

T S

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of	:	No. 1593 Disciplinary Docket No. 3
	:	
BARRY GOLDSTEIN	:	Board File No. C2-12-742 31 DB 2010
	:	
	:	Attorney Registration No. 14239

ORDER

PER CURIAM:

AND NOW, this 6th day of February, 2015, an Order and Rule to Show cause having been entered by this Court on November 13, 2014, and upon consideration of the responses filed, the Rule is made absolute and it is hereby ORDERED that:

1. Respondent is held in contempt for willful violation of this Court's Order dated May 7, 2010 by engaging in conduct prohibited by Pa.R.D.E. 217(j)(1) and Pa.R.D.E. 217(j)(4)(vii);

2. The President Judge of the Court of Common Pleas of Philadelphia County, in accordance with Pa.R.D.E. 217(g), shall take such further action and enter such orders as may be necessary to fully protect the rights of Respondent's clients;

3. All financial institutions in which Respondent holds fiduciary funds shall freeze such accounts pending further action by a court of appropriate jurisdiction;

4. Respondent shall fully comply with all the provisions of Pa.R.D.E. 217, including filing a Statement of Compliance;

5. Respondent shall immediately cease and desist and be enjoined from all activities in connection with representing individuals and entities before the Pennsylvania Liquor Control Board and its agencies; and

6. Respondent shall immediately inform, in writing, his clients, customers, and the Board of his status as a formerly admitted attorney and he shall provide a copy of the letter to the Board to Petitioner.

The Motion to Strike is DENIED.

A True Copy Patricia Nicola
As Of 2/6/2015

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

TS

Paul J. Killion
Chief Disciplinary Counsel

Disciplinary Counsel-in-Charge
Raymond S. Wierciszewski

THE DISCIPLINARY BOARD
OF THE
SUPREME COURT OF PENNSYLVANIA

Paul J. Burgoyne
Deputy Chief Disciplinary Counsel

District II Office
820 Adams Avenue
Suite 170
Trooper, PA 19403
(610) 650-8210
FAX (610) 650-8213



Disciplinary Counsel
Alan J. Davis
Harold E. Ciampoli, Jr.
Ramona M. Mariani
Bruce H. Bikin
Barbara Brigham Denys
Dana Pirone Carosella

OFFICE OF DISCIPLINARY COUNSEL

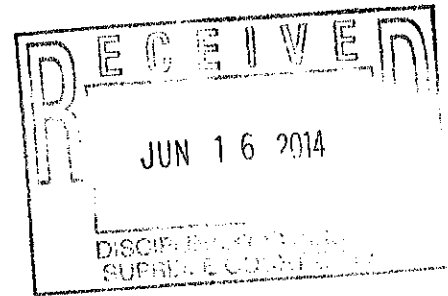
www.padisciplinaryboard.org

June 13, 2014

VIA OVERNIGHT DELIVERY

Prothonotary
Supreme Court of Pennsylvania
Western District Office
801 City-County Building
414 Grant Street
Pittsburgh, PA 15219

ATTN: John A. Vaskov, Esquire
Deputy Prothonotary



Re: In the Matter of
BARRY GOLDSTEIN
Board File No. C2-12-742
Attorney Registration No. 14239
(Out of State)

31 DB2010

Dear Mr. Vaskov:

Enclosed please find for filing an original of a Petition For Rule To Show Cause Why Respondent Should Not Be Held in Contempt, Verification, Order and Rule to Show Cause, Order, and Proof of Service. We are also providing an electronic copy on disk.

Very truly yours,

Harold E. Ciampoli, Jr.
Disciplinary Counsel
District II Office

HEC/jll
Enclosures

cc: w/encl.

- James C. Schwartzman, Esquire, Counsel for Respondent
- ✓ Elaine M. Bixler, Secretary to the Disciplinary Board
- Paul J. Killion, Chief Disciplinary Counsel
- Paul J. Burgoyne, Deputy Chief Disciplinary Counsel
- Raymond S. Wierciszewski, Disciplinary Counsel in Charge, DII (w/out encl.)

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of

BARRY GOLDSTEIN

:
: 31 DB 2010
:
: File No. C2-12-742
:
: Attorney Reg. No. 14239
:
: (Out of State)

PETITION FOR RULE TO SHOW CAUSE WHY
RESPONDENT SHOULD NOT BE HELD IN CONTEMPT

Petitioner, Office of Disciplinary Counsel, by and through Paul J. Killion, Chief Disciplinary Counsel, and Harold E. Ciampoli, Jr., Disciplinary Counsel, (hereinafter "Petitioner"), files the within Petition For Rule To Show Cause Why Respondent Should not be Held in Contempt and in support thereof avers as follows:

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 (hereinafter "Pa.R.D.E."), 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.

2. Barry Goldstein ("Respondent") was born on September 9, 1938.

3. Respondent was admitted to the practice of law in Pennsylvania on April 22, 1968.

4. The last Pennsylvania Attorney's Annual Fee Form Registration Form that Respondent filed with the Attorney Registration Office was dated June 5, 2009 and:

- a) identified Goldstein, Friedberg, Goldstein [Matthew Neal Goldstein, attorney registration No. 60538], McHugh [Edward B. McHugh, attorney registration No. 76813], P.C. ("GFG&M") as the law firm through which Respondent practiced; and
- b) listed Respondent's public telephone number as (215)985-9494 and Respondent's fax number as (215)985-3292. A true and correct copy of Respondent's 2009-2010 Pennsylvania Attorney Annual Fee Form is attached as Exhibit "A."

5. By Resignation Under Rule 215, Pa.R.D.E., dated March 4, 2010, Respondent tendered his resignation from the practice of law in the Commonwealth of Pennsylvania and thereby consented to his disbarment. A true and correct copy of Respondent's Resignation Statement is attached as Exhibit "B."

6. Sometime shortly after March 22, 2010, Respondent circulated or caused to be circulated correspondence which:

- a) announced "the new location of Barry Goldstein, LLC, Constitution Place, 325 Chestnut Street, Suite 713 B, Philadelphia, PA 19106"; and
- b) advised that Respondent "[c]ontinu[ed] to specialize in representing applicants and licensees directly with the Pennsylvania Liquor Control Board, including sales, purchases, and transfers of licensed businesses." A true and correct copy of the announcement is attached as Exhibit "C."

7. Sometime between June 2009 and June 2010, Respondent's former law partners, Matthew Neil Goldstein and Edward B. McHugh, established the law firm of *Goldstein and McHugh, P.C.* ("G&M").

8. Sometime between June 2010 and August 2011, Matthew Goldstein and Edward McHugh (G&M) moved their primary location

for the practice of law to Constitution Place, 325 Chestnut Street, Suite 713 A, Philadelphia PA 19106.

9. G&M currently utilizes (215)985-9494 as its public telephone number and (215)985-3292 as its fax number.

10. Respondent had retained, consulted and acted upon the advice of attorney James C. Schwartzman, Esquire, in connection with his decision to resign.

11. Respondent's resignation statement admitted that he was:

...guilty of misconduct, the nature of which has been voluntarily disclosed through Counsel to ODC, that Respondent improperly used one of [Respondent's] law firm's IOLTA accounts, which [Respondent] handled exclusively, including but not limited to commingling personal and/or legal fees with client funds; converting client funds by writing checks from this IOLTA account against other client funds that are on deposit in the IOLTA account without waiting for the bank to clear the check(s) after its deposit into the firm's IOLTA account; failing to maintain proper accounting records for this IOLTA account as required under the rules; failing to transfer earned fees from the IOLTA account within a reasonable time after a client matter ends; and failing to employ proper accounting procedures in operating and maintaining the account over a course of many years.

