

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2582 Disciplinary Docket No. 3
: :
Petitioner : No. 33 DB 2019
: :
v. : Attorney Registration No. 74862
: :
CATHERINE ANN MULDOON, : (Philadelphia)
: :
Respondent :

ORDER

PER CURIAM

AND NOW, this 22nd day of March, 2019, 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 Catherine Ann Muldoon is suspended on consent from the Bar of this Commonwealth for a period of six months. She shall comply with all the provisions of Pa.R.D.E. 217, and shall pay costs to the Disciplinary Board pursuant to Pa.R.D.E. 208(g).

A True Copy Patricia Nicola
As Of 03/22/2019

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. DB 2019
Petitioner :
: Board File No. C1-18-941
v. :
: Atty. Reg. No. 74862
CATHERINE A. MULDOON, :
Respondent : (Philadelphia County)

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

Petitioner, Office of Disciplinary Counsel ("ODC"), by Paul J. Killion, Chief Disciplinary Counsel, and Mark F. Gilson, Disciplinary Counsel, and Respondent, Catherine Ann Muldoon, Esquire, and Samuel C. Stretton, Esquire, file this Joint Petition In Support of Discipline on Consent under Pennsylvania Rule of Disciplinary Enforcement ("Pa.R.D.E.") 215(d), and respectfully represent that:

I. PARTIES TO DISCIPLINE ON CONSENT

1. ODC, whose principal office is located at PA Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62625, Harrisburg, PA 17106-2625, is invested pursuant to Pa.R.D.E. 207, with the power and 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 said Rules of Disciplinary Enforcement.

2. Respondent, Catherine Ann Muldoon, was born in 1967 and

FILED 02/19/2019 The Disciplinary Board of the Supreme Court of Pennsylvania

admitted to practice law in the Commonwealth on December 19, 1994.

3. Respondent's attorney registration address is BDP International, Inc., 510 Walnut Street, 13th Floor, Philadelphia, PA 19106.

4. On March 10, 2015, the Pennsylvania Supreme Court entered an Order placing Respondent on administrative suspension effective April 9, 2015, for failing to comply with her continuing legal education ("CLE") requirements.

5. Respondent remains administratively suspended.

6. Pursuant to Pa.R.D.E. 201(a)(1), Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

II. FACTUAL ADMISSIONS AND VIOLATIONS OF RULES OF PROFESSIONAL CONDUCT

7. At all times relevant to this Joint Petition, Respondent has been employed as chief legal officer at BDP International, Inc. ("BDP"), 510 Walnut Street, 13th Floor, Philadelphia, PA 19106.

8. By Order dated March 10, 2015, effective April 9, 2015, the Supreme Court of Pennsylvania administratively suspended Respondent from the practice of law in this Commonwealth pursuant to Pa. R.C.L.E. 111(b).

9. By letter dated March 10, 2015, mailed to Respondent's registered office, BDP International, Inc., 510 Walnut Street, 13th

Floor, Philadelphia, PA 19106, Attorney Registrar Suzanne E. Price notified Respondent of the March 10, 2015 Order, and that Respondent would be transferred to administrative suspension status effective On April 9, 2015, for her failure to comply with the Pennsylvania Rules for Continuing Legal Education.

10. Ms. Price's letter further advised Respondent of her requirement to comply with Rule 217, Pa.R.D.E.

11. Respondent did not give notice of her administrative suspension to her employer or anyone else. She also did not file a statement of compliance.

12. During the period of Respondent's status as administratively suspended, Respondent paid no annual attorney registration fees.

13. Respondent did, however, continue to take continuing legal education courses, mostly while attending out-of-state seminars, but Respondent failed to take the appropriate steps to ensure that her CLE credits were properly forwarded to the Pennsylvania Continuing Legal Education Board.

14. Although Respondent does not dispute that the materials Attorney Registration directed to her were received at her registered address, Respondent does not recall receiving or reviewing them, and claims to have been unaware of them resulting in her failure to comply with the requirements of Rule 217.

- a. According to Respondent, she routinely relied on her paralegal, Ms. Candice Colon, to handle and electronically file all matters relating to her CLE reporting requirements and annual attorney license renewal.
- b. During the relevant time period, Ms. Colon developed a serious illness that may have negatively impacted her ability to perform her job-related duties.

15. While a formerly admitted attorney, Respondent engaged in the unauthorized practice of law and engaged in law-related activity in her role as chief legal officer at BDP from April 9, 2015, until on or about November 2018, when Respondent's role at BDP became administrative.

