

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2051 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 18 DB 2014
v.	:	
	:	Attorney Registration No. 71320
LEE ERIC OESTERLING,	:	
Respondent	:	(Cumberland County)

ORDER

PER CURIAM:

AND NOW, this 23rd day of May, 2014, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated March 24, 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 Lee Eric Oesterling is suspended on consent 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.

Mr. Justice Stevens dissents and would deny the Joint Petition in Support of Discipline on Consent.

A True Copy Patricia Nicola
As Of 5/23/2014

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA


OFFICE OF DISCIPLINARY COUNSEL	:	No. 18 DB 2014
Petitioner	:	
	:	
v.	:	Attorney Registration No. 71320
	:	
LEE ERIC OESTERLING	:	
Respondent	:	(Cumberland 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, Douglas W. Leonard, and Gerald Lawrence, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on February 11, 2014.

The Panel approves the Joint Petition consenting to a one year and one day suspension 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.


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

Date: March 24, 2014

BEFORE THE DISCIPLINARY BOARD
OF THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. Disciplinary Docket No.
Petitioner :
: No. 18 DB 2014
:
v. : ODC File Nos. C3-12-154,
: C3-12-476, C3-12-1065, C3-13-608,
: C3-13-632, C3-13-638, and
: C3-13-667
:
LEE ERIC OESTERLING, : Atty. Registration No. 71320
Respondent : (Cumberland County)

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

OFFICE OF DISCIPLINARY COUNSEL
PAUL J. KILLION

CHIEF DISCIPLINARY COUNSEL

Julia M. Frankston-Morris
Disciplinary Counsel
District III
Pennsylvania Judicial Center
601 Commonwealth Ave, STE 5800
P.O. Box 62675
Harrisburg, PA 17106

and

Lee Eric Oesterling
Respondent
4900 Carlisle Pike, Suite 342
Mechanicsburg, PA 17050

FILED

FEB 11 2014

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

BEFORE THE DISCIPLINARY BOARD
OF THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. Disciplinary Docket No.
Petitioner :
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 : C3-12-476, C3-12-1065, C3-13-608,
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 : Atty. Registration No. 71320
LEE ERIC OESTERLING, :
Respondent : (Cumberland 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 Julia Frankston-Morris, Disciplinary Counsel, and the Respondent, Lee Eric Oesterling, Esquire, (hereinafter, "Respondent") file this Joint Petition in Support of Discipline on Consent under Rule 215(d) of the Pennsylvania Rules of Disciplinary Enforcement ("Pa.R.D.E.") and respectfully state and aver the following:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62485, Harrisburg, PA 17106-2485, 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, Lee Eric Oesterling, was born on October 12, 1962 and was admitted to practice law on January 5, 1994.

3. Respondent's mailing address is 61 Titus Avenue, Richboro, PA 18954.

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

5. Respondent is not represented by counsel.

SPECIFIC FACTUAL ADMISSIONS AND
RULES OF PROFESSIONAL CONDUCT VIOLATED

6. Between 2012 and the present, ODC received seven complaints alleging conduct indicative of serious neglect on Respondent's part, committed from in or about 2011 to the present. The pattern of conduct described in six of the complaints, File Nos. C3-12-154, C3-12-476, C3-13-608, C3-13-632, C3-13-638, and C3-13-667, consisted of Respondent: accepting client fees, beginning to work on matters, and then falling out of contact with clients. In each of these six complaints, Respondent failed to return any telephone calls or electronic mail messages from clients. During this time, Respondent closed his office and failed to provide clients with new contact information. Complainants expressed frustration at

being unable to contact Respondent to retrieve their files, some of which contained original paperwork essential to pursuing their matters. Many of these clients were left in limbo, unable to contact their hired counsel and unsure of how to proceed. Some of the complainants attempted to contact Respondent to request return of unearned funds from the retainer but were unable to reach him. For example, the complainant in File No. C3-13-667, engaged Respondent to handle her divorce and specifically to locate her estranged husband in order to serve the divorce complaint. After Respondent initially pursued some methods to track him down, the complainant was unable to contact Respondent to determine the status of the matter. According to another complainant, in File No. C3-13-638, the complainant stated that she engaged Respondent to represent her in a child custody matter. During the course of the representation, she provided him with original documents. Subsequently, she was unable to contact Respondent to inquire as to the status of her matter or to retrieve her important original documents.

7. One of the complaints, File No. C3-12-1065, was from a Bankruptcy Judge for the Middle District of Pennsylvania who provided documentation demonstrating that during this same time period, Respondent incompetently handled numerous bankruptcy representations, including inadequate filings and missed court dates.

8. Respondent was notified of complaints C3-12-154 and C3-12-476 through ODC's DB-7 Request for Statement of Respondent's Position (hereinafter, "DB-7") by letter dated September 28, 2012. By letter dated September 24, 2013, ODC notified Respondent of the remainder of the complaints through a second DB-7. Respondent failed to formally respond to these DB-7s until January 22, 2014, although he had represented to Disciplinary Counsel repeatedly that his answer would be forthcoming.

