

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 1376 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 191 DB 2006
v.	:	
	:	Attorney Registration No. 77754
STEVEN H. GRIFFITHS,	:	
Respondent	:	(Delaware County)

ORDER

PER CURIAM

AND NOW, this 29th day of August, 2008, upon consideration of the Report and Recommendations of the Disciplinary Board and Dissenting Opinion dated April 4, 2008, it is hereby

ORDERED that Steven H. Griffiths 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 John A. Vaskov

As of: August 29, 2008

Attest:


Deputy Prothonotary

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 191 DB 2006
Petitioner	:	
	:	
v.	:	Attorney Registration No. 77754
	:	
STEVEN H. GRIFFITHS	:	
Respondent	:	(Delaware 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 27, 2006, Office of Disciplinary Counsel filed a Petition for Discipline against Steven H. Griffiths, Respondent. The Petition charged Respondent with the unauthorized practice of law during a period of inactive status. Respondent filed an Answer to Petition for Discipline on February 15, 2007.

A disciplinary hearing was held on May 7, 2007, before a District I Hearing Committee comprised of Chair Dennis T. Kelly, Esquire, and Members Eric Wilson Sitarchuk, Esquire, and Louis W. Schack, Esquire. Respondent was represented by David S. Rudenstein, Esquire, and Stuart L. Haimowitz, Esquire. Joint Stipulations of Fact and Law and exhibits were admitted into evidence. Respondent presented eight character witnesses and one expert witness. Respondent testified on his own behalf.

Following the submission of briefs by the parties, the Hearing Committee filed a Report on October 10, 2007. The Committee found that Respondent engaged in professional misconduct and recommended a suspension for a period of nine months.

No Briefs on Exceptions were filed by the parties.

This matter was adjudicated by the Disciplinary Board at the meeting on November 7, 2007.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, Office of Disciplinary Counsel, whose principal office is located at Suite 1400, 200 North Third Street, Harrisburg, Pennsylvania, 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, Steven H. Griffiths, was born in 1968 and was admitted to practice law in the Commonwealth in 1996. His registration address is 903 Hollow Road, Wayne, PA 19087. Respondent is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has no history of discipline.

4. By Order of the Supreme Court of Pennsylvania, dated November 14, 2003, effective December 14, 2003, Respondent was transferred to inactive status pursuant to Rule 111(b), Pa.R.C.L.E., for failure to satisfy the Continuing Legal Education (CLE) requirements for his compliance period.

5. Between January 31, 2003 and September 23, 2003, the CLE Board made not less than three attempts to provide Respondent with notice of his CLE requirements, two of which also gave Respondent notice that he was non-compliant with his CLE requirements.

6. In and under cover of a letter dated January 31, 2003, addressed to Respondent at Frey Petrakis Deeb et al., 1501 Market St, 6th Fl., Philadelphia PA 19103-2301 (office address), the CLE Board:

a. forwarded to Respondent a "Supreme Court of Pennsylvania
Continuing Legal Education Board Course Attendance Record Preliminary "

form that listed the credits Respondent needed to be in compliance for the year ending April 30, 2003; and

b. represented that this letter/report was sent to Respondent "to remind [Respondent] of [his] PACLE requirements, to inform [Respondent] of the status of [his] course attendance record, and to provide [Respondent] ample time to complete [his] requirements if [he had] not already done so."

7. Respondent received the CLE Board's January 31, 2003 correspondence and enclosure.

8. By April 30, 2003 Respondent failed to take the necessary CLE courses to be compliant with the CLE requirements.

9. In and under cover of letter dated June 20, 2003, addressed to Respondent at his office address, the CLE Board:

a. forwarded to Respondent an invoice for "Initial Late Fee For Non-Compliance";

b. represented that PACLE records indicated that Respondent was non-compliant with his CLE requirements for compliance year ending April 30, 2003;

c. represented that after the expiration of 90 days from the date of the notice, PACLE would prepare a list of those lawyers who continued to be non-compliant and assess them an additional late fee. This list would be

sent to the Supreme Court with the recommendation that those lawyer be involuntarily inactivated for non-compliance; and

d. forwarded to Respondent a "Supreme Court of Pennsylvania Continuing Legal Education Board Course Attendance Record Preliminary" .