12. By Order dated May 7, 2010, the Supreme Court of Pennsylvania ordered that Respondent be disbarred on consent from the Bar of this Commonwealth, and ordered Respondent to comply with all the provisions of Pa.R.D.E. 217. Pursuant to Pa.R.D.E. 217(d), the Order disbaring Respondent was effective

30 days after entry; Respondent was immediately prohibited from accepting any new retainer or engaging as an attorney for another in any new case or legal matter of any nature; and Respondent could only wind up and complete matters which were pending on the date the Order was entered. A true and correct copy of the Supreme Court of Pennsylvania Disbarment Order, dated May 7, 2010, is attached as Exhibit "D."

13. Under cover of a letter dated May 7, 2010, Elaine M. Bixler, Secretary of the Disciplinary Board provided Respondent with, *inter alia*:

- a. the suspension order;
- b. a copy of Pa.R.D.E. 217 and corresponding Board rules;
- c. Standard Guidance of the Disciplinary Board to lawyers who have been Disbarred;
- d. Non-Litigation (form DB-23) and Litigation (form DB-24) Notices of Disbarment, Suspension or Transfer to Inactive Status and
- e. Statement of Compliance (form DB-25).

14. The effective date of Respondent's disbarment was June 6, 2010.

15. On the effective date of Respondent's disbarment Respondent became a "formerly admitted attorney." Pa.R.D.E. 102(a).

16. This Honorable Court retains jurisdiction over Respondent. Jurisdiction arises from your Honorable Supreme Court's inherent and exclusive power to supervise the conduct of attorneys who are its officers. Rule 103, Pa.R.D.E. The exclusive disciplinary jurisdiction of your Honorable Supreme Court extends to "[a]ny formerly admitted attorney, with respect to acts prior to suspension, disbarment, administrative suspension or transfer to retired or inactive status, or with respect to acts subsequent thereto which amount to the practice of law or constitute the violation of the Disciplinary Rules, these rules [the Rules of Disciplinary Enforcement] or rules of the Board adopted pursuant hereto." Pa.R.D.E. 201(a)(3).

17. Pa.R.D.E. 217(c)(1) requires Respondent to notify of Respondent's disbarment, by registered or certified mail, return receipt requested, all persons (or their agents or guardians) to whom Respondent owes a fiduciary duty at the time of Respondent's disbarment or at any time after his disbarment.

18. Pa.R.D.E. 217(c)(2) requires Respondent to notify of Respondent's disbarment, by registered or certified mail, return receipt requested, all other persons with whom Respondent may at any time expect to have professional contacts under circumstances where there is a reasonable probability that they may infer that Respondent continues to be an attorney in good standing.

19. Respondent's responsibility as a Formerly Admitted Attorney to provide notice required by Pa.R.D.E. 217(c)(1) and (2) continues for as long as Respondent is disbarred.

20. Subsequent to Respondent's disbarment, attorney Joseph J. Marinaro ("Mr. Marinaro") was a person with whom Respondent was having professional contacts under circumstances where there was a reasonable probability that Mr. Marinaro would infer that Respondent was an attorney in good standing. A true and correct copy of Mr. Marinaro's Declaration is attached as Exhibit "UUU."

21. Respondent did not notify Mr. Marinaro by registered or certified mail that Respondent is a disbarred attorney.

22. Respondent never advised Mr. Marinaro in any manner that Respondent is a disbarred attorney.

23. The agents and employees of the Pennsylvania Liquor Control Board ("PLCB") are persons with whom subsequent to Respondent's disbarment Respondent is having professional contacts under circumstances where there is a reasonable probability that they would infer that Respondent is an attorney in good standing.

24. Respondent did not notify the PLCB by registered or certified mail that Respondent is a disbarred attorney.

25. Beginning on May 7, 2010, Pa.R.D.E 217(d) prohibited Respondent from accepting any new retainer or engaging as an

attorney for another in any new case or legal matter of any nature.

26. From June 6, 2010, until the present, Respondent has been prohibited from practicing law in the Commonwealth of Pennsylvania.

27. From June 6, 2010, until the present, Respondent has been prohibited from engaging in any form of law-related activities in the Commonwealth of Pennsylvania, except in full accordance with the stringent requirements of Pa.R.D.E. 217(j).

28. Respondent maintains an office at Constitution Place, 325 Chestnut Street, Suite 713 B, Philadelphia, PA 19106.

29. Respondent has a website: barrygoldsteinconsulting.com which he continues to maintain.

30. Respondent's website:

- a) describes Respondent as "A Legend in Liquor Licensing" and "A Pennsylvania Liquor License Specialist";
- b) claims Respondent is "recognized statewide as an expert with over 4 decades of experience in retail and wholesale licensing before the Pennsylvania Liquor Control Board" including Restaurants, Private Clubs, Beer Distributors, Hotels, Country Clubs, Initial Issuance Licenses,

and all other facets of alcoholic beverage sales and service;

- c) declares that Respondent's "ingenuity and creativity makes [Respondent] a leader in solving difficult and complicated licensing problems before the Pennsylvania Liquor Control Board and its agencies";
- d) claims that "[o]ver the years, [Respondent] ha[s] represented and consulted with thousands of buyers and sellers in business transactions of all kinds including the Purchase/Sale of business and business assets, including alcoholic beverages of all kinds"; and
- e) claims that "[i]f [potential clients] are buying, selling, transferring or creating an alcoholic beverage license of any kind, with or without business or real estate, [Respondent] can assist [them]." A true and correct copy of Respondent's website pages are attached as Exhibit "E."

31. Pa.R.D.E. 217(j)(1) requires that any law-related activities that Respondent performs be conducted under the supervision of a member in good standing of the Bar of this Commonwealth.

32. Subsequent to June 6, 2010, Respondent has performed law-related activities.

33. Respondent does not have a supervising attorney as required by Pa.R.D.E. 217(j).

34. To date, Respondent has not been reinstated to the practice of law and remains a disbarred attorney.

35. By DB-7 Request for Statement of Respondent's Position, dated March 21, 2014, Respondent was placed on notice of allegations he was violating RPC 5.5(a) and Pa.R.D.E. 217(j), *inter alia*. A true and correct copy of ODC's March 21, 2014 DB-7 to Respondent is attached as Exhibit "F."

36. By letter dated May 14, 2014, Respondent submitted a letter of reply and requested the matter be dismissed. A true and correct copy of Respondent's May 14, 2014 Letter of Reply is attached as Exhibit "G."

(Franklin Bridge, LP; Diane Tucker)

37. The allegations contained in paragraphs 1 through 36 are incorporated herein as if fully set forth.

38. Mr. Marinaro represented Richard and Diane Tucker ("Mrs. Tucker") who were limited partners of the business entity, *Franklin Bridge, L.P.*

39. Mr. Marinaro was familiar with Respondent and Respondent's liquor license law practice prior to Respondent's disbarment.

40. Prior to Respondent's disbarment, Mr. Marinaro had referred liquor license matters to Respondent.

41. Franklin Bridge was a commercial landlord.

42. Franklin Bridge's tenant was Authentic Cuisine II, Inc. ("Authentic Cuisine").

43. Authentic Cuisine was the owner of Liquor License No. R-11211 ("LL R-11211").

44. Authentic Cuisine defaulted on its lease with Franklin Bridge.

45. Mr. Marinaro, on behalf of Franklin Bridge, confessed separate judgments against Authentic Cuisine for money judgment and possession.

46. Franklin Bridge was interested in obtaining the Liquor License owned by Authentic Cuisine, either through the execution process or through an Irrevocable Power of Attorney.

47. In early August of 2011, Mr. Marinaro contacted Respondent, at which time:

- a) He inquired as to whether Respondent had a conflict in helping Franklin Bridge acquire LL R-11211;

- b) Respondent advised him that he did not have a conflict; and
- c) Respondent requested Mr. Marinaro to forward the Franklin Bridge paperwork to him.

