

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1692 Disciplinary Docket No. 3
Petitioner :
 : No. 252 DB 2010
v. :
 : Attorney Registration No. 85527
MATTHEW J. REUSING, JR., :
Respondent : (Delaware County)

ORDER

PER CURIAM:

AND NOW, this 11th day of October, 2013, upon consideration of the Report and Recommendations of the Disciplinary Board dated July 11, 2013, it is hereby

ORDERED that Matthew J. Reusing, Jr., is disbarred from the Bar of this Commonwealth retroactive to March 30, 2011, 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 10/11/2013

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 1692 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 252 DB 2010
v.	:	
	:	Attorney Registration No. 85527
MATTHEW J. REUSING, JR.	:	
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

By Petition for Discipline filed on June 7, 2011, Office of Disciplinary Counsel charged Matthew J. Reusing, Jr., with violations of the Rules of Professional Conduct and Rules of Disciplinary Enforcement arising out of his criminal conviction for assisting in false tax returns and failure to file tax returns. Respondent filed an Answer to Petition on June 30, 2011. A Joint Request was filed and granted on September 12, 2011 for continuance of the disciplinary hearing until Respondent's release from prison.

A disciplinary hearing was held on October 26, 2012, before a District II Hearing Committee comprised of Chair Nicholas Caniglia, Esquire, and Members Michael O'Connor, Esquire and Dara Rosenthal, Esquire. Respondent appeared *pro se*.

Following the submission of briefs by the parties, the Hearing Committee filed a Report on February 25, 2013, concluding that Respondent violated the Rules as charged in the Petition, and recommending that he be disbarred retroactive to March 30, 2011, the date of his temporary suspension from the practice of law.

No Briefs on Exception were filed by the parties.

This matter was adjudicated by the Board at the meeting on May 23, 2013.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is situated at Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62485, Harrisburg, Pennsylvania 17106, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, with the power and duty to investigate all matters involving alleged misconduct of any 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 Matthew J. Reusing, Jr. He was born in 1953 and was admitted to practice law in the Commonwealth of Pennsylvania in 2000. His office is located at 146 E. Baltimore Pike, Clifton Heights, PA 19018. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has no history of discipline in Pennsylvania.

4. On October 28, 2008, a Federal Grand Jury issued an indictment charging Respondent with thirty-two counts under 26 U.S.C. §7206(2) (assisting in false tax returns) and two counts under 26 U.S.C. § 7203 (failure to file tax returns.) (Joint Stipulation of Fact, 1)

5. Respondent owned and operated a tax-return preparation business called Reusing's Rapid Refunds. (Joint Stipulation of Fact, 2)

6. Respondent requested and received authorization from the Internal Revenue Service ("IRS") to participate in its e-file program. (Joint Stipulation of Fact, 3)

7. Accordingly, if Respondent's client authorized e-filing, Respondent could complete and e-file the return without obtaining his client's review and signature. (Joint Stipulation of Fact, 4)

8. Many of Respondent's tax clients participated in a Refund Anticipation Loan Program ("RAL"). A RAL is a short term bank loan secured by the taxpayer's expected refund, which enables the taxpayer to obtain quicker access to the refund money in exchange for paying bank fees. (Joint Stipulation of Fact, 5-6)

9. Respondent regularly falsified and inflated deductions on the tax returns for clients who participate in RAL, which resulted in said clients receiving higher refunds than those to which they were entitled. (Joint Stipulation of Fact, 8-9)

10. Respondent failed to provide some of his RAL clients with copies of the true, filed tax returns, instead providing a tax return reflecting a lower refund than that on the return actually e-filed. (Joint Stipulation of Fact, 10)

11. Respondent then instructed the RAL bank to pay him an inflated fee, generally in excess of \$900.00, that made up the difference between the Client Refund

amount and the RAL refund amount. Respondent's client remained unaware of the higher RAL Refund and of Respondent's inflated fee. (Joint Stipulation of Fact, 11)

12. Due to the false and/or inflated deductions Respondent claimed on his clients' returns, many of the clients were subsequently found by the IRS to owe additional taxes, in amounts ranging from \$533 to \$28,951 per client. (Joint Stipulation of Fact, 13)

13. Respondent engaged in the acts described above between April 15, 2003 and April 15, 2005, for returns filed for the tax years 2002, 2003, and 2004, in a total of thirty-two instances. (Joint Stipulation of Fact, 14)