16. Respondent's unauthorized practice of law and improper law-related activity included her work in supporting strategic transactions, such as legal and contractual considerations associated with mergers, acquisitions, joint ventures, business partner arrangements, tax planning, intellectual property, banking relations, real estate, corporate structuring and strategy, and managing litigation for BDP.

17. If the matter went to a hearing, Respondent would testify that she learned of her status as administratively suspended from a co-worker sometime in September 2018, and

immediately took additional CLE classes electronically in an effort to become compliant.

18. On October 19, 2018, Respondent filed a Petition for Reinstatement from Administrative Suspension with the Disciplinary Board of the Supreme Court of Pennsylvania. Respondent voluntarily disclosed in her Petition and Special Reinstatement Questionnaire that she was employed as chief legal officer for BDP and was engaged in the practice of law and law-related activities.

19. After retaining counsel and upon counsel's advice, Respondent withdrew her petition for reinstatement to address questions ODC raised about Respondent's compliance with Pennsylvania Rule of Professional Conduct 5.5 and Rule of Disciplinary Enforcement 217. Respondent anticipates filing a new petition for reinstatement from administrative suspension after this disciplinary matter concludes upon an entry of an Order of the Pennsylvania Supreme Court on certification of the Disciplinary Board that Respondent has complied with the applicable requirements to be returned to administrative suspension. See Pa.R.D.E. 218(g)(2).

20. Since becoming aware of her disciplinary rule violation, Respondent immediately attempted to resolve all compliance issues, and further sought the advice of counsel. Respondent rescinded her title with BDP, and has focused on the business aspects of the corporation.

21. Respondent accepts full responsibility for her disregard of the Pennsylvania licensing requirements, including her failure to comply with her continuing legal education requirements and pay her annual attorney registration fee.

22. Through counsel, Respondent has expressed remorse for her disregard of attorney licensing requirements in Pennsylvania.

23. By her conduct as alleged in paragraphs 7 through 22 above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 5.5(a), prohibiting a lawyer from practicing law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction;
- b. RPC 5.5(b)(1), prohibiting a lawyer who is not admitted to practice in this jurisdiction to establish an office or other systemic or continuous presence in this jurisdiction for the practice of law;
- c. RPC 5.5(b)(2), prohibiting a lawyer who is not permitted to practice in this jurisdiction from holding herself out to the public or otherwise representing that the lawyer is admitted to practice law in this jurisdiction;
- d. Pa.R.D.E. 217(j)(4), prohibiting a formerly admitted attorney from engaging in any law-related activities

in this Commonwealth except in accordance with the requirements set forth within the Rule.

III. JOINT RECOMMENDATION FOR DISCIPLINE

24. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a six month suspension from the practice of law.

25. Respondent consents to the discipline being imposed upon her by the Supreme Court of Pennsylvania. Respondent's executed Affidavit required by Pa.R.D.E. 215(d), stating that she consents to the recommended discipline is attached as Exhibit A.

26. Respondent and ODC respectfully submit that there are the following mitigating factors:

- a. Respondent has admitted to engaging in and expressed remorse for her misconduct;
- b. Respondent has cooperated with the Petitioner by entering into this Joint Petition to receive a six month suspension; and
- c. Respondent has no prior history of discipline.

27. In Pennsylvania, there is no *per se* discipline for a particular type of misconduct; instead, each case is reviewed individually while being mindful of precedent and the need for consistency. *Office of Disciplinary Counsel v. Lucarini*, 472 A.2d 186, 190 (Pa. 1983).

28. The imposition of a six month suspension is consistent with the range of sanctions imposed in similar cases involving the unauthorized practice of law or law-related activities by in-house counsel while on inactive or administrative suspension status:

- a. In *Office of Disciplinary Counsel v. Vassallo*, No. 2511 DD No. 3, No. 45 DB 2018 (2018) the Pennsylvania Supreme Court granted a joint petition on consent and imposed a six month suspension to address respondent's unauthorized practice of law for a period of two years during which respondent acted as in-house counsel, title agent and president of his title company;
- b. In *Office of Disciplinary Counsel v. Pellegrino*, No. 2409 DD No. 3, No. 130 DB 2017 (2017) the Pennsylvania Supreme Court granted a joint petition for discipline on consent and imposed a six month suspension to address respondent's unauthorized practice of law and law-related activities in Pennsylvania in her role as vice president/senior counsel for Hartford Funds Management Company, LLC from December 2012 through March 2017;
- c. In *Office of Disciplinary Counsel v. McCarthy Clark*, No. 2315 DD No. 3, No. 132 DB 2016 (2016) the Pennsylvania Supreme Court granted a joint petition for discipline on consent and imposed a six month

suspension where respondent engaged in unauthorized practice of law in her roles as in-house counsel at three successive companies for a period of approximately four years;

