

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2257 Disciplinary Docket No. 3
: :
Petitioner : No. 31 DB 2016
: :
v. : Attorney Registration No. 65315
: :
JOHN PHILIP BOILEAU : (Clinton County)
: :
Respondent :

ORDER

PER CURIAM

AND NOW, this 8th day of April, 2016, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board, the Joint Petition in Support of Discipline on Consent is granted, and John Philip Boileau is suspended on consent from the Bar of this Commonwealth for a period of five years. He shall comply with all the provisions of Pa.R.D.E. 217.

A True Copy Patricia Nicola
As Of 4/8/2016

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

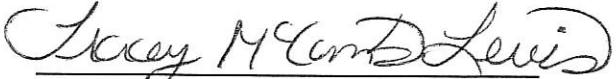
OFFICE OF DISCIPLINARY COUNSEL : No. 31 DB 2016
Petitioner :
v. : Attorney Registration No. 65315
JOHN PHILIP BOILEAU :
Respondent : (Clinton County)

RECOMMENDATION OF THREE-MEMBER PANEL
OF THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

The Three-Member Panel of the Disciplinary Board of the Supreme Court of Pennsylvania, consisting of Board Members Tracey McCants Lewis, John F. Cordisco, and Howell K. Rosenberg, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on February 18 2016.

The Panel approves the Joint Petition consenting to a five year suspension and recommends to the Supreme Court of Pennsylvania that the attached Petition be Granted.

The Panel further recommends that any necessary expenses incurred in the investigation and prosecution of this matter shall be paid by the respondent-attorney as a condition to the grant of the Petition.


Tracey McCants Lewis, Panel Chair
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date: 3/16/2016

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,
Petitioner,

v.

JOHN PHILIP BOILEAU,
Respondent

No. 31 DB 2016

Attorney Reg. No. 65315

(Clinton County)

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

Petitioner, Office of Disciplinary Counsel, by Paul J. Killion, Chief Disciplinary Counsel, and Kristin A. Wells, Disciplinary Counsel, and Respondent, John Phillip Boileau, file this Joint Petition In Support of Discipline on Consent under Rule 215(d) of the Pennsylvania Rules of Disciplinary Enforcement (hereinafter "Pa.R.D.E.") and respectfully state and aver the following:

1. Petitioner, whose principal office is located at the Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62485, Harrisburg, PA 17106, is invested, pursuant to Pa.R.D.E. 207, 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.

FILED

FEB 18 2016

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

2. Respondent, John Philip Boileau, was born on June 5, 1966, was admitted to practice law in Pennsylvania on November 20, 1992, has a registered public address of 23 Hillspire Drive, Lock Haven, Pennsylvania 17745, and is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent is not represented by counsel.

**SPECIFIC FACTUAL ADMISSIONS AND
RULES OF PROFESSIONAL CONDUCT VIOLATED**

4. Respondent's misconduct involves the conversion of approximately \$40,000, which was to be remitted to his then-firm, Roberts, Miceli & Boileau, LLP (the firm).¹ In or about June 2015, it came to the firm's attention that Respondent may have failed to deposit client funds into the IOLTA account. When Respondent was confronted about this issue, he identified 27 client matters and acknowledged misappropriating in excess of \$40,000.00 of client funds over the past three years that he had a duty to turn over to the firm. In or about early July 2015, Respondent provided the firm with \$1,005.00 as a partial repayment of the converted funds. To date, an agreement has not been reached between Respondent and the firm regarding further repayment.

5. On November 12, 2015, the undersigned counsel sent Respondent a Form DB-7 Request for Statement of Respondent's Position, outlining in detail the conduct summarized above. Respondent submitted a DB-7 Response dated December 20, 2015, wherein he admitted to the allegations and Rule violations contained in the DB-7.

¹ Upon discovery of Respondent's misconduct, he was let go from the firm.

DISCIPLINARY RULE VIOLATIONS

6. Respondent admits to violating the following Rules of Professional Conduct and Rules of Disciplinary Enforcement in this matter:

- a. RPC 1.15(b) A lawyer shall hold all Rule 1.15 Funds and property separate from the lawyer's own property. Such property shall be identified and appropriately safeguarded;
- b. RPC 1.15(d) Upon receiving Rule 1.15 Funds or property which are not Fiduciary Funds or property, a lawyer shall promptly notify the client or third person, consistent with the requirements of applicable law. Notification of receipt of Fiduciary Funds or property to clients or other persons with a beneficial interest in such Fiduciary Funds or property shall continue to be governed by the law, procedure and rules governing the requirements of confidentiality and notice applicable to the Fiduciary entrustment;
- c. RPC 1.15(e) [A] lawyer shall promptly deliver to the client or third person any property, including but not limited to Rule 1.15 Funds, that the client or third person is entitled to receive;
- d. RPC 8.4(c) It is professional misconduct for a lawyer to ... engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

SPECIFIC JOINT RECOMMENDATIONS FOR DISCIPLINE

7. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent is a five-year Suspension. Respondent hereby consents to the discipline being imposed upon him by the Supreme Court of Pennsylvania. Attached to this Petition is Respondent's executed Affidavit required by Pa.R.D.E. 215(d), stating that he consents to the recommended discipline and including the mandatory acknowledgements contained in Pa.R.D.E. 215(d)(1) through (4).