14. Respondent failed to timely file his own federal tax returns or make any payment to the federal government for the tax years 2004 and 2005, despite earning substantially more than the minimum reportable amount. Since the indictment, Respondent has filed tax returns for tax years 2004 and 2005. (Joint Stipulation of Fact, 15-16)

15. On or around October 13, 2009, Respondent entered a plea of guilty to all counts as described above. (Joint Stipulation of Fact, 17)

16. Respondent paid a special victims/witness assessment in the amount of \$3,250 before the time of his sentencing. (Joint Stipulation of Fact, 18-19)

17. On August 10, 2010 (corrected on September 16, 2010), the Honorable Curtis Joyner imposed sentence on Respondent for a total term of imprisonment of 24 months to run concurrently on all counts, followed by supervised release for one year. (Joint Stipulation of Fact, 21)

18. Respondent agreed to pay restitution of \$37,058.10 to his victims, and restitution of \$484,232 to the IRS. (Joint Stipulation of Fact, 22)

19. Respondent received a three point downward adjustment in the Sentencing Guidelines Calculation for acceptance of responsibility as a result of his guilty plea. (Joint Stipulation of Fact, 23)

20. By Order dated March 30, 2011, the Supreme Court of Pennsylvania temporarily suspended Respondent from the practice of law due to his conviction.

21. Respondent has stipulated that as a result of his criminal conviction he has violated RPC 8.4(b).

22. At the disciplinary hearing, Petitioner presented evidence of aggravating factors.

23. On December 1, 2009, the Supreme Court of Pennsylvania issued an order, effective 30 days from the date of the order, transferring Respondent to administrative suspension for failure to comply with Continuing Legal Education requirements. (ODC-8)

24. Despite his suspension, Respondent remained counsel of record in several criminal and bankruptcy cases. (ODC 11-13; 15-17; 19)

25. Respondent admitted that he did not inform his clients in writing of his suspension, as required under Rule 217 of the Pennsylvania Rules of Disciplinary Enforcement. (N.T. 71-72)

26. Respondent claimed that he had transferred his active matters to Daniel DeLiberty, Esquire during his suspension and allowed Mr. DeLiberty to use his software to complete this work. (N.T. 91-94)

27. George Foreacre, a former client of Respondent, testified credibly that Respondent never told him that Respondent was administratively suspended or that Mr. DeLiberty would be taking over as his bankruptcy attorney. (N.T. 195-197)

28. In a letter written by Respondent to Mr. Foreacre, Respondent admitted that he had not paid Mr. DeLiberty any of the fee Mr. Foreacre had originally paid him to represent him in his bankruptcy case. (ODC 31)

29. Although Respondent practiced before the Federal Bankruptcy Court, he was never properly admitted. In an Order dated March 4, 2010, the Honorable Stephen Raslavich noted that Respondent was listed only as a student practitioner in the federal bar under Local Bankruptcy Rule 9010.3. The Bankruptcy Court ordered Respondent to, on or before March 19, 2010, (1) provide a current certificate of good standing demonstrating that he was admitted to practice in the federal court and (2) show cause as to why the Court should not revoke access to the CM/ECF (computer) system for failure to comply with eligibility requirements. (ODC - 21)

30. Respondent responded by letter dated March 19, 2010, wherein he stated that he "would comply with any Order you enter in order to rectify this situation" and would "refrain from filing any cases with court until I am in good standing with it." He failed to mention that he was awaiting sentencing at that time due to the above-detailed guilty plea. (ODC-21)

31. Respondent failed to take any other action to comply with the federal Bankruptcy Court's Order. Instead, he filed two new bankruptcy cases, approximately one month before he was scheduled to begin serving time in jail. (ODC - 18 & 20)

32. One of these cases was on behalf of Susan Curry. (ODC-20)

33. Ms. Curry testified at the disciplinary hearing. She paid Respondent \$2,000 to handle her entire bankruptcy matter. It was her understanding that Mr. DeLiberty would complete the filing and that Respondent would pay Mr. DeLiberty out of the funds she had paid him. (N.T. 171-174)

34. Mr. DeLiberty attended two hearings on Ms. Curry's behalf and asked her for an additional \$1,500 because he had never been paid by Respondent. (N.T. 173-174)

