

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL : No. 37 DB 2019
Petitioner :
v. : Attorney Registration No. 75307
PAUL CHRISTOPHER DOUGHERTY :
Respondent : (Out of State)

ORDER

AND NOW, this 19th day of February, 2021, in accordance with Rule 215(g), Pa.R.D.E., the three-member Panel of the Disciplinary Board having reviewed and approved the Joint Petition in Support of Discipline on Consent filed in the above captioned matter; it is

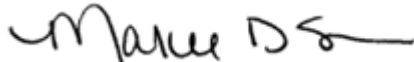
ORDERED that PAUL CHRISTOPHER DOUGHERTY be subjected to a **PUBLIC REPRIMAND** by the Disciplinary Board of the Supreme Court of Pennsylvania as provided in Rule 204(a) and Rule 205(c)(9) of the Pennsylvania Rules of Disciplinary Enforcement.

BY THE BOARD:



Board Chair

TRUE COPY FROM RECORD
Attest:



Marcee D. Sloan
Board Prothonotary
The Disciplinary Board of the
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2584 Disciplinary Docket
Petitioner : No. 3
:
v. : No. 37 DB 2019
:
: Board File No. C1-18-878
:
: Attorney Reg. No. 75307
PAUL CHRISTOPHER DOUGHERTY, :
Respondent : (Out of State)

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

Petitioner, the Office of Disciplinary Counsel ("ODC"), by Thomas Farrell, Chief Disciplinary Counsel and Mark Gilson, Disciplinary Counsel, and Respondent, Paul Christopher Dougherty, Esquire ("Respondent"), by his counsel, Richard Q. Hark, Esquire, respectfully petition the Disciplinary Board in support of discipline on consent, pursuant to Pennsylvania Rule of Disciplinary Enforcement ("Pa.R.D.E.") 215(d), and in support thereof state:

PARTIES TO DISCIPLINE ON CONSENT

1. Pursuant to Pa.R.D.E. 207, ODC, whose principal office is situated at Office of Chief Disciplinary Counsel, Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, Pennsylvania, 17106, is invested with the power

FILED

02/10/2021

The Disciplinary Board of the
Supreme Court of Pennsylvania

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 provisions of the Enforcement Rules.

2. Respondent was born on March 30, 1969, is currently 51 years old, and was admitted to the Bar of the Commonwealth of Pennsylvania on January 25, 1995. Respondent is in active status in Pennsylvania, and his last registered address is 115 Black Horse Pike, Haddon Heights, New Jersey 08035.

3. Respondent was also admitted to the Bar of the State of New Jersey on December 20, 1994, and is in active status in that state.

4. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

5. Respondent has no prior record of discipline.

SPECIFIC FACTUAL ALLEGATIONS ADMITTED

6. Respondent's affidavit stating, *inter alia*, his consent to the recommended discipline is attached as Exhibit A.

Respondent's New Jersey Conviction

7. At all times relevant hereto, Respondent was a public official in the State of New Jersey serving as a Commissioner on the Haddon Township Board of Commissions.

8. Between May 1, 2013 and July 31, 2018, Respondent, while acting in his official position as an elected Haddon Township Commissioner and in violation of his duty as a public servant, conferred an unlawful benefit upon himself when he received and accepted a referral fee in the amount of \$7,106 from a trial attorney to whom Respondent referred a Township employee for the purpose of pursuing a lawsuit against the Township.

9. When notified of an investigation into his conduct by the New Jersey Attorney General's Office, Respondent returned the referral fee and resigned his position.

10. On October 17, 2018, Respondent waived indictment and trial by jury, and agreed to be tried on Accusation filed by the New Jersey Attorney General's Office charging him with one count of third-degree Conspiracy to Confer an Unlawful Benefit to a Public Servant in violation of N.J.S.A. 2C:5-2A(1) and N.J.S.A. 2C:27-11b. The offense is punishable by imprisonment for up to five years, and a fine of up to \$15,000. The matter was captioned: *State of New Jersey v. Paul Dougherty*, Accusation No. 18-10-2467-A, and filed in the Superior Court of New Jersey, County of Camden, Criminal Law Division.