10. Respondent received the CLE Board's June 20, 2003 correspondence and enclosures.

11. In and under cover of a letter dated September 23, 2003, addressed to Respondent at his office address, the CLE Board:

a. forwarded to Respondent another invoice for "Initial Late Fee For Non-Compliance";

b. forwarded to Respondent an invoice for "Second Late Fee For Non-Compliance";

c. represented that Respondent had failed to meet his PACLE requirements and was non-compliant;

d. requested that the process of preparing the list of names of non-compliant attorneys for submission to the Supreme Court was nearing completion and gave Respondent additional time to reach compliance;

e. represented that if Respondent failed to comply within the additional time the Court would inactivate his license;

f. represented that once the Court Order was issued, in order to return to active status, Respondent must complete the current year's

requirement and any unfulfilled requirements from the preceding two years, as well as pay late fees.

12. Respondent received the CLE Board's September 23, 2003 correspondence and enclosures.

13. Respondent failed to take the courses necessary to bring him into compliance.

14. In and under cover of a letter dated November 14, 2003, addressed to Respondent at his office address, Elaine M. Bixler, Secretary to the Disciplinary Board:

a. forwarded to Respondent a copy of the Order transferring him to inactive status;

b. forwarded to Respondent copies of Rule 217 of the Pennsylvania Rules of Disciplinary Enforcement and pertinent sections of the Disciplinary Board Rules and informed him that he was required to comply with those Rules;

c. forwarded to Respondent Form DB-23(i), Nonlitigation Notice of Transfer to Inactive Status;

d. forwarded to Respondent Form DB-24(i), Litigation Notice of Transfer to Inactive Status;

e. forwarded to Respondent Form DB-25(i), Statement of Compliance; and

f. informed Respondent that in order to resume active status, he would be required to comply with the Pennsylvania Rules for Continuing Legal Education before a request for reinstatement would be considered.

15. Ms. Bixler's November 14, 2003 letter and enclosures, sent to Respondent's office address by certified mail return receipt requested, was signed for on November 17, 2003.

16. Respondent received Ms. Bixler's November 14, 2003 letter and enclosures.

17. Respondent failed to comply with the Order of the Supreme Court and Pa.R.D.E. 217, in that Respondent failed to:

- a. discontinue practicing law;
- b. wind down his Pennsylvania law practice;
- c. complete and file with the Board Secretary Form DB-25(i) within ten days after the effective date of his transfer to inactive status, or at any time thereafter;
- d. promptly notify his clients of his transfer to inactive status and consequent inability to act as an attorney after the effective date of the transfer to inactive status;
- e. promptly notify opposing counsel of his transfer to inactive status and consequent inability to act as an attorney after the effective date of the transfer to inactive status.

18. By letter dated January 30, 2004, addressed to Respondent at his office address, the CLE Board represented that the "PACLE records indicate that [his] status for his compliance years is INACTIVE" (emphasis in the original).

19. Respondent received the CLE Board's January 30, 2004 correspondence.

20. In February 2004 Respondent made a request to the CLE Board to be reinstated.

21. In and under cover of a letter dated February 17, 2004, addressed to Respondent at his office address, the CLE Board:

- a. acknowledged Respondent's request to be reinstated;
- b. represented that Respondent must complete CLE credits for the current year;
- c. represented that if Respondent's license was not reinstated by April 30, 2004, he must complete the current year and the past two years' requirements before the reinstatement procedure would begin;
- d. forwarded to Respondent a course attendance record form.

22. By March 30, 2004, Respondent completed 9.5S CLE hours required to be in compliance.

23. On or about May 21, 2004, Respondent signed and filed with the Attorney Registrar's Office his 2004-2005 PA Attorney's Annual Fee Form, on which he

circled "INACTIVE STATUS SINCE: 12/14/2003," made a line through "12/14/2003", and wrote "inaccurate: see attached."

24. On May 21, 2004, Respondent sent an e-mail to Ricki Emery at the CLE Board stating that "I am in receipt of my annual Fee Invoice from the Supreme Court which, [sic] incorrectly has me listed as 'inactive'. Originally, I was placed on involuntary inactive status due to my office' [sic] failure to remit last years [sic] fee invoice on time due to administrative error."

25. By letter dated May 26, 2004, addressed to Respondent at his office address, Ms. Emery forwarded to Respondent a copy of her May 26, 2004 letter to Elaine M. Bixler, Secretary of the Disciplinary Board, in which Ms. Emery represented to Ms. Bixler that Respondent complied with the CLE Board's Rules and Regulations since the Court's November 14, 2003 Order.