35. Ms. Curry eventually had to pay an additional \$2,000 to the law firm of Cataldo & Cibik to complete her filing when Mr. DeLiberty was unable to complete the case. (N.T. 173 - 174)

36. In an August 3, 2012, letter written by Respondent to Ms. Curry, Respondent stated that if Ms. Curry filed a complaint against him with the Pennsylvania Lawyers Fund for Client Security regarding the fee she paid him for her bankruptcy case, he would contact the IRS regarding discrepancies in the amount of income she reported to the IRS and the Trustee. (ODC-30)

37. Ms. Curry explained that she reported her income as accurately as she could and had followed Respondent's advice on how to report her income to both the IRS and Trustee. (N.T. 177-178)

38. Ms. Curry's testimony is credible.

39. Petitioner presented evidence that Respondent had been regularly listing Linda Carleton, Esquire, as his associate on his letterhead. Respondent listed Ms. Carleton as licensed in New Jersey as well as Pennsylvania. (ODC- 21 & 23)

40. Ms. Carleton testified by telephone at the hearing. She is a former law school classmate of Respondent. She never authorized Respondent to use her name on his letterhead and did not know that he was doing so until Petitioner provided her with a copy of the letterhead. She acknowledged that she is not a member of the New Jersey bar. (N.T. 31-35)

41. Ms. Carleton's testimony is credible.

42. Respondent presented the testimony of Lenwood Wert, D.O. and George Kovacs in an attempt to establish a gambling problem.

43. Dr. Wert has known Respondent for approximately 12 years and was a satisfied client of Respondent. Respondent asked Dr. Wert for help with a gambling problem and Dr. Wert suggested Gamblers Anonymous. (N.T. 51-52)

44. Mr. Kovacs has known Respondent since 1978. Respondent told Mr. Kovacs about a gambling problem in 2005. Mr. Kovacs attend Gamblers Anonymous meetings with Respondent in 2005 and 2006. (N.T. 57-60)

45. Neither witness qualified as an expert in psychological disorders or addictions; neither witness submitted an expert written report; and neither witness testified that Respondent's crimes were caused by a gambling problem.

46. Respondent presented the testimony of two character witnesses, Francis Rich and Charles Zimath. Both of these witnesses are friends and former clients of Respondent. Each testified, respectively, that he had been satisfied with Respondent's work as an attorney and would employ Respondent again. Petitioner established that neither witness was fully aware of Respondent's actions which led to his criminal conviction. (N.T. 38-50)

47. Respondent expressed remorse for some of his actions. (N.T. 155-168)

48. Respondent cooperated with Petitioner. (Joint Stipulation of Fact, 26)

III. CONCLUSIONS OF LAW

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

1. 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.

2. Pa.R.D.E. 203(b)(1) - Conviction of a crime shall be grounds for discipline.

3. Respondent failed to meet his burden of proof by clear and convincing evidence that he has a gambling addiction which caused his misconduct. Office of Disciplinary Counsel v. Braun, 553 A.2d 894 (Pa. 1989)

IV. DISCUSSION

This matter is before the Board as a result of disciplinary proceedings instituted by Petitioner arising out of Respondent's conviction of thirty-two counts of assisting in false tax returns and two counts of failure to file tax returns. Respondent filed an Answer to the charges. The parties reached substantial agreement on most issues and entered into a Joint Stipulation.

The Pennsylvania Rules of Disciplinary Enforcement provide that "a certificate of conviction of an attorney for a crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against the attorney based upon the conviction." Pa.R.D.E. 214(e). Because the instant case arose due to Respondent's criminal conviction, Petitioner has met its burden of establishing that Respondent violated RPC 8.4(b) and Pa.R.D.E. 203(b)(1). The remaining question is the appropriate discipline to be imposed. Office of Disciplinary Counsel v. Cappuccio, 48 A.3d 1231 (Pa. 2012).

Respondent's criminal activity is quite serious, as he defrauded both his clients and the United States Government over a time period of three years. Case law suggests that a lengthy suspension or disbarment is appropriate for this misconduct. In the matter of Office of Disciplinary Counsel v. Reginald Greene, 196 DB 2007 (Pa. July 30, 2009), Mr. Greene engaged in a mortgage fraud scheme over a period of seven months. The respondent used fraudulent documents to defraud both lenders and borrowers. The respondent was sentenced to 12 months imprisonment and supervised release. While the Board recommended a five year suspension, the Court disagreed and imposed disbarment. In the instant matter, Respondent engaged in an even lengthier scheme wherein he defrauded not just clients but the government.