11. The offense of conspiracy to confer an unlawful benefit to a public servant prohibits an individual from entering into an agreement with another person to engage in conduct that directly

or indirectly confers a benefit not allowed by law on a public servant.

12. Pennsylvania's Crimes Code does not contain a crime substantially similar to the New Jersey statute under which Respondent was charged.

13. On October 17, 2018, Respondent, pled guilty and was convicted of one count of third-degree Conspiracy to Confer an Unlawful Benefit to a Public Servant in violation of N.J.S.A. 2C:5-2(A)(1) and N.J.S.A. 2C:27-11b.

14. On February 15, 2019, the Honorable Judge Edward J. McBride sentenced Respondent to two years of non-custodial probation.

15. As conditions of probation, Judge McBride further required Respondent be disqualified from holding public office; surrender firearms purchaser ID card within five days; undergo substance abuse evaluation, treatment and drug monitoring; provide a DNA sample; pay \$155.00 in fees and penalties; and waive the right to appeal.

16. Respondent reported his conviction to the New Jersey Office of Attorney Ethics ("OAE"); however, he did not report his conviction to ODC as required under Pa.R.D.E. 214(a).

17. On March 5, 2019, ODC filed a Certificate of Conviction pursuant to Pa.R.D.E. 214(c) with the Pennsylvania Supreme Court.

ODC did not request the Court issue a Rule to Show Cause upon Respondent.

18. By Order dated March 15, 2019, the Court, *sua sponte*, issued a Rule upon Respondent to show cause why he should not be placed on temporary suspension.

19. On March 25, 2019, Respondent filed an Answer to the Rule.

20. On March 27, 2019, ODC filed a response to the Rule stating its position that given the circumstances of Respondent's conviction a temporary suspension was not necessary.

21. By Order dated April 5, 2019, the Court discharged the Rule to Show Cause.

Respondent's New Jersey Disciplinary Proceedings

22. On the basis of Respondent's guilty plea and criminal conviction, OAE filed a motion for final discipline with the New Jersey Disciplinary Review Board ("DRB").

23. By Decision dated December 12, 2019, the DRB granted the motion and recommended Respondent receive a public reprimand based on his guilty plea and criminal conviction. *In the Matter of Paul Dougherty*, Docket No. DRB 19-169, District Docket No. XIV-2018-0568E.

24. By Order dated May 8, 2020, the New Jersey Supreme Court accepted the DRB's recommendation, and ordered Respondent be

publicly reprimanded. The Court further ordered the record of the matter be made a permanent part of Respondent's file as an attorney at law in the State of New Jersey, and that he reimburse costs and expenses of prosecution. *In re Dougherty*, 241 N.J. 521, D-62 September Term 2019 083794 (N.J. 2020).¹

SPECIFIC RULE OF DISCIPLINARY ENFORCEMENT VIOLATED

25. Respondent violated Pa.R.D.E. 203(b)(1) which provides that conviction of a crime is grounds for discipline, and Pa.R.D.E. 214(a) which requires Respondent to report his conviction to ODC within 20 days.

JOINT RECOMMENDATION FOR DISCIPLINE

26. ODC and Respondent jointly request that Respondent receive a public reprimand before the Disciplinary Board.

27. Respondent hereby consents to the discipline being imposed upon him by the Disciplinary Board of the Supreme Court of Pennsylvania. Attached to this Petition as Exhibit A is Respondent's executed Affidavit required by Pa.R.D.E. 215(d)(1) through (4).

28. Respondent's lack of prior discipline, cooperation with Petitioner as well as New Jersey law enforcement and disciplinary authorities, acceptance of responsibility for his actions as

¹Reciprocal discipline is not available in this matter based on Pa.R.D.E. 216.

evidenced by his return of the referral fee, resignation of public office, and guilty plea to the criminal offense, make Respondent a suitable candidate for public discipline in the form of a Public Reprimand. Although Respondent was convicted of a crime committed in his capacity as a public official, a public reprimand is appropriate in this instance due to the lack of evidence to suggest Respondent sought to use or exploit his position in order to gain a personal benefit for himself. As the DRB noted in its decision, it was not clear from the facts "whether respondent made the referral to the employee as an attorney who happened to be a commissioner, or whether he made the referral as a commissioner who happened to be an attorney. Simply stated, the record does not establish respondent's motive or mens rea." Under these circumstances, discipline in the form of a public reprimand will adequately address Respondent's breach of the public confidence and trust, while at the same time take into consideration the unique circumstances of the conviction.