26. While on inactive status between December 14, 2003 and May 26, 2004, Respondent engaged in the unauthorized practice of law at the law firm of Frey Petrakis Deeb et al., by representing a party in not less than 5 civil actions and performing legal services in 45 matters.

27. Respondent represented Defendant in the matter of Dambrosio et al. v. Federated Department Stores, Inc. in the Philadelphia Court of Common Pleas. He negotiated and transacted this matter with opposing counsel in person, by telephone, and/or in writing; and he rendered legal consultation and advice to Defendant.

28. Respondent represented the Defendant in the matter of DeFlavis v. May Department Stores Co. et al., in the Philadelphia Court of Common Pleas. He negotiated and transacted this matter with opposing counsel in person, by telephone and/or in writing, and rendered legal consultation and advice to Defendant.

29. Respondent represented Defendant in the matter of DiMurizio v. Federated Department Stores Inc. et al. in the Philadelphia Court of Common Pleas. On December 30, 2003 Respondent filed preliminary objections; on February 26, 2004 Respondent served plaintiff's counsel with Interrogatories and Request for Production of Documents; filed an Answer and New Matter on March 12, 2004; sent a letter to opposing counsel on April 1, 2004; filed a Notice of Presentation and Motion to Compel Discovery on April 26, 2004; negotiated and transacted this matter with opposing counsel and rendered legal consultation and advice to Defendant.

30. Respondent represented Defendant in the matter of Goldstein v. May Department Stores Co. et al. in the Philadelphia Court of Common Pleas. On January 23, 2004 Respondent filed a Reply to New Matter Crossclaim of Co-Defendant; on April 8, 2004 he filed an entry of appearance; on April 12, 2004 he endorsed a Stipulation to Dismiss and signed the Stipulation of Counsel on April 22, 2004; and Respondent negotiated and transacted this matter with opposing counsel and rendered legal consultation and advice to Defendant.

31. Respondent represented Defendant in the matter of Lojeski et al. v. Federated Department stores, Inc. in the Philadelphia Court of Common Pleas. On

December 19, 2003 Respondent filed Defendant's Response to Plaintiff's Request for Production of Documents and Answers to Interrogatories; on December 30, 2003 he filed a motion to compel discovery; prior to May 20, 2004 he filed a response to Plaintiff's motion to compel discovery; by letter dated December 30, 2003 he served Plaintiff's counsel with a copy of the motion to compel discovery; on April 21, 2004 he conducted a deposition of Plaintiff; and Respondent negotiated and transacted matters with opposing counsel and rendered legal consultation and advice to the Defendant.

32. Respondent represented Defendant in the matter of Pestacchi v. Federated Department Stores, Inc. in the Philadelphia Court of Common Pleas. On December 23, 2003, Respondent filed Preliminary Objections to Plaintiff's complaint; served Plaintiff with a First Request for Production of Documents and Interrogatories; on March 12, 2004 filed an Answer and New Matter; by letter of March 19, 2004 advised Plaintiff's counsel that responses to discovery were overdue; on April 19, 2004 filed a Motion to Compel; negotiated and transacted matters with opposing counsel and rendered legal consultation and advice to Defendant.

33. Respondent represented Plaintiffs in the matter of Wilson v. Callahan et al. in the Philadelphia Court of Common Pleas. On January 6, 2004 Respondent filed Preliminary Objections; on February 4, 2004 filed a Memorandum of Law; by letter of February 2, 2004 served Defendant with Preliminary Objections; on February 5, 2004 filed Answers to Interrogatories; on February 9, 2004 filed Response to Praecipe; on February 12, 2004 issued a subpoena and notified opposing counsel of such issuance; on March 10,

2004 filed a Motion to Compel Deposition; on April 12, 2004 filed an Answer and New Matter to Counterclaim; on May 5, 2004 filed a Response to Summary Judgment; negotiated and transacted matters with opposing counsel and rendered legal advice to Plaintiffs.

34. Respondent represented Plaintiff in the matter of Ritchie v. McKee et al. in the Philadelphia Court of Common Pleas. On March 2, 2004 Respondent filed Plaintiff's Reply to New Matter; under cover of letter dated March 18, 2004 forwarded Plaintiff's Notice of Intention to "take Default"; and negotiated and transacted matters with Plaintiff and rendered legal consultation and advice to Plaintiff.