48. By cover letter to Respondent dated August 16, 2011, Mr. Marinaro:

- a) enclosed documents relating to Confession of Judgments by Franklin Bridge against Authentic Cuisine and an Irrevocable Power of Attorney of Authentic Cuisine appointing Franklin Bridge its attorney in fact with respect to LL R-11211; and
- b) requested Respondent to give him a call after Respondent had reviewed the documents to provide his advice as to whether Mr. Marinaro's client needed to proceed with levy or whether Respondent could cooperate with respect to the Irrevocable Power of Attorney. A true and correct copy of Mr. Marinaro's August 16, 2011 letter to Respondent is attached as Exhibit "H."

49. Mr. Marinaro's August 16, 2011 letter identified Respondent as "Barry Goldstein, Esquire."

50. Richard Tucker passed away on August 30, 2011.

51. By letter to Respondent dated September 28, 2011, Mr. Marinaro:

- a) requested Respondent to review the documents he had previously forwarded to Respondent;
- b) requested Respondent's advice as to whether Mr. Marinaro's client could use the Irrevocable Power of Attorney with respect to LL R-11211;
- c) informed Respondent that Mr. Marinaro's client would like to use the Power of Attorney to transfer the license to itself at fair market value to offset the judgment entered upon a default of the lease; and
- d) advised that Respondent's suggestion of a meeting with Mrs. Tucker was agreeable to her and that hopefully all three of them could get together the next week. A true and correct copy of Mr. Marinaro's September 28, 2011 letter to Respondent is attached as Exhibit "I."

52. Mr. Marinaro's September 28, 2011 letter identified Respondent as "Barry Goldstein, Esquire."

53. By letter to Mrs. Tucker dated September 28, 2011, Respondent:

- a) referenced LL R-11211;
- b) advised that her tenants had made it impossible for Respondent to move forward and that Respondent was no longer "representing them";

- c) opined that "we should proceed with the Sheriff sale of the License in Harrisburg ASAP"; and
- d) requested Mrs. Tucker to call Respondent. A true and correct copy of Respondent's September 28, 2011 letter to Mrs. Tucker is attached as Exhibit "J."

54. On October 4, 2011, Respondent met with Mr. Marinaro and Mrs. Tucker at her office, at which time it was decided that:

- a) Mr. Marinaro would stay in the case only with respect to the possession action he had filed; and
- b) Respondent would enter his appearance and take over the handling of the transfer of LL R-11211 to Franklin Bridge.

55. By letter to Respondent dated October 5, 2011, Mr. Marinaro:

- a) referenced LL R-11211 and Respondent's October 4, 2011 meeting with him and Mrs. Tucker;
- b) enclosed an Entry Of Respondent's Appearance and Withdrawal of his Appearance for the case of *Franklin Bridge, LP v. Authentic Cuisine, II, Inc.*, Court of Common Pleas of Philadelphia, No. 110802068;

c) advised Respondent could file the Entry/Withdrawal at any time Respondent saw fit; and

d) advised that Respondent would be exclusively handling the execution on the money judgment. A true and correct copy of Mr. Marinaro's October 5, 2011 letter and enclosure to Respondent is attached as Exhibit "K."

56. Mr. Marinaro's October 5, 2011 letter and Entry/Withdrawal of Appearance identified Respondent as "Barry Goldstein, Esquire" and Franklin Bridge as "our mutual client."

57. By check #004631, dated October 6, 2011, Mrs. Tucker provided Respondent \$5,000.00. A true and correct copy of the October 6, 2011 check in the amount of \$5,000 from Mrs. Tucker to Respondent is attached as Exhibit "L."

58. Check #004631 consisted of:

- a) \$1,500.00 for Filing Fees/Court Costs; and
- b) a \$3,500.00 fee for Respondent's services to Mrs. Tucker and/or Franklin Bridge in connection with LL R-11211.

59. Respondent deposited check #004631 into Respondent's bank account.

60. Respondent's receipt of check #004631 violated Pa.R.D.E. 217 (j)(4)(x) because Respondent received or otherwise handled client funds.

61. Mrs. Tucker was a person to whom Respondent owed a fiduciary duty after the date of Respondent's disbarment.

62. Respondent did not notify Mrs. Tucker by certified or registered mail that Respondent is a disbarred attorney.

63. Respondent never advised Mrs. Tucker in any manner that Respondent is a disbarred attorney.

64. By cover letter to the PLCB dated November 22, 2011, Respondent:

- a) enclosed a Validation Application and two checks totaling \$980.00 to cover the cost of filing in connection with the LL R-11211 LID 51662 matter;
- b) advised that the premises were presently closed; and
- c) requested that the License be held in safekeeping until further notice. A true and correct copy of Respondent's November 22, 2011 cover letter to PLCB is attached as Exhibit "M."

65. The \$980.00 referenced in the preceding paragraph was an advanced expense that Mrs. Tucker had provided Respondent.

66. By cover letter to the PLCB dated January 25, 2012, in connection with LL R-11211, LID 51662, Respondent enclosed a

Notice in Business Structure Application and a check in the amount of \$660.00 on behalf of Mrs. Tucker and/or Franklin Bridge to cover the cost of filing. A true and correct copy of Respondent's January 25, 2012 cover letter and enclosure to PLCB is attached as Exhibit "N."

67. The \$660.00 referenced in the preceding paragraph was an advanced expense that Mrs. Tucker had provided Respondent.

68. The Notice in Business Structure Application that Respondent filed January 2012 with the PLCB was signed by Diane Tucker and had the word *attorney* crossed off in the section which identified Respondent as representing Mrs. Tucker.

69. At the time Respondent had presented the Notice in Business Structure Application to Mrs. Tucker for her signature, the word *attorney* had not been crossed off.

70. It is believed, and therefore averred, that Respondent crossed off, or caused to be crossed off the word *attorney*, and Respondent did so without the knowledge or permission of Mrs. Tucker.

71. By cover letter to the PLCB dated January 26, 2012, Respondent enclosed a completed Affidavit of Compliance on behalf of Mrs. Tucker and/ or Franklin Bridge in connection with LL R-11211, LID 51662. A true and correct copy of Respondent's January 26, 2012 letter to PLCB is attached as Exhibit "O."

72. By letter to the PLCB dated February 24, 2012, Respondent:

- a) advised that "we" [Respondent and Respondent's client, Diane Tucker and/or Franklin Bridge] were ready to proceed in the LL R-11211, LID 51662 matter; and
- b) requested the PLCB to order the investigation. A true and correct copy of Respondent's February 24, 2012 letter to PLCB is attached as Exhibit "P."

73. By fax to Respondent dated March 13, 2012, Mr. Marinaro provided Respondent a review of his actions in connection with the *Franklin Bridge v. Authentic Cuisine* and LL R-11211 matter. A true and correct copy of Mr. Marinaro's March 13, 2012 fax to Respondent is attached as Exhibit "Q."

74. The March 13, 2012 fax identified Respondent as "Barry Goldstein, Esquire."

75. By cover letters to PLCB dated March 21, 2012, April 3, 2012, and April 18, 2012, Respondent provided information in connection with the LL R-11211, LID 51662 matter. True and correct copies of Respondent's March 21, 2012, April 3, 2012, and April 18, 2012 letters to PLCB are attached as Exhibit "R."

76. By cover letter to Respondent dated May 2, 2012, Mr. Marinaro enclosed the original of his letter to PLCB that

Respondent had requested he provide Respondent in connection with the LL R-11211 matter. A true and correct copy of Mr. Marinaro's May 2, 2012 letter and enclosure to Respondent is attached as Exhibit "S."

77. The May 2, 2012 letter identified Respondent as "Barry Goldstein, Esquire."

78. By cover letter to the PLCB dated May 7, 2012, Respondent enclosed the letter from Mr. Marinaro in connection with the LL R-11211, LID 51662 matter. A true and correct copy of Respondent's May 7, 2012 letter to PLCB is attached as Exhibit "T."