- d. In *Office of Disciplinary Counsel v. D'Oyley*, No. 2107 DD No. 3, No: 137 DB 2014 (2014) the Pennsylvania Supreme Court granted a joint petition for discipline on consent and imposed a six month suspension to address respondent's unauthorized practice of law and law-related activity while working in Pennsylvania in her roles as assistant general counsel and associate general counsel for a pharmaceutical company from May 2009 through April, 2014; and
- e. In *Office of Disciplinary Counsel v. Moore*, No. 1486 DD No. 3, No. 32 DB 2009 (2009) the Pennsylvania Supreme Court granted a joint petition on consent and imposed a six month suspension to address respondent's unauthorized practice of law for a period of one year during which respondent acted as general counsel for a Pennsylvania company.

WHEREFORE, Petitioner and Respondent respectfully request that:

- a. Pursuant to Pa.R.D.E. 215(e) and 215(g), the three-member panel of the Disciplinary Board review and


approve the Joint Petition in Support of Discipline on Consent and enter an Order that Respondent receive a suspension of six months; and

- b. Pursuant to Pa.R.D.E. 215(i), the three-member panel of the Disciplinary Board enter the Order for Respondent to pay the necessary expenses incurred in the investigation and prosecution of this matter, and that under Pa.R.D.E. 208(g)(1), all expenses be paid by Respondent within 30 days after notice transmitted to the Respondent of taxed expenses.


Respectfully and jointly submitted,
OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION
CHIEF DISCIPLINARY COUNSEL

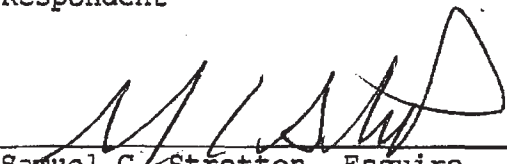
2/19/19
Date

By 
Mark F. Gilson
Disciplinary Counsel

2/18/19
Date

By 
Catherine Ann Muldoon, Esquire
Respondent

2/18/19
Date.

By 
Samuel C. Stretton, Esquire
Attorney for Respondent


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CATHERINE A. MULDOON, :
Respondent : (Philadelphia County)

VERIFICATION

The statements contained in the foregoing Joint Petition In Support Of Discipline on Consent under Pa.R.D.E. 215(d) are true and correct to the best of our knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

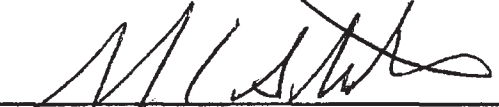
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Mark F. Gilson
Disciplinary Counsel

2/18/19
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Catherine Ann Muldoon, Esquire
Respondent

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Samuel C. Stretton, Esquire
Counsel for Respondent

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AFFIDAVIT UNDER RULE 215(d), Pa.R.D.E.

Respondent, Catherine Ann Muldoon, being duly sworn according to law, hereby states that she consents to the imposition of a six month suspension in conformity with Pa.R.D.E. 215(d), and further states that:

1. Her consent is freely and voluntarily rendered; she is not being subjected to coercion or duress; she is fully aware of the implications of submitting the Joint Petition In Support Of Discipline on Consent; and she has consulted with Samuel C. Stretton, Esquire, in connection with her decision to consent to discipline;

2. She is aware that there is presently pending an investigation involving allegations that she has been guilty of misconduct as set forth in the Joint Petition In Support Of Discipline on Consent pursuant to Pa.D.R.E. 215(d), to which this affidavit is attached;

3. She acknowledges that the material facts set forth in the Joint Petition are true; and

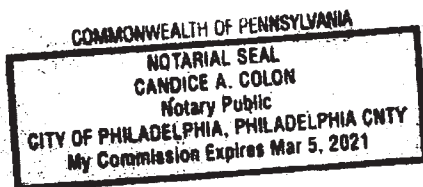
4. She submits this affidavit because she knows that if the charges predicated upon the matter under investigation were filed, or continued to be prosecuted in the pending proceeding, she could not successfully defend against them.


Catherine Ann Muldoon, Esquire
Respondent

Sworn to and subscribed

before me this 13th
day of February, 2019.


Notary Public



CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Office of Disciplinary Counsel

Signature:  _____

Name: Mark F. Gilson, Disciplinary Counsel

Attorney No.: 46400