29. The New Jersey Supreme Court and state disciplinary authorities, following disciplinary proceedings and thoughtful analysis and review of Respondent's criminal conviction based on the exact, same underlying misconduct, decided Respondent should receive a public reprimand. *In re Dougherty*, 241 N.J. 541, Docket No. DRB 19-169 (2020). If for no other reason than to ensure

consistency in results and maintain public confidence and faith in the disciplinary process, similar discipline should be imposed upon Respondent in Pennsylvania. Additionally, no additional aggravating or mitigating factors exist to justify or support lesser or greater discipline in this matter.

30. Respondent's misconduct involved a criminal conviction for behavior that occurred while he was acting in his capacity as a public official. As such, public discipline is certainly justified and appropriate; however, in a well-reasoned decision New Jersey authorities decided against imposing greater discipline in the form of a suspension due to the unique facts and circumstances of Respondent's case. In determining the appropriate measure of discipline to be imposed on Respondent, the DRB surveyed New Jersey disciplinary cases where attorneys, acting as public servants, engaged in conduct that benefitted them personally. While noting a line of cases involving lawyers who engaged in public corruption based on violations of New Jersey state statutes typically resulted in suspension or disbarment, the DRB distinguished those cases based on the lack of evidence in Respondent's case that it was his goal to leverage his position as a public official to seek or obtain a personal benefit, or that Respondent used his position as commissioner to seek or obtain the

referral fee.² While acknowledging that Respondent, "[t]o be sure, [] should not have referred the employee to any attorney, and certainly should not have accepted the resulting referral fee," the DRB determined that under the unique circumstances of his case, Respondent's misconduct was not so serious or egregious as to warrant more severe discipline.³

31. Based on the circumstances presented, and precedent provided by discipline imposed on Respondent in New Jersey for the same underlying misconduct, it is jointly recommended to the Disciplinary Board that Respondent receive a Public Reprimand.

WHEREFORE, Petitioner and Respondent respectfully request, pursuant to Pennsylvania Rules of Disciplinary Enforcement 215(e) and 215(g), that a three member panel of the Disciplinary Board

²The DRB noted: "If respondent's actions had taken place within a law firm, instead of in the context of a public office, he would not be guilty of any RPC violation."

³Pennsylvania cases similarly treat serious misconduct committed by a lawyer in their role as a public official as an aggravating factor in considering the type of discipline to be imposed. See *Office of Disciplinary Counsel v. Joshua Eilberg*, 441 A.2d 1193 (Pa. 1982) (5 year suspension where respondent/congressman received compensation for representation of client by his law firm in violation of federal law); see also *Office of Disciplinary Counsel v. Charles J. Aliano*, No. 25 DB 2003, D.Bd. Rpt. 8/31/05 (S.Ct. Order 12/1/05) (discipline less than a suspension may be appropriate even where respondent held public office—public censure imposed on prosecutor who abused public office to benefit a private client).

review and approve the Joint Petition in Support of Discipline on Consent and Order that Respondent receive a public reprimand.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

THOMAS FARRELL
Attorney Registration Number 48976
Chief Disciplinary Counsel

2/9/21

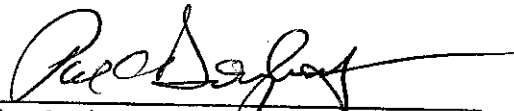
DATE



Mark F. Gilson
Disciplinary Counsel
Attorney Registration Number 46400
Office of Disciplinary Counsel
District I Office
1601 Market Street
Philadelphia, PA 19103
(215) 560-6296

1/28/2021


DATE



Paul Christopher Dougherty, Esquire
Respondent
Attorney Registration Number 75307

2/4/21

DATE

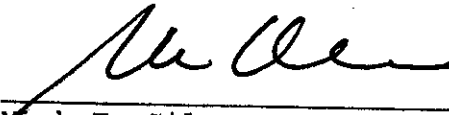


Richard Q. Hark, Esquire
Counsel for Respondent
Attorney Registration Number 65926

VERIFICATION


The statements contained in the foregoing *Joint Petition In Support of Discipline on Consent Discipline* are true and correct to the best of my knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.

