "Ivan Wille, Esquire." There is no evidence to suggest that Respondent corrected the references to himself as a lawyer.

Respondent contends that the work he did for Beneficial was not the practice of law, and furthermore, it was not his problem if other people thought he was a lawyer. The Board firmly rejects Respondent's position as completely unpersuasive, incredible, and contrary to the evidence of record.

The breadth of Respondent's unauthorized practice, committed while on suspension for earlier instances of unauthorized practice of law, warrants disbarment. In Office of Disciplinary Counsel v. Herman, 426 A.2d 101 (Pa. 1981), Mr. Herman was suspended for neglect and deception and failed to advise existing clients of his inability to practice law. He continued to practice law, taking on new matters within six months of the suspension. He continued to engage in the unauthorized practice of law on repeated occasions. Mr. Herman insisted he had done everything required by the Rules in compliance with his suspension, even in the face of clear evidence of unauthorized practice of law. He attempted to conceal his unauthorized practice by sending a licensed lawyer to court without the clients' consent. The aggravating factors on top of the already egregious misconduct, warranted disbarment.

Similarly, the attorney in Office of Disciplinary Counsel v. Jackson and Office of Disciplinary Counsel v. Anonymous Attorney, 637 A.2d 615 (Pa. 1994) was suspended and engaged in unauthorized practice in one case. Mr. Jackson took action to conceal the fact of his continued practice. He further assisted a workers' compensation claimant in the commission of perjury. The Court concluded that Mr. Jackson undertook a deliberate course of conduct in violation of the Court's suspension order, which involved deceit and dishonesty warranting severe discipline. Mr. Jackson was disbarred.

A suspended attorney who appeared as counsel at an arbitration and continued to work with his wife in a law firm bearing their names, was disbarred. Office of Disciplinary Counsel v. Galfand, No. 4 DB 2010 (Pa. June 10, 2011). Among the aggravating factors found were that Mr. Galfand had actual knowledge that he engaged in wrongful activity, he provided false statements in his Answer to Petition, and he exhibited a lack of remorse.

In cases where a suspended attorney continues to practice law, it is apparent that further suspension will not deter the attorney, thus justifying disbarment as the appropriate sanction. Office of Disciplinary Counsel v. Thomas J. Turner, III, No. 136 DB 2008 (Pa. Dec. 16, 2009); Office of Disciplinary Counsel v. William E. Papas, Nos. 12 DB 2003 & 80 DB 2003 (Pa. Nov. 21, 2006).

Respondent's egregious misconduct is aggravated by his refusal to acknowledge his responsibility to give proper notification of his suspension. He believed that it was not his problem if others thought he was a lawyer in good standing. This attitude is cavalier and lacking in remorse.

A decision to disbar an attorney is never taken lightly. Disbarment is the most severe sanction and reserved for the most egregious conduct. Office of Disciplinary Counsel v. Stern, 526 A.2d 1180 (Pa. 1987). Respondent engaged in a deliberate course of conduct to continue his practice of law despite his knowledge that he was suspended and was not permitted to practice law. The Order of suspension had absolutely no impact on Respondent; he proceeded to handle his practice as if there was no impediment. For these reasons, the facts of this particular matter warrant disbarment.

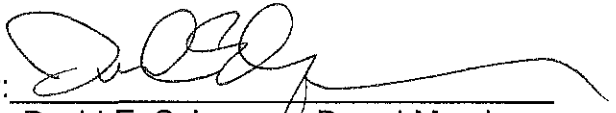
V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Ivan Wille be Disbarred from the practice of law in this Commonwealth.

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: 
David E. Schwager, Board Member

Date: February 15, 2013

Board Member Momjian did not participate in the adjudication.