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

- a. The mitigating circumstances are that:
 - i. Respondent has been practicing law for 23 years and has no prior disciplinary history;
 - ii. In his DB-7 Response, Respondent admitted that he engaged in misconduct and violated the above Rules of Professional Conduct by converting the trust funds;
 - iii. Respondent is remorseful for his conduct and understands he should be disciplined, as evidenced by his consent to receiving a five-year Suspension.

9. Discipline for misconduct arising from allegations of trust fund conversion ranges from three years, *see Office of Disciplinary Counsel v. Michael*, 1370 DD No. 3 (2008), to disbarment. *See, e.g., Office of Disciplinary Counsel v. Keller*, 506 A.2d 872 (Pa. 1986).

10. The parties respectfully submit that a five-year suspension, given the facts of the instant matter, is consistent with the above cited disciplinary authority.

WHEREFORE, Petitioner and Respondent respectfully request that:

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

that the Disciplinary Board of the Supreme Court of Pennsylvania enter an Order Suspending Respondent for Five Years for the conduct set forth herein.

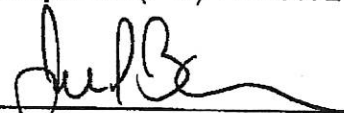
Respectfully submitted,

Date: 16 February 2016

By: 

Kristin A. Wells
Disciplinary Counsel
Attorney Registration No. 312080
601 Commonwealth Avenue, Suite 5800
P.O. Box 62675
Harrisburg, PA 17106-2675
Telephone (717) 772-8572

Date: 2-5-16

By: 

John Philip Boileau
Respondent
Attorney Registration No. 65315
23 Hillspire Drive
Lock Haven, PA 17745
Telephone (570)660-7759

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

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v.

JOHN PHILIP BOILEAU,
Respondent

No. ___ DB ___

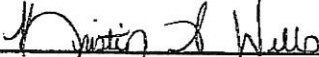
Attorney Reg. No. 65315

(Clinton County)

VERIFICATION

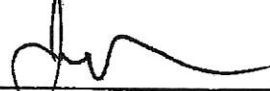
The statements made in the foregoing Joint Petition in Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d) are true and correct to the best of my knowledge, information, and belief. This statement is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 16 February 2016

By: 

Kristin A. Wells
Disciplinary Counsel
Attorney Registration No. 312080
601 Commonwealth Avenue, Suite 5800
P.O. Box 62675
Harrisburg, PA 17106-2675
Telephone (717) 772-8572

Date: 2-5-16

By: 

John Philip Boileau
Respondent
Attorney Registration No. 65315
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Lock Haven, PA 17745
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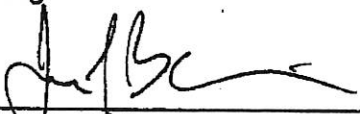
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	:	
v.	:	Attorney Reg. No. 65315
	:	
JOHN PHILIP BOILEAU,	:	(Clinton County)
Respondent	:	
	:	

RESPONDENT'S AFFIDAVIT UNDER RULE 215(d) OF THE
PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

I, John P. Boileau, Respondent in the above-captioned matter, hereby consent to the imposition of a five-year Suspension, as jointly recommended by the Petitioner, Office of Disciplinary Counsel, and myself, in a Joint Petition in Support of Discipline on Consent and further state:

1. My consent is freely and voluntarily rendered; I am not being subjected to coercion or duress; I am fully aware of the implications of submitting the consent;
2. I am aware there is presently pending a proceeding involving allegations that I have been guilty of misconduct as set forth in the Joint Petition;
3. I acknowledge that the material facts set forth in the Joint Petition are true;
4. I consent because I know that if the charges continued to be prosecuted in the pending proceeding, I could not successfully defend against them; and

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

By:  _____

John Philip Boileau
Respondent
Attorney Registration No. 65315
23 Hillspire Drive
Lock Haven, PA 17745
Telephone (570)660-7759

BEFORE THE DISCIPLINARY BOARD OF THE
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:
:

No. ___ DB ___

Attorney Reg. No. 65315

(Clinton County)

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of Pa.R.A.P. 121.

First Class Mail and electronic mail as follows:

John P. Boileau
23 Hillspire Drive
Lock Haven, PA 17745

johnboileau23@gmail.com

Date: 16 February 2016

By: Kristin A. Wells
Kristin A. Wells
Disciplinary Counsel
Attorney Registration No. 312080
601 Commonwealth Avenue, Suite 5800
P.O. Box 62675
Harrisburg, PA 17106-2675
Telephone (717) 772-8572