In the matter of Office of Disciplinary Counsel v. Chung, 695 A.2d 405 (Pa. 1997), Mr. Chung engaged in defrauding lenders in an attempt to secure loans for clients who could not otherwise qualify for such loans. The Board recommended disbarment; however, the Court imposed a five year suspension in recognition of the respondent's compelling community service over a period of many years.

The aggravating factors present in this matter warrant Respondent's disbarment from the practice of law. Before and even after his criminal conviction, Respondent engaged in a pattern of failing to adhere to the Rules of Professional Conduct and Disciplinary Enforcement.

Respondent continued to remain the counsel of record in a number of cases, even though he knew he had been placed on administrative suspension due to his failure to comply with CLE requirements. Respondent admitted that he did not notify his clients of his suspension, in writing, as required by the Rules of Disciplinary Enforcement.

Respondent continued to practice before the Bankruptcy Court, even after he was specifically alerted by the Court that he was not a member in good standing.

Respondent falsely listed an attorney, Linda Carleton, as an "associate" on his letterhead, unbeknownst to her and in contravention of the Rules of Professional Conduct. Ms. Carleton had no knowledge that she was listed on the letterhead until so informed by Petitioner.

Respondent took on new matters even after he had been convicted and sentenced in criminal court and was supposed to be winding down his practice. Respondent took on Susan Curry's case, complete with a \$2,000 fee, just a month prior to when he was scheduled to report to jail. Respondent explained that he had transferred the matter to Attorney Daniel DeLiberty; however, Mr. DeLiberty asked Ms. Curry for more money because Respondent had not paid Mr. DeLiberty. Respondent sent an unpleasant letter to Ms. Curry stating that if she filed a complaint against him with the Fund for Client Security, he would contact the IRS regarding her alleged tax discrepancies.

Respondent attempted to mitigate his misconduct by presenting evidence of a gambling problem. Office of Disciplinary Counsel v. Braun, 553 A.2d 894 (Pa. 1989) Respondent presented the testimony of Dr. Wert and Mr. Kovacs, but he was unable to establish these witnesses as experts, nor did he establish a causal connection between any gambling addiction and his misconduct.

Respondent provided the testimony of two character witnesses who stated that they were satisfied with Respondent's services and would reengage him if given the opportunity. This testimony is not particularly persuasive as the witnesses were unclear as to the specifics of Respondent's misconduct.

Respondent's overwhelming pattern of dishonest behavior warrants disbarment retroactive to the date of his temporary suspension.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Matthew J. Reusing, Jr., be Disbarred from the practice of law retroactive to March 30, 2011.

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: 

Douglas W. Leonard, Board Member

Date: July 11, 2013

Board Member Nasatir recused.



THE DISCIPLINARY BOARD
OF THE
SUPREME COURT OF PENNSYLVANIA

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July 11, 2013

OFFICE OF DISCIPLINARY COUNSEL	:	No. 1692 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 252 DB 2010
v.	:	
	:	Attorney Registration No. 85527
MATTHEW J. REUSING, JR.	:	
Respondent	:	(Delaware County)

**Expenses Incurred in the Investigation and Prosecution
of the above-captioned proceedings***

03/20/2011	2 Copies of Supreme Court Order	\$	1.00
06/06/2011	Copies of Petition for Discipline		6.00
06/30/2011	2 Copies of Answer to Petition for Discipline		6.00
12/03/2012	2 Copies of Petitioner's Brief to Hearing Committee		31.00
01/04/2013	2 Copies of Respondent's Brief to Hearing Committee		7.00
02/25/2013	2 Copies of Report of Hearing Committee		14.00
09/26/2012	Invoice – Copies of Guilty Plea & Sentencing		270.60
09/20/2012	Transcripts of Prehearing Conference held 9/12/2012		260.25
11/14/2012	Transcripts of Hearing held 10/26/2012		1,753.75
07/11/2013	Administrative Fee		<u>250.00</u>
	TOTAL AMOUNT DUE	\$	2,599.60

Make Check Payable to PA Disciplinary Board

PAYMENT IS REQUIRED UPON RECEIPT OF ORDER

* Submitted pursuant to Rule 208(g) of the Pa.R.D.E. and §93.111 of the Disciplinary Board Rules.