2/9/21
DATE




Mark F. Gilson, Esquire
Disciplinary Counsel

1/28/2021
DATE



Paul Christopher Dougherty, Esquire
Respondent

2/4/21
DATE



Richard Q. Hark, Esquire
Counsel for Respondent

EXHIBIT A

BEFORE THE DISCIPLINARY BOARD OF THE
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OFFICE OF DISCIPLINARY COUNSEL, : No. 2584 Disciplinary Docket
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: Board File No. C1-18-878
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PAUL CHRISTOPHER DOUGHERTY, : Attorney Reg. No. 75307
Respondent : (Out of State)

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

PAUL CHRISTOPHER DOUGHERTY, being duly sworn according to law, deposes and submits this affidavit consenting to the recommendation of a public reprimand in conformity with Pa.R.D.E. 215(d), and further states as follows:

1. He is an attorney admitted to the Bar of the Commonwealth of Pennsylvania on or about January 25, 1995.
2. He desires to submit a Joint Petition in Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d).
3. His consent is freely and voluntarily rendered; he is not being subjected to coercion or duress, and he is fully aware of the implications of submitting this affidavit.
4. He is aware that there is presently pending a proceeding regarding allegations that he has been guilty of misconduct as set forth in the Joint Petition in Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d) to which this affidavit is attached.

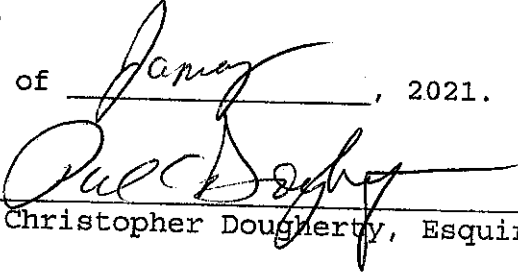
5. He acknowledges that the material facts set forth in the Joint Petition are true.

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

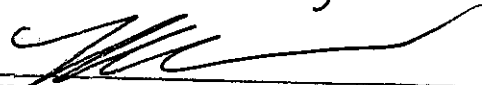
7. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant proceeding. He has retained, consulted, and acted upon the advice of Richard Q. Hark, Esquire, in connection with his decision to execute the Joint Petition.

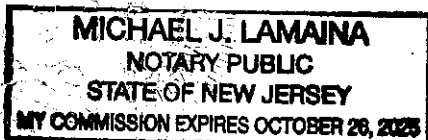
It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S.A. §4904 (relating to unsworn falsification to authorities).

Signed this 28 day of January, 2021.


Paul Christopher Dougherty, Esquire

Sworn to and subscribed
Before me on this 28th
day of January, 2021


Notary Public



BEFORE THE DISCIPLINARY BOARD OF THE
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CERTIFICATE OF SERVICE

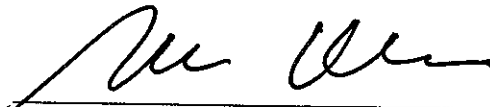
I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 204 Pa. Code §89.22 (relating to service by a participant).

First Class Mail and Email, as follows:

Paul Christopher Dougherty, Esquire
c/o Richard Q. Hark, Esquire
1835 Market Street, Suite 2626
Philadelphia, PA 19103
richard.hark@penncriminaldefense.com

Dated:

2/10/21


MARK F. GILSON
Disciplinary Counsel
Office of Disciplinary Counsel
District I Office
1601 Market Street
Philadelphia, PA 19103
(215) 560-6296

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