35. Respondent filed pleadings with the court and held himself out to opposing counsel and third parties as an attorney eligible to practice law.

36. In December 2005 the Defendants in the Ritchie matter filed with the court a Request to Open Judgment and represented that Respondent was suspended from practicing law during part of the time that Respondent was litigating the Ritchie matter.

37. By letter dated December 12, 2005, addressed to the Defendants, Respondent maintained that there was an administrative error from the Supreme Court.

38. Respondent testified at his disciplinary hearing.

39. During the time that Respondent allowed his CLE credits to lapse and practiced law while on inactive status, he was experiencing stresses in his life:

- a. His separation and subsequent divorce from his first wife,
who suffered from mental illness;

b. The death of his father-in-law, with whom he was very close, and to whom he promised to take care of the first wife;

c. Respondent's second wife was diagnosed with Lyme Disease and suffered from mood swings and excruciating pain;

d. Respondent took on more responsibility at home due to the second wife's illness;

e. Respondent's billable hours at his law firm required him to work nights and weekends;

f. Respondent and his father had a confrontation relating to Respondent's first wife.

40. Respondent offered the expert testimony of Steven Samuel, PhD. Dr. Samuel met with Respondent twice and performed psychological tests to evaluate Respondent's mental state.

41. Dr. Samuel diagnosed Respondent with a generalized anxiety disorder in that Respondent had difficulty coping with stress and anxiety and withdrew into himself and blocked out things of importance.

42. Dr. Samuel testified credibly that the anxiety disorder substantially caused the misconduct.

43. Eight witnesses testified on behalf of Respondent as to his good reputation in the community for truthfulness, honesty and trustworthiness.

44. Respondent expressed sincere remorse for his actions.

III. CONCLUSIONS OF LAW

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

1. RPC 1.16(a)(1) - A lawyer shall not represent a client, or where representation has commenced, shall withdraw from the representation of a client if the representation will result in violation of the Rules of Professional Conduct or other law.

2. RPC 3.3(a)(1) - A lawyer shall not knowingly make a false statement of material fact or law to a tribunal.

3. RPC 4.1(a) - In the course of representing a client a lawyer shall not knowingly make a false statement of material fact or law to a third person.

4. RPC 5.5(a) (effective 5/15/04) - A lawyer shall not practice law in a jurisdiction in violation of regulation of the legal profession in that jurisdiction.

5. RPC 5.5(b) - (adopted 10/16/87, superseded effective 5/15/04) - A lawyer shall not practice law in a jurisdiction where to do so would be in violation of regulations of the profession in that jurisdiction.

6. RPC 7.1(a) - A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services.

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.

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

10. Pa.R.D.E. 217(b) - A formerly admitted attorney shall promptly notify, or cause to be notified, by registered or certified mail, return receipt requested, all clients who are involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceedings, of the...transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the transfer to inactive status.

11. Pa.R.D.E. 217(c)(2) - A formerly admitted attorney shall promptly notify, or cause to be notified, of the...transfer to inactive status, by registered or certified mail, return receipt requested: (2) 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.

12. Pa.R.D.E. 217(d) - The formerly admitted attorney, after entry of the transfer to inactive status order, shall not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature.

13. Pa.R.D.E. 217(e) - Within ten days after the effective date of the...transfer to inactive status order, the formerly admitted attorney shall file with the Board a verified statement showing that the provision of the order and these rules have been fully complied with and all other state, federal and administrative jurisdictions to which such person is admitted to practice. Such statement shall also set forth the residence or other address of the formerly admitted attorney where communications to such person may thereafter be directed.

14. Pa.R.D.E. 217(j)(1) - A formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except under the direct 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.

15. Pa.R.D.E. 217(j)(3) - A formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except that a formerly admitted attorney may have direct communication with a client or third party regarding a matter being handled by the attorney or firm only if the communication is limited to ministerial matters such as scheduling, billing, updates, confirmation or receipt or sending of correspondence and messages, and the formerly admitted attorney shall clearly indicate in any such communication that he or she is a legal assistant and identify the supervising attorney.