79. By cover letter to Respondent dated May 29, 2012, Mr. Marinaro enclosed his notarized Affidavit of Counsel in connection with the LL R-11211, LID 51662 matter. Respondent had approved the Affidavit of Counsel and had requested that Mr. Marinaro sign it. A true and correct copy of Mr. Marinaro's May 29, 2012 letter and enclosure to Respondent is attached as Exhibit "U."

80. The May 29, 2012 letter identified Respondent as "Barry Goldstein, Esquire."

81. By cover letter to the PLCB dated May 30, 2012, Respondent enclosed Mr. Marinaro's sworn affidavit in connection with the LL R-11211, LID 51662 matter. A true and correct copy

of Respondent's May 30, 2012 letter to PLCB is attached as Exhibit "V."

82. By fax to Mr. Marinaro dated June 11, 2012, Respondent enclosed a June 6, 2012 letter from PLCB and requested Mr. Marinaro to provide Respondent with a revised attorney's Affidavit as soon as possible. A true and correct copy of Respondent's June 11, 2012 fax and enclosure to Mr. Marinaro is attached as Exhibit "W."

83. The June 11, 2012 fax was transmitted on G&M's fax machine.

84. By letter to Respondent dated June 12, 2012, regarding the LL R-11211, LID 51662 matter, Mr. Marinaro stated:

As per your request, I revised the Affidavit of Counsel to add the language as requested. It appears in Paragraph 13. It is enclosed. **As far as which counsel should be executing it with this language, it should probably be you at this point.** However, **I will rely on your expertise** and hope this does not come back to bite me. However, this is what my pleadings say and as far as I know, they are true. (emphasis added)

A true and correct copy of Joseph J. Marinaro's May 29, 2012 letter and enclosure to Respondent is attached as Exhibit "X."

85. The June 12, 2012, letter identified Respondent as "Barry Goldstein, Esquire."

86. By cover letter to the PLCB dated June 14, 2012, Respondent enclosed Mr. Marinaro's revised Affidavit in connection with the LL R-11211, LID 51662 matter. A true and

correct copy of Respondent's June 14, 2012 letter to PLCB is attached as Exhibit "Y."

87. By cover letter to Mrs. Tucker dated August 2, 2012, Respondent:

- a) enclosed the original Renewal Application for LL R-11211;
- b) requested her to sign where indicated and return to Respondent a check made payable to the Commonwealth of PA for \$730.00 to cover the filing fees and a check to Respondent for his services in the amount of \$150.00; and
- c) advised he would file the Renewal Application on her behalf. A true and correct copy of Respondent's August 2, 2012 letter and enclosure to Mrs. Tucker is attached as Exhibit "Z."

88. The Renewal Application Respondent provided Mrs. Tucker, and which she returned to Respondent, had a block requesting the following information: "NAME OF ATTORNEY, IF ANY, WHO ASSISTED THE PREPARATION OF THIS APPLICATION."

89. The Renewal Application that Respondent filed on or about August 20, 2012 with the PLCB on behalf of Mrs. Tucker had the word *attorney* crossed off. A true and correct copy of Respondent's August 20, 2012 Filing of Renewal Application is attached as Exhibit "AA."

90. It is believed, and therefore averred, that Respondent crossed off or caused to be crossed off the word *attorney*, and Respondent did so without the knowledge or permission of Ms. Tucker.

91. Mrs. Tucker remitted to Respondent the two checks Respondent requested as described in Respondent's August 2, 2012 letter.

92. By letter to the PLCB dated September 19, 2012, Respondent requested it to continue to hold LL R-11211, LID 51662 in safekeeping as the premises were now closed and were being marketed for sale. A true and correct copy of Respondent's September 19, 2012 letter to the PLCB is attached as Exhibit "BB."

(McWhitey's Inc. to Yong Q. Zheng LL Transfer)

93. The allegations contained in paragraphs 1 through 36 are incorporated herein as if fully set forth.

94. McWhitey's Inc. ("McWhitey's") was a client of Mr. Marinaro; the principal of McWhitey's is Marusia McLaughlin.

95. McWhitey's owned a bar where a homicide occurred.

96. The PLCB and McWhitey's entered into a Conditional Licensing Agreement ("McWhitey's CLA") which required that McWhitey's liquor license ("LL R-12300, LID 53660") be put into

safekeeping, transferred to a third party and moved to a location outside of certain police districts.

97. On September 27, 2011, Mr. Marinaro had a telephone conversation with Respondent in which he inquired whether Respondent could assist McWhitey's in finding a buyer of its liquor license for fair value.

98. By letter to Respondent dated September 28, 2011, Mr. Marinaro enclosed the McWhitey's CLA and inquired whether Respondent could assist his client in finding a buyer of LL R-12300, LID 53660. A true and correct copy of Mr. Marinaro's September 28, 2011 letter and enclosure to Respondent is attached as Exhibit "CC."

99. The September 28, 2011 letter identified Respondent as "Barry Goldstein, Esquire."

100. By fax dated October 27, 2011, Mr. Marinaro confirmed his telephone conversation with Respondent in which Marinaro advised Respondent that McWhitey's had accepted Respondent's proposal, netting Marinaro's client \$55,000.00 for its license. A true and correct copy of Mr. Marinaro's October 27, 2011 fax to Respondent is attached as Exhibit "DD."

101. The October 27, 2011 letter identified Respondent as "Barry Goldstein, Esquire."

102. By fax to Mr. Marinaro dated October 27, 2011, Respondent:

- a) referenced LL R-12300, LID 53660; and
- b) advised that "[Respondent's] client received zoning approval and is ready to file its Application on the 1300 block of Walnut Street."

A true and correct copy of Respondent's October 27, 2011 fax to Mr. Marinaro is attached as Exhibit "EE."

103. By letter to Mr. Marinaro dated November 3, 2011,

Respondent:

- a) referenced LL R-12300, LID 53660;
- b) enclosed an agreement that Respondent had prepared in connection with the sale and transfer of LL R-12300, LID 53660 from McWhitey's to Yong Q. Zheng, or his Nominee or Assignee ("McWhitey's-Zheng Agreement");
- c) advised that "[Respondent's] client [Zheng] has now received zoning approval through Klehr, Harrison, et al.";
- d) advised that Respondent was holding the deposit in this matter;
- e) requested Mr. Marinaro call Respondent if he had any questions; and
- f) advised that if Marinaro did not have any questions, Respondent would have his "clients" execute the McWhitey's-Zheng Agreement. A true

and correct copy of Respondent's November 3, 2011 letter and enclosure to Mr. Marinaro is attached as Exhibit "FF."

104. The McWhitey's-Zheng Agreement Respondent prepared contained the following provisions, *inter alia*:

- a) "It is agreed that the total Escrow Fund [\$15,000.00]...shall be deposited in escrow with GOLDSTEIN, LLC ('the escrow agent') who shall deposit the escrow fund in a federally insured banking institution;" and
- b) "notwithstanding anything to the contrary contained herein, in the event, during the term of this Agreement, Buyer's Counsel or Barry Goldstein, LLC reasonably determine that because of protests and/or Petitions to Intervene which have been filed against Buyer's pending Application for Transfer of the License to the Subject Premises, Buyer's Application will likely be refused by the PLCB, Buyer shall also have the right to terminate this Agreement by giving written notice to Seller as provided herein."

105. Respondent's drafting of the McWhitey's-Zheng Agreement constituted "law-related activities" as defined in 217(j), Pa.R.D.E.