DISCIPLINARY RULE VIOLATIONS

9. Respondent admits to violating the following Rules of Professional Conduct in these matters:

- a. RPC 1.1, which states that a lawyer shall provide competent representation to a client;
- b. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- c. RPC 1.4(a)(2), which states that a lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished;

- d. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;
- e. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information;
- f. RPC 1.16(d), which states that upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as 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; and
- g. RPC 8.4(d), which states that it is professional misconduct for an attorney to engage in conduct that is prejudicial to the administration of justice.

SPECIFIC JOINT RECOMMENDATIONS FOR DISCIPLINE

10. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent is a Suspension for a period of one year and one day. Respondent hereby consents to the discipline being imposed upon him by the Supreme Court of Pennsylvania. Attached to this Petition is Respondent's

executed Affidavit required by Pa.R.D.E. 215(d), stating that he consents to the recommended discipline and including the mandatory acknowledgments contained in Pa.R.D.E. 215(d)(1) through (4).

11. In support of Petitioner and Respondent's Joint Recommendation, it is respectfully submitted as follows:

- a. The aggravating circumstances are that Petitioner currently has seven (7) open complaints involving neglect, abandonment of client matters, and incompetence. Additionally, Respondent has prior discipline; in 2007, Respondent received an Informal Admonition for the following violations that were related to gross neglect of a client's bankruptcy matter, RPC 1.1 (competence); RPC 1.3 (diligence); RPC 1.4(a)(3) (communication); RPC 1.4(a)(4) (communication); RPC 8.4(c) (dishonesty); and RPC 8.4(d) (conduct prejudicial to the administration of justice). Furthermore, ODC experienced difficulty contacting and communicating with Respondent. Finally, Respondent failed to submit his response to the DB-7 for an extended period of time

although, on multiple occasions, he indicated to Disciplinary Counsel that he would send it shortly.

- b. The mitigating circumstances are as follows:
 - i. Respondent admits to engaging in misconduct and violating the above Rules of Professional Conduct;
 - ii. Respondent is remorseful for and embarrassed by his conduct and understands he should be disciplined, as is evidenced by his consent to receiving a Suspension of one year and one day; and
 - iii. Respondent disclosed that for some time, he has dealt with numerous health-related and personal obstacles and he acknowledges that these struggles have distracted him from his ability to adequately advocate for, pursue the interests of, and communicate with his clients.

The complaints indicate that Respondent engaged in misconduct over an extended period, from approximately 2011 to the present. In seven matters, Respondent failed to represent clients in an ethical and professional manner. The pattern of conduct was similar in most of the matters; Respondent would

accept the fees, do limited work and then fall out of communication with the client, ignoring subsequent client requests. According to Respondent, these representations coincided with a particularly difficult time in his life, emotionally and medically.

Prior disciplinary cases provide guidance in this matter. Serial neglect, failure to communicate, and failure to refund fees have resulted in suspensions ranging from one year and one day to two years. See *Office of Disciplinary Counsel v. Richard Charles Rupp*, No. 85 DB 2007 (Pa. Oct. 25, 2007) (suspending respondent for one year and one day relative to neglect in five separate matters); *Office of Disciplinary Counsel v. Sterling Artist*, No. 153 DB 2005 (Pa. July 18, 2007) (imposing a suspension of one year and one day where respondent neglected three client matters over several years); *Office of Disciplinary Counsel v. Howard Goldman*, No. 157 DB 2003 (Pa. Aug. 30, 2005) (imposing a suspension of one year and one day in a case where respondent engaged in serial neglect and misrepresentation in four client matters over a period of four years); *Office of Disciplinary Counsel v. Charles Elias Sieger, Jr.*, No. 142 DB 1999 (Pa. May 8, 2001) (imposing a suspension of one year and one day where respondent neglected three client matters and had previously received three Informal Admonitions; respondent's

heart attack and deterioration of his marriage were viewed as mitigating factors).

For the sake of protection of the public, a suspension of one year and one day is appropriate discipline. Requiring Respondent to petition for reinstatement will give him the opportunity to demonstrate that he is in a position to adequately represent clients. See *Office of Disciplinary Counsel v. Jonah Daniel Levin*, No. 124 DB 2004 (D.Bd. Rpt. 2/10/2006 p. 24) (Pa. May 5, 2006) ("Requiring [r]espondent to go through a reinstatement proceeding to demonstrate his fitness and ability to practice is necessary to protect the public from future harm"; imposing a suspension of one year and one day for neglect and other misconduct during representation of three clients in seven matters); *Office of Disciplinary Counsel v. Eric B. Levande*, No. 72 DB 1999 (D.Bd. Rpt. 2/2/2001 p. 34) (Pa. Apr. 2, 2001) ("A suspension of one year and one day will serve to adequately protect the public from future misconduct and also require Respondent to petition for reinstatement and prove that he is competent to practice law"; lack of diligence and failure to communicate with clients and one count of improper handling of funds involving several matters).