16. Pa.R.D.E. 217(j)(4)(i), (ii) - (iv), and (ix) which states that a formerly admitted attorney is specifically prohibited from engaging in any of the following activities...(i) performing any law-related activity for a law firm or lawyer if the formerly admitted attorney was associated with that law firm or lawyer on or after the date on which the acts which resulted in the disbarment or suspension occurred, through and including the effective date of disbarment or suspension; (iii) performing any law-related services for any client who in the past was represented by the formerly admitted attorney; (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; (viii) appearing as a representative of the client at a deposition or other discovery matter; 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.

17. Respondent has shown by clear and convincing evidence that he suffered from a mental disorder which substantially caused his misconduct. Office of Disciplinary Counsel v. Braun, 553 A.2d 894 (Pa. 1989).

IV. DISCUSSION

This matter is before the Board on a Petition for Discipline charging Respondent with violating the Rules of Professional Conduct and Rules of Disciplinary

Enforcement by his unauthorized practice of law. Respondent has admitted that he practiced law while on inactive status. To that end Respondent and Petitioner entered into a Joint Stipulation of Facts and Law. Petitioner has met its burden of proving that Respondent engaged in misconduct. This Board is tasked with recommending the appropriate discipline to address such misconduct.

Respondent was transferred to inactive status by Order of the Supreme Court for failure to fulfill his Continuing Legal Education credits. After such transfer, Respondent, from December 2003 until May 2004, continued to practice law by representing and providing legal services to not less than 50 clients. Respondent received proper notification of his transfer to inactive status and his consequent inability to practice law until he fulfilled the appropriate CLE requirements. Despite this knowledge and awareness, Respondent misrepresented himself as an attorney eligible to practice law to his clients, opposing parties and the court.

Through numerous decisions the Supreme Court of Pennsylvania has demonstrated that it takes seriously an attorney's obligation to maintain his or her license in good order. The Court imposes serious consequences on attorneys who engage in the unauthorized practice of law. Depending on the presence of aggravating and mitigating factors and the degree of willfulness exhibited, suspensions ranging from three months to two years have been imposed in recent years. Office of Disciplinary Counsel v. Sharon Goldin-Dedinsky aka Sharon Goldin Ciborowski, 87 DB 2003, 969 Disciplinary Docket No. 3 (Pa. Dec. 13, 2004) (one year and one day suspension); Office of Disciplinary Counsel v.

Harry Curtis Forrest, Jr., 42 Pa. D. & C. 4th 339 (2005) (one year and one day suspension); Office of Disciplinary Counsel v. Kenneth Charles Jones, 71 & 126 DB 1999, 531 Disciplinary Docket No. 3 (Pa. Aug. 15, 2001) (two year suspension).

Herein, Respondent has established mitigating circumstances in that he suffered from a mental disorder which substantially caused his misconduct. Office of Disciplinary Counsel v. Braun, 553 A.2d 894 (Pa. 1989). Respondent's expert, Dr. Stephen Samuel, credibly testified that Respondent suffered from a generalized anxiety disorder which caused him, initially, to take on too much responsibility in his efforts to please people, and secondly, to then be unable to cope with the stress of the added responsibility. Respondent withdrew into himself and blocked out things that normally would be of importance to someone who was able to handle the anxiety. Respondent credibly testified to multiple overlapping stresses in his life, such as his separation and divorce from his first wife, his second wife's illness, his difficult relationship with his father, and his work related stress. Dr. Samuel unequivocally linked the disorder with Respondent's misconduct; he testified that but for the stresses and Respondent's anxiety disorder, Respondent would not have neglected his CLE requirements and ultimately would not have engaged in the unauthorized practice of law.

Petitioner asserts that Respondent's misconduct warrants not less than a one year and one day suspension, which would require Respondent to petition for reinstatement to the bar. The Hearing Committee concluded that Respondent's actions fall into the lower ranges of suspension. After reviewing the record, the Board concurs with the

Committee's recommendation of nine months. Respondent has demonstrated mitigating factors such as no prior history of discipline, sincere remorse for his misconduct; and the existence of an anxiety disorder. While the facts of Respondent's matter taken alone, may well have resulted in a suspension of more than one year, given the mitigation presented the Board is persuaded that a nine month period of suspension is appropriate.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania recommends that the Respondent, Steven H. Griffiths, be suspended from the practice of law for a period of nine 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: 

Sal Cognetti, Jr., Board Member

Date: April 4, 2008

Board Member Gentile and Jeffries did not participate in the adjudication.