106. Respondent's drafting of the McWhitey's-Zheng Agreement constituted the practice of law.

107. Respondent's holding the deposit in connection with the McWhitey's to Zheng transaction violated 217 (j)(4)(x).

108. Yong Q. Zheng was a person to whom Respondent owed a fiduciary duty after the date of Respondent's disbarment.

109. Respondent did not notify Mr. Zheng by certified or registered mail that Respondent was a disbarred attorney.

110. By cover letter to Mr. Marinaro dated November 21, 2011, Respondent:

- a) enclosed a fully executed McWhitey's-Zheng Agreement, Promissory Note, PLCB Application for Transfer (PLCB Form 21), and a copy of the original deposit of \$15,000.00 in connection with the McWhitey's to Zheng transfer;
- b) advised that Respondent would file the Application for Transfer after he received two signed copies from Mr. Marinaro; and
- c) promised to keep Mr. Marinaro apprised. A true and correct copy of Respondent's November 21, 2011 letter to Mr. Marinaro is attached as Exhibit "GG."

111. By cover letter to Respondent dated November 23, 2011, Mr. Marinaro:

- a) enclosed the McWhitey's-Zheng Agreement that his client had signed; and
- b) advised that he "will leave this matter in Respondent's capable hands with the expectation of a closing in the near future." A true and correct copy of Mr. Marinaro's November 23, 2011 letter and enclosure to Respondent is attached as Exhibit "HH."

112. The November 23, 2011 letter identified Respondent as "Barry Goldstein, Esquire."

113. By letter to the PLCB dated February 14, 2012, Respondent:

- a) advised the parties were now ready to proceed in the licensing process of LL R-12300, LID 66009; and
- b) requested the PLCB to accept Respondent's letter as a request for re-investigation and not to cancel the pending Application. A true and correct copy of Respondent's February 14, 2012 letter to PLCB is attached as Exhibit "II."

114. By letter to Mr. Marinaro dated April 16, 2012, Respondent:

- a) advised that the parties were "proceeding to a conclusion of the [McWhitey's to Zheng liquor license transfer] to [Respondent's client]"; and
- b) requested Mr. Marinaro to call Respondent relating to a Department of Revenue issue. A true and correct copy of Respondent's April 16, 2012 letter to Mr. Marinaro is attached as Exhibit "JJ."

115. By cover letter to Respondent dated October 19, 2012, Mr. Marinaro enclosed an executed Affidavit and requested to be advised when the parties could close the deal regarding the McWhitey's to Zheng Liquor License transfer. A true and correct copy of Mr. Marinaro's October 19, 2012 letter and enclosure to Respondent is attached as Exhibit "KK."

116. The October 19, 2012 letter identified Respondent as "Barry Goldstein, Esquire."

117. By cover letter to Mr. Marinaro dated November 27, 2012, Respondent:

- a) enclosed a check payable to Mr. Marinaro in the amount of \$27,000.00 and a check payable to the order of Marusia A. McLaughlin in the amount of \$27,000.00; and
- b) requested Mr. Marinaro forward to Respondent as soon as possible the original Certificate of

Completion executed by Mr. Marinaro's client. A true and correct copy of Respondent's November 27, 2012 letter to Mr. Marinaro is attached as Exhibit "LL."

118. Respondent's actions as described in the preceding paragraph violated Pa.R.D.E. 217 (j)(4)(x) because Respondent disbursed or otherwise handled client funds.

119. By fax to Respondent dated November 27, 2012, Mr. Marinaro enclosed an executed Certificate of Completion in connection with the McWhitey's to Zheng Liquor License transfer. A true and correct copy of Mr. Marinaro's November 27, 2012 fax and enclosure to Respondent is attached as Exhibit "MM."

120. The November 27, 2012 letter identified Respondent as "Barry Goldstein, Esquire."

121. By cover letter to Respondent dated December 14, 2012, Mr. Marinaro enclosed a signed and notarized Bill of Sale for the McWhitey's to Zheng Liquor License transfer. A true and correct copy of Mr. Marinaro's December 14, 2012 letter to Respondent is attached as Exhibit "NN."

122. The December 14, 2012 letter identified Respondent as "Barry Goldstein, Esquire."

(Paul Giegerich)

123. The allegations contained in Paragraph 1 through 36 are incorporated herein as if fully set forth.

Pre-Disbarment Activities

124. Respondent represented Paul Giegerich and his business entity, *Philadelphia Billiards*, in legal matters at a time when Respondent was an attorney in good standing.

125. On or about September 23, 2009, Respondent provided Mr. Giegerich a Fee Engagement Letter.

126. The September 23, 2009 Fee Engagement Letter:

- a) was addressed to Mr. Giegerich and was on GFG&M law firm letterhead;
- b) explained the scope of Respondent's legal representation, along with fee and payment terms;
- c) was effective between "Philadelphia Billiards, LLC (the 'Client') and GFG&M (the 'Firm')";
- d) described the matters that Respondent's Firm was retained for as "1. To represent the Client in the negotiation and preparation of an Agreement of Sale for a liquor license; 2. To represent the Client at a hearing before the PLCB, if necessary; 3. To represent the Client in the negotiation of a Lease provision with respect to obtaining PLCB approval for the transfer application; 4. To represent the client at closing on the Agreement of Sale"; and

e) stated that "[c]lient expects Barry Goldstein, Esquire to be primarily responsible for providing legal services with respect to the Matters." A true and correct copy of Respondent's December 23, 2009 Fee Agreement to Paul Giegerich ("Mr. Giegerich) is attached as Exhibit "OO."

127. By check number 525, dated September 23, 2009, and payable to Goldstein Friedberg, Mr. Giegerich provided Respondent an initial retainer of \$2,500.00. A true and correct copy of check number 525 is attached as Exhibit "PP."

128. On or about October 2, 2009, Respondent deposited or caused to be deposited check number 525 into a GFG&M operating account at Fulton Bank.

129. By check number 526, dated September 23, 2009, and payable to Goldstein Friedberg, Mr. Giegerich provided Respondent estimated expenses of \$2,000.00. A true and correct copy of check number 526 is attached as Exhibit "QQ."

130. On or about October 7, 2009, Respondent deposited or caused to be deposited check number 526 into a GFG&M bank account.

131. By letter to Mr. Giegerich dated September 30, 2009, Respondent:

- a) acknowledged receipt of Mr. Giegerich's retainer and costs in connection with a Liquor License Agreement;
- b) enclosed a copy of Respondent's initialed, revised invoice; and
- c) advised he would begin preparing the Agreement of Sale for the Liquor License. A true and correct copy of Respondent's September 30, 2009 letter and enclosure to Mr. Giegerich is attached as Exhibit "RR."

132. By e-mail to Mr. Giegerich dated October 6, 2009, Respondent:

- a) referenced Liquor License Agreement - Lernesto, Inc. to Philadelphia Billiards, LLC, PLCB License No. R-6210; and
- b) enclosed a first draft of the Agreement in connection with LL R-6210. A true and correct copy of Respondent's October 6, 2009 e-mail and enclosure to Mr. Giegerich is attached as Exhibit "SS."

133. By letter to Mr. Giegerich, dated March 22, 2010, Respondent stated:

Dear Paul:

My extensive expertise in the restaurant/alcohol field is taking a new

direction. I will be retiring from the practice of law and will now act solely as a business consultant. I will continue to advise and facilitate in the purchase of all alcoholic beverage licenses, transaction involving the purchase of restaurants and taverns, and will also use my vast exposure in the industry to locate businesses and licenses for sale. My ability to resolve difficult problems and situations that are PLCB related will continue. Because of my special relationships and knowledge in the field, I will continue to process matters with the Liquor Control Board on your behalf consistent with my past reputation.

In all matters requiring legal representation, the law firm of Goldstein & McHugh will be available to provide all legal services. This transition will not adversely affect your matter.

My Son and Partner of almost 20 years, Matthew Goldstein, has extensive legal experience and has been extremely successful in restaurant and tavern sales, leases, purchases and management agreements of all kinds on behalf of our clients. He also has specialized and extensive experience in obtaining state (and federal, where required) licenses for importers, manufacturers, distributors and public venues including airports, theaters and stadiums.