Based on the above, Petitioner and Respondent believe that a suspension of one year and one day is necessary to protect the public, which is an overriding goal of the disciplinary system.

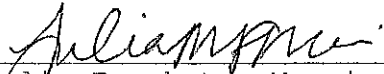
WHEREFORE, the Petitioner and Respondent respectfully request that:

a. Pursuant to Pa.R.D.E. 215, a three-member panel of the Disciplinary Board review and approve the above Joint Petition in Support of Discipline on Consent and file its recommendation with the Supreme Court of Pennsylvania in which it is recommended that the Supreme Court of Pennsylvania enter an Order:


- i. suspending Respondent from the practice of law for one year and one day; and
- ii. directing Respondent to comply with all the provisions of Pa.R.D.E. 217.

Respectfully submitted,

Date: 2/10/14

By: 
Julia Frankston-Morris
Disciplinary Counsel
District III
Atty. Registration No. 308715
Pennsylvania Judicial Center
601 Commonwealth Ave, STE 5800
P.O. Box 62675
Harrisburg, PA 17106
(717) 772-8572

Date: 2/6/14

By: 
LEE ERIC OESTERLING
Respondent
Atty. Registration No. 71320
61 Titus Avenue
Richboro, PA 18954
(717) 884-2065

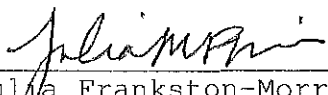
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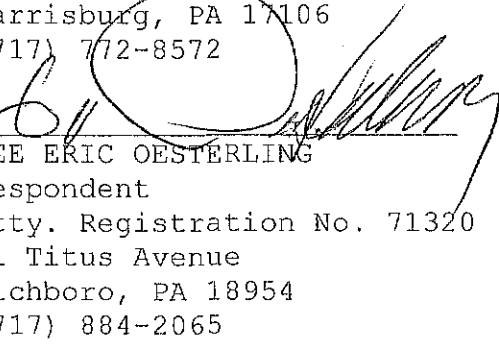
VERIFICATION

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. §4904, relating to unsworn falsification to authorities.

Date: 2/10/14

By: 
Julia Frankston-Morris
Disciplinary Counsel
District III
Atty. Registration No. 308715
Pennsylvania Judicial Center
601 Commonwealth Ave, STE 5800
P.O. Box 62675
Harrisburg, PA 17106
(717) 712-8572

Date: 2/6/2014

By: 
LEE ERIC OESTERLING
Respondent
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61 Titus Avenue
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RESPONDENT'S AFFIDAVIT UNDER RULE 215(d) OF THE
PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

I, Lee Eric Oesterling, Respondent in the above-captioned matter, hereby consent to the imposition of a Suspension of one year and one day, as jointly recommended by the Petitioner, Office of Disciplinary Counsel, and myself, in a Joint Petition in Support of Discipline on Consent and further state:

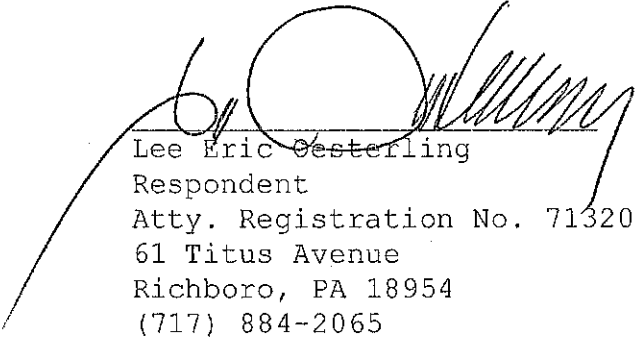
1. My consent is freely and voluntarily rendered; I am not being subjected to coercion or duress; I am fully aware of the implications of submitting the consent;

2. I am aware there is presently an investigation into allegations that I have been guilty of misconduct as set forth in the Joint Petition;

3. I acknowledge that the material facts set forth in the Joint Petition are true;

4. I consent because I know that if the charges against me were prosecuted I could not successfully defend against them; and

5. I acknowledge that I am fully aware of my right to consult and employ counsel to represent me in the instant proceeding.



Lee Eric Oesterling
Respondent
Atty. Registration No. 71320
61 Titus Avenue
Richboro, PA 18954
(717) 884-2065

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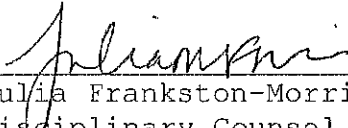
CERTIFICATE OF SERVICE

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 Pa.R.A.P. 121.

First Class Mail, as follows:

Lee Eric Oesterling
61 Titus Avenue
Richboro, PA 18954

Dated: 2/10/14



Julia Frankston-Morris
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