Board Members Newman, Brown, O'Connor, Buchholz and Storey dissented and would recommend a one year and one day suspension.

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL :	No: 191 DB 2006
Petitioner :	
v. :	
	Attorney Registration No. 77754
STEVEN H. GRIFFITHS :	
Respondent :	(Delaware County)

DISSENTING OPINION TO THE 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:

I have reviewed the recommendation of the majority and respectfully dissent. After reviewing all of the findings of fact of the case, I believe a hearing is required to assure the protection of the public prior to this individual resuming the practice of law.

This case deals with an individual who failed to complete his CLE requirements, was notified of his need to comply and despite his knowledge of his failure to fulfill his obligation, continued to practice law for over six months.

It is not disputed that the Respondent received notice of non-compliance and the resulting ramifications. At one point Respondent informed a CLE Board Compliance Specialist that having to do CLE was "bull shit". (No. 25 of HC report at 11)

For some reason Respondent felt the obligations placed on attorneys by the Court did not apply to him. He failed to comply with the CLE requirements, discontinue his practice, notify his clients, close his office and more importantly stop practicing law.

While inactive, Respondent continued as if nothing was wrong. He handled over fifty separate matters and when challenged about his status said it was an administrative mistake. He continually misrepresented his status and the reasons for his listing as being inactive.

When finally called to account for his wrongful ways Respondent alleged he had emotional problems, which are now cured, brought about because of a failed marriage and illness of his second wife. He also said he was remorseful.

Respondent was found to have violated sixteen separate rules in the six months of his illegal practice of law.

The majority found a need to only suspend Respondent's license for nine months.

This Board and the Court have on many occasions suspended an individual's privilege to practice law for a year and a day or more for far fewer instances of practicing while inactive.

Both the Hearing Committee and the Board found that the Respondent met the requirements of the Braun defense. Due to having met the Braun defense and a finding that he has expressed "sincere remorse", the majority argues for a nine month suspension.

Agreeing for argument's sake that the Braun defense was met and that the Respondent had an anxiety disorder, that does not mean Respondent did not know the difference between right and wrong.

For six months Respondent took case after case knowing he could not do so.

After being advised of the rules and given an opportunity to make up his CLE, he did not.

When advised he was practicing while inactive, Respondent said it was an administrative error.

Finally, when he completed his CLE's Respondent told the CLE Board his inactive status was because he failed to pay his annual fee.

It is possible Respondent's anxiety caused him to make up stories and deny reality, however, that does not make him any less responsible for his actions.

If Respondent's illness was so severe as to cause him to misrepresent his status as a lawyer, to believe an obligation to take CLE's was "bull shit", to not follow the rules and shut down his practice and to flagrantly violate the Rules of Conduct, then nine months is an insufficient time to verify he is over his illness.

Respondent may very well have had emotional issues that caused him to ignore the Rules of Professional conduct. His illness may have extended to such a length that he believed he did not have to fulfill the Court mandated CLE obligation and that he could ignore the direction of the Board to cease his practice until he had complied with his CLE requirement. However it is difficult to comprehend that Respondent could handle fifty some matters competently without knowing he was doing wrong.

The record does not reflect instances of the Respondent failing to properly represent his clients. It can therefore be assumed, despite his anxiety issues, he could handle the stress of court matters and counseling his clients.

Apparently Respondent only has real issues of complying with the CLE requirements, the direction of the Board to cease his practice when found in willful violation, and his ability to truthfully admit the reasons for his being placed on the inactive list.

Once confronted with his numerous violations of the rules this respondent finally sought help for his emotional problems. The majority opinion does not recommend a hearing prior to the end of the recommended suspension to assure the public this individual has been successful in his treatment. I disagree with this position.


Respondent should be required to go through the hearing process in order to assure the Court and the public that he has regained the necessary physical and mental capacities needed to practice law. There is a need to be assured this individual is aware of the rules that govern the profession and his duty to comply with them. I do not believe we can simply take the Respondent's word for this given his demonstrated propensity to manipulated the facts to his own advantage, and suggest a Hearing Committee and Board review is most appropriate.

In light of the foregoing, I respectfully dissent and suggest a more appropriate resolution is a suspension of one year and a day, which is more consistent with recommendations in prior matters.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

Date April 4, 2008

By: 
Francis X. O'Connor, Member