Edward McHugh, who has been with the firm for the last five years, has been litigating liquor related matters before all State tribunals for the past 15 years, both as a prosecutor and as licensee's counsel. He has well acknowledged experience and a successful record in handling citations, licensing hearings, non-renewal hearings and commercial transactions in general.

With your approval, I will transfer your legal file to Goldstein & Friedberg, LLC. I will continue to assist and help with business related problems that arise. I will continue to remain a leader in our field, and I personally look forward to continuing successful business relationship with all my friends and clients in this new capacity.

Please feel free to call me with any questions or to arrange a mutually convenient

meeting. However, I will be on vacation from March 29th to April 2nd and will return to my current office at that time. I am making plans to move my office to Center City Philadelphia in the near future and will keep Respondent posted.

Sincerely,
Barry Goldstein

(emphasis added)

A true and correct copy of Respondent's March 22, 2010 Letter from Respondent to Mr. Giegerich is attached as Exhibit "TT."

134. Respondent's representation to Mr. Giegerich that Respondent would be "retiring" from the practice of law was misleading because Respondent was aware at that time that he had submitted a disbarment on consent in connection with a disciplinary proceeding.

Post-Disbarment Activities

135. On or before September 13, 2010, Respondent prepared or caused to be prepared a draft Agreement between 1320 J.D.F., LLC, ("Seller") and Philadelphia Billiards, LLC, or His Nominee or Assignee (Buyer") for the sale and transfer of Restaurant Liquor License No. R-2396 (LID No. 59836) for use at the premises known as 1200 Chestnut Street, Philadelphia, Pa. ("LL R-2396 Agreement of Sale")

136. On September 13, 2010, Justin Fine, on behalf of Seller, and Mr. Giegerich, on behalf of Buyer, signed and executed the LL R-2396 Agreement of Sale. A true and correct

copy of LL R-2396 Agreement of Sale dated September 23, 2010 and prepared by Respondent is attached as Exhibit "UU."

137. At the time of the execution of the LL R-2396 Agreement of Sale, the parties agreed to change the description of Buyer from *Philadelphia Billiards* to *1200 Bank*.

138. The executed LL R-2396 Agreement of Sale provided, *inter alia*, that:

- a) Buyer agreed to pay \$5,500.00 ("Escrow Fund") at the time of execution;
- b) The Escrow Fund was to be held in escrow with BARRY GOLDSTEIN, LLC (the "Escrow Agent"); and
- c) Respondent was to deposit the Escrow Fund in a federally insured banking institution.

139. Respondent's drafting of the LL R-2396 Agreement of Sale constituted "law-related activities" as defined in 217 (j), Pa.R.D.E.

140. Respondent's drafting of the LL R-2396 Agreement of Sale constituted the practice of law.

141. By check number 654, dated September 17, 2010, Mr. Giegerich provided Respondent a \$2,500.00 "retainer" in connection with the executed LL R-2396 Agreement of Sale. A true and correct copy of check number 654 dated September 17, 2010, is attached as Exhibit "VV."

142. By check number 655, dated September 17, 2010, Mr. Giegerich provided Respondent a \$5,500.00 "Deposit on Liq. License" in connection with the executed LL R-2396 Agreement of Sale. A true and correct copy of check number 655 is attached as Exhibit "WW."

143. On or about September 22, 2010, Respondent deposited checks number 654 and 655 into Respondent's PNC Bank Account #8042394585, titled "Barry Goldstein LLC 325 Chestnut Street Suite 713 B Philadelphia PA 19106."

144. Respondent's receipt of checks number 654 and 655 violated Pa.R.D.E. 217 (j)(4)(x) because Respondent received or otherwise handled client funds.

145. Mr. Giegerich was a person to whom Respondent owed a fiduciary duty after the date of Respondent's disbarment.

146. Respondent did not notify Mr. Giegerich by certified or registered mail that Respondent is a disbarred attorney.

147. On December 7, 2010, Respondent e-mailed Mr. Giegerich that "the application will be filed with the PLCB tomorrow." A true and correct copy of the December 7, 2010 email from Respondent to Mr. Giegerich is attached as Exhibit "XX."

148. By cover letter to the PLCB dated December 8, 2010, Respondent:

- a) referenced the LL R-2396 Agreement of Sale;

- b) enclosed an Application for Transfer of License and Permit (hereinafter, "LL R-2396, LID 64465") with supporting documents;
- c) enclosed check # 1686 drawn on Respondent's PNC account in the amount of \$1,050.00 "representing the filing fee of \$700.00, Sunday Sales Permit Fee of \$300.00, Amusement Permit of \$140.00 and a criminal record check fee for one (1) individual in the amount of \$10.00"; and
- d) requested an investigation of the enclosed Application. A true and correct copy of Respondent's letter and enclosure is attached as Exhibit "YY."

149. The \$1,050.00 referenced in the preceding paragraph was an advanced expense that Mr. Giegerich had provided Respondent.

150. By cover letter to the PLCB dated December 29, 2010, Respondent enclosed an Affidavit of Compliance in connection with LL R-2396, LID 64465. A true and correct copy of Respondent's letter to PLCB is attached as Exhibit "ZZ."

151. By letters or faxes to the PLCB dated January 11, 2011, February 9, 2011, February 14, 2011, and April 18, 2011, Respondent requested a re-investigation in the LL R-2396, LID 64465 matter. True and correct copies of Respondent's letters or

faxes dated January 11, 2011, February 9, 2011, February 14, 2011, and April 18, 2011, to the PLCB are attached as Exhibit "AAA."

152. By letter to Respondent dated May 17, 2011, the PLCB, *inter alia*:

- a) referenced LL R-2396, LID 64465;
- b) advised it had received and reviewed its licensing analyst's reports of re-investigation regarding the application for double transfer of LL R-2396;
- c) advised the investigation disclosed that no money was being held in escrow; and
- d) informed that a hearing would be scheduled because protests had been received in opposition to the application. A true and correct copy of PLCB's May 17, 2011 letter to Respondent is attached as Exhibit "BBB."

153. By letter to the PLCB dated June 6, 2011, Respondent confirmed that Edward P. McHugh, Esquire of G&M would be handling the hearing on July 12, 2011, in connection with LL R-2396, LID 64465. A true and correct copy of Respondent's June 6, 2011 letter to PLCB is attached as Exhibit "CCC."

154. By letter to the PLCB dated June 20, 2011, Respondent:

- a) requested a continuance of the July 12, 2011 hearing in the LL R-2396, LID 64465 matter;
- b) advised that he had reviewed the 18 objections and that at the time of hearing Respondent could satisfy at least 14 of them but evidence would have to be taken on some of the other objections;
- c) advised that he was engaged in communication with Senator Farnese who was requesting that a Conditional Licensing Agreement be executed by the Applicant; and
- d) advised that his request for continuance is "further based on the fact that my client is deeply involved in obtaining financing for the project..." and that "[t]he financing process is costing my client a great deal of money..." A true and correct copy of Respondent's June 20, 2011 letter to PLCB is attached as Exhibit "DDD."

155. By fax to the PLCB dated June 24, 2011, Mr. McHugh advised he did not represent the Licensee in the LL R-2396 LID 64465 matter and requested his name be removed from the record. A true and correct copy of Mr. McHugh's June 24, 2011 fax to PLCB is attached as Exhibit "EEE."

156. By fax to the PLCB dated June 30, 2011, Respondent requested a re-investigation in the LL R-2396, LID 64465 matter

and advised "we" will attempt to rectify many of the objections in the Board's letter of June 13, 2011. A true and correct copy of Respondent's June 30, 2011 letter to PLCB is attached as Exhibit "FFF."

157. By letter to Mr. Giegerich dated June 30, 2011, Respondent:

- a) advised he had ordered a re-investigation in the LL R-2396, LID 64465 matter; and
- b) requested to meet with him and Mr. McHugh the next week. A true and correct copy of Respondent's June 30, 2011 letter to Mr. Giegerich is attached as Exhibit "GGG."

158. By fax to Mr. Giegerich dated July 12, 2011, Respondent:

- a) provided him a Conditional Licensing Agreement ("Giegerich CLA") between the PLCB and 1200 Bank, LLC (Mr. Giegerich) that Respondent had drafted; and
- b) requested him to review the document and call Respondent as soon as possible. A true and correct copy of Respondent's July 12, 2011 fax and enclosure to Mr. Giegerich is attached as Exhibit "HHH."

159. The July 12, 2011 telefax was transmitted on G&M's fax machine.

160. Respondent's drafting of the Giegerich CLA constituted "law-related activities" as defined in 217(j), Pa.R.D.E.

161. Respondent's drafting of the Giegerich CLA constituted the practice of law.

162. By cover letter to the Administrative Assistant to State Senator Farnese dated July 27, 2011, Respondent provided a re-draft of the Giegerich CLA in connection with LL R-2396, LID 64465. A true and correct copy of Respondent's July 27, 2011 letter and enclosure to Senator Farnese is attached as Exhibit "III."

163. By letter to Respondent dated November 17, 2011, the PLCB advised Respondent that the hearing in the LL R-2396, LID 64465 matter had been re-scheduled for December 7, 2011.

164. By fax to Mr. Giegerich dated November 22, 2011, Respondent provided the November 17, 2011 PLCB letter and requested him to call Respondent immediately so that a meeting to prepare for the hearing could be arranged. A true and correct copy of Respondent's November 22, 2011 fax and enclosure to Mr. Giegerich is attached as Exhibit "JJJ."

165. The November 22, 2011 fax was transmitted on G&M's fax machine.

166. By e-mail to Respondent and to Mr. Giegerich dated November 29, 2011, Mr. Fine:

- a) provided formal notice that the Agreement executed September 13, 2010, detailing the terms of sale for LL R-2396 was terminated;
- b) authorized Respondent to file immediately the necessary documents with the PLCB; and
- c) wished Mr. Giegerich the best in his efforts to complete the project.

167. By fax to Mr. Giegerich dated November 29, 2011, Respondent:

- a) advised that Respondent had been authorized by Mr. Fine to file the appropriate documents with the PLCB cancelling the transfer and hearing scheduled for December 7, 2011;
- b) advised that the LL R-2396 Agreement of Sale provided Respondent could take this action upon five days prior written notice; and
- c) asked that Mr. Giegerich consider Respondent's letter the required notice. A true and correct copy of Respondent's November 29, 2011 fax and enclosure to Mr. Giegerich is attached as Exhibit "KKK."

168. The November 29, 2011 telefax was transmitted on G&M's fax machine.

169. By letter to Respondent dated November 29, 2011, Mr. Giegerich:

- a) acknowledged receipt of Respondent's and Mr. Fine's letter terminating the transaction and cancelling the hearing; and
- b) requested a refund of the following funds tendered to Respondent in the pursuit of this transaction:
 - i) The \$5,500.00 held in escrow by Barry Goldstein, LLC;
 - ii) The \$2,000.00 deposit paid to GFG&M;
 - iii) The \$2,500.00 retainer paid to GFG&M; and
 - iv) The \$2,500.00 retainer paid to Barry Goldstein, LLC. A true and correct copy of Mr. Giegerich's November 29, 2011 letter to Respondent is attached as Exhibit "LLL."

170. By cover letter to the PLCB dated November 30, 2011, Respondent provided the original fully executed Letter of Withdrawal and requested that the December 7, 2011 hearing scheduled for the LL R-2396, LID 64465 matter be cancelled. A true and correct copy of Respondent's November 30, 2011 letter and enclosure to PLCB is attached as Exhibit "MMM."

171. By letter to Respondent dated December 1, 2011, the
PLCB:

- a) advised that "in compliance with your client's request of November 28, 2011 the application for double transfer of Restaurant Liquor License R-2396 has been withdrawn and cancelled";
- b) informed that the permit fee in the amount of \$300.00 that Respondent had submitted with Respondent's client's application would be returned but that the \$650.00 filing fee and \$10.00 amusement permit fee have been retained as they are non-refundable; and
- c) requested that Respondent see that his client receive the attached copy of this letter. A true and correct copy of PLCB's December 1, 2011 Letter to Respondent is attached as Exhibit "NNN."

172. On December 5, 2011, Respondent e-mailed Mr. Giegerich the following message:

Paul, I do not agree to refund money to you as requested; I am holding a deposit which requires more that (*sic*) your signature...There were also costs expended...are you requesting a complete refund of all monies even tho (*sic*) you did not comply with your responsibility as required by the agreement? Am I supposed to work without compensation? This matter could have worked if you had received funding despite the uncertainty

of the deck situation... III (sic) ...have requested a response from Justin and his partner which I have not received... BG Refund Request

A true and correct copy of Respondent's December 5, 2011 e-mail to Mr. Giegerich is attached as Exhibit "000."

173. Mr. Giegerich responded to Respondent's December 5, 2011 e-mail on the same date as follows:

Barry: The seller terminated the contract; there should be no dispute with respect to the escrow amount. Other than that, the transaction did not consummate. I have never received a single bill for any expenses. There was one meeting with an examiner, no hearing. I am not sure what obligation I did not fulfill that would negate a refund, please clarify. What response from Justin do you need/ What was asked of him? What refund amount do you think I'm entitled to if not the full amount?

A true and correct copy of Mr. Giegerich's December 5, 2011 e-mail to Mr. Giegerich is attached as Exhibit "000."

174. On December 15, 2011, Mr. Giegerich e-mailed Respondent the following message:

Barry: Just to be clear, the escrow should not be released to the Seller. His claim for liquidated damages is in error, as I'm sure you will agree, and I demand that the escrow be released to me as per the agreement. Barring that, I request documentation of where the escrow is being held, and to know your plan for disposition of this matter.

A true and correct copy of Mr. Giegerich's December 15, 2011 e-mail to Respondent is attached as Exhibit "PPP."

175. By fax to Mr. Giegerich dated December 19, 2011,

Respondent:

- a) acknowledged receiving formal notice from Mr. Fine requesting the deposits;
- b) advised that, if necessary, he would place the deposits with the Court and the Court would decide;
- c) advised that as for Mr. Giegerich's request for various monies being returned, Respondent's records reflected he had received an initial \$2,500.00 plus the filing fees to the Board of approximately \$2,000.00;
- d) requested copies of all checks that Mr. Giegerich had given Respondent and any checks made payable the Commonwealth; and
- e) advised Respondent "will not return the fee [Mr. Giegerich] paid to [him] and [Respondent] obviously cannot return the costs paid to the Liquor Board." A true and correct copy of Respondent's Fax to Mr. Giegerich is attached as Exhibit "QQQ."

176. The December 19, 2011 telefax was transmitted on G&M's fax machine.

177. On January 5, 2012, Respondent e-mailed Mr. Giegerich the following message:

Paul, I am meeting with Justin to hopefully effectuate the release of all or part of the escrow money which I am holding in accordance with the agreement you signed with him. I also acknowledge the receipt of 2 retainers and costs which were sent to the PLCB. The PLCB has permitted me to handle transfers of liquor licenses as a consultant or a broker. This is done with their approval... some costs will be returned by the PLCB. I will discuss my fees with you but I will not be black mailed by your threats... There is a good chance that most of this will work out, but my services are not free. Do what you want but it will short circuit the settlement process.

A true and correct copy of Respondent's e-mail to Mr. Giegerich is attached as Exhibit "RRR."

178. By cover letter to Mr. Giegerich dated January 10, 2012, Respondent:

- a) enclosed a check in the amount of \$300.00 made payable to him as reimbursement from the PLCB for filing fees in the LL R-2396, LID 64465 matter; and
- b) attached the copy of the actual check from PLCB which had been made payable to Respondent. A true and correct copy of Respondent's January 10, 2012 letter and enclosure to Mr. Giegerich is attached as Exhibit "SSS."

179. By letter to Respondent dated April 9, 2012, Mr. Giegerich advised Respondent it was his fourth and final request for the following:

- a) A refund of the unearned portion of the \$2,000.00 (sic) retainer paid to G,F,G&M;
- b) A refund of the unearned portion of the \$2,500.00 paid to Barry Goldstein, LLC. "The contemplated transaction did not consummate, so the retainer could not have been fully earned. There has been no accounting of actual expenses incurred.";
- c) A refund of the unearned portion of the \$2,000.00 deposit against expected expenses paid to G,F,G&M. "There has been no accounting of the actual expenses incurred."; and
- d) A full refund of the \$5,500.00 deposit held in escrow by Barry Goldstein, LLC. A true and correct copy of Mr. Giegerich's April 9, 2012 Letter to Respondent is attached as Exhibit "TTT."

180. On September 28, 2012, Mr. Giegerich filed a claim against Respondent and G&M to recover funds he had previously requested Respondent to return, in the matter captioned: *Paul Giegerich v. Barry Goldstein, G&M, 1320 J.D.F. LLC and Barry Goldstein, LLC*, Philadelphia Municipal Court, #SC-12-09-28-5782.

181. On January 23, 2013, the parties agreed that Respondent would agree to disburse the \$5,500.00 Respondent was obligated to hold as escrow agent as follows: \$2,500.00 to Justin Fine and \$3,000.00 to Mr. Paul Giegerich.

182. Petitioner believes and therefore avers that Respondent's conduct as described in paragraphs 1 through 182, *supra*, is a willful and direct violation of, *inter alia*, the Court's May 7, 2010 Order.

183. The aforementioned averments establish that:

- a) Respondent had knowledge of the Disbarment Order;
- b) Respondent had notice of his responsibilities under Pa.R.D.E. 217(j);
- c) Respondent has violated RPC 1.5(a); RPC 1.7; RPC 1.9(a); RPC 1.15(e); RPC 1.16(d); RPC 5.5(a); RPC 5.5(b)(1); RPC 8.4(c); RPC 8.4(d); Pa.R.D.E. 217(c)(1) and (2), Pa.R.D.E. 217(d); Pa.R.D.E. 217(j)(1); Pa.R.D.E. 217(j)(4)(i); Pa.R.D.E. 217(j)(4)(ii); Pa.R.D.E. (j)(4)(iii); Pa.R.D.E. 217(j)(4)(iv); Pa.R.D.E. 217(j)(4)(v); Pa.R.D.E. 217(j)(4)(vi); Pa.R.D.E. (j)(4)(ix); Pa.R.D.E. 217(j)(4)(x); and Pa.R.D.E. 217(j)(5). More specifically, Respondent has: practiced law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction;

engaged in conduct involving dishonesty, fraud, deceit or misrepresentation; engaged in law-related activities without being supervised by a member in good standing of the bar of this Commonwealth; performed law-related services from an office that is not staffed by a supervisory attorney on a full-time basis; represented himself as a lawyer or person of similar status; had contact with clients beyond ministerial matters; rendered legal consultation or advice to clients; negotiated or transacted a matter for or on behalf of a client with third parties; and received, disbursed or otherwise handled client funds; and

- d) Respondent has knowingly violated this Court's Disbarment Order and continues to do so in an open and contemptuous manner.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that your Honorable Court:

1. Order Respondent to immediately prepare and deliver to Petitioner a list of the names and addresses of all individuals or entities he is currently representing or with respect to which he is a fiduciary, showing the dates, amounts and circumstances of the entrustment and current balance thereof, as well as the banks and account numbers in which such funds are currently maintained; and

2. Issue a Rule on Respondent, Barry Goldstein, to show cause why he should not be held in contempt of this Court by reason of his willful violation of this Court's Order dated May 7, 2010, returnable at a date, time, and place certain, and with a response to the allegations herein.

AND FURTHER, that after consideration of any response made by Respondent, your Court grant the following additional relief:

3. Order that Respondent, Barry Goldstein, be held in contempt of this Court by reason of his willful violation of this Court's Order dated May 7, 2010;

4. Order the President Judge of the Court of Common Pleas of Philadelphia County, in accordance with Enforcement Rule 217(g), to take such further action and make further orders as

may appear necessary to protect the rights and interests of Respondent's clients or fiduciary entities with which he is involved;

5. Order that any bank accounts held by Respondent or controlled by him, containing fiduciary funds, be frozen until further action by a court of appropriate jurisdiction; and

6. Order that Respondent Barry Goldstein shall:

- a) fully comply with the provisions of Rule 217 of the Rules of Disciplinary Enforcement of the Supreme Court of Pennsylvania pertaining to disbarred attorneys;
- b) immediately file a Statement of Compliance in accordance with Pa.R.D.E. 217(e);
- c) immediately cease and desist and be enjoined from any and all activities in connection with representing individuals and entities before the Pennsylvania Liquor Control Board and its agencies;
- d) immediately by writing, notify of his disbarment all current and past clients, all persons or their agents or guardians to whom a fiduciary duty is or may be owed at any time after his disbarment, and all other persons with whom Respondent may at any time expect to have

professional contacts under circumstances where there is a reasonable probability that they may infer that Respondent continues as an attorney in good standing;

- e) immediately advise the Pennsylvania Liquor Control Board, in writing, that he has been enjoined from representing individuals and entities before the Pennsylvania Liquor Control Board and its agencies and provide a copy of letter to Petitioner; and
- f) Such other relief as the Court deems just and proper.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

Paul J. Killion,
Chief Disciplinary Counsel
Attorney Reg. No. 20955



By: Harold E. Ciampoli, Jr.,
Disciplinary Counsel
Attorney Reg. No. 51159
Office of Disciplinary Counsel
District II Office
820 Adams Avenue, Suite 170
Trooper, PA 19403
(610) 650-8210

VERIFICATION

I, Harold E. Ciampoli, Jr., Disciplinary Counsel, state under the penalties provided in 18 Pa.C.S. §4904 (unsworn falsification to authorities) that:

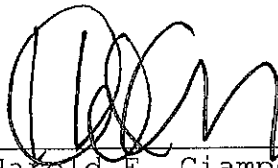
I am a Disciplinary Counsel of the Disciplinary Board of the Supreme Court of Pennsylvania assigned to prosecute this matter pursuant to the Pennsylvania Rules of Disciplinary Enforcement;

I am authorized to make this verified statement; and

The facts contained in the attached Petition for Rule To Show Cause Why Respondent Should Not Be Held in Contempt are true and correct to the best of my knowledge, information and belief.

6/13/14

Date



Harold E. Ciampoli, Jr.
Disciplinary Counsel
District II Office

to file any Response to the Petition and to this Rule within ten (10) days of the date hereof and to timely serve a copy of said response upon the Office of Disciplinary Counsel.

C. Any bank accounts held by Respondent or controlled by him, containing fiduciary funds, shall be frozen until further action by a court of appropriate jurisdiction;

It is further Ordered that Respondent Barry Goldstein shall:

1. fully comply with the provisions of Rule 217 of the Rules of Disciplinary Enforcement of the Supreme Court of Pennsylvania pertaining to disbarred attorneys;
2. immediately file a Statement of Compliance in accordance with Pa.R.D.E. 217(e);
3. immediately cease and desist and be enjoined from any and all activities in connection with representing individuals and entities before the Pennsylvania Liquor Control Board and its agencies;
4. immediately by writing, notify of his disbarment all current and past clients, all persons or their agents or guardians to whom a fiduciary duty is or may be owed at any time after his disbarment, and 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; and

5. immediately advise the Pennsylvania Liquor Control Board, in writing, that he has been enjoined from representing individuals and entities before the Pennsylvania Liquor Control Board and its agencies and provide a copy of letter to Petitioner.

