

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2254 Disciplinary Docket No. 3
: :
Petitioner : No. 38 DB 2016
: :
v. : Attorney Registration No. 60211
: :
THOMAS H. SPERANZA, : (Philadelphia)
: :
Respondent

ORDER

PER CURIAM

AND NOW, this 24th day of May, 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 Thomas H. Speranza is suspended on consent from the Bar of this Commonwealth for a period of three years, retroactive to March 17, 2016. Respondent shall comply with all the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board. See Pa.R.D.E. 208(g).

A True Copy Patricia Nicola
As Of 05/24/2019

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2254 Disciplinary
Petitioner : Docket No. 3
:
: No. 38 DB 2016
v. :
:
: Atty. Reg. No. 60211
THOMAS H. SPERANZA, :
Respondent : (Philadelphia)

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 Gloria Randall Ammons, Disciplinary Counsel, and by Respondent, Thomas H. Speranza, and Samuel C. Stretton, Esquire, Counsel for Respondent, file this Joint Petition In Support of Discipline on Consent under Pennsylvania Rule of Disciplinary Enforcement (Pa.R.D.E.) 215(d) ("Joint Petition"), and respectfully represent that:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, Pennsylvania, 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

FILED
04/02/2019
The Disciplinary Board of the
Supreme Court of Pennsylvania

brought in accordance with the various provisions of said Rules of Disciplinary Enforcement.

2. Respondent, Thomas H. Speranza, was born on April 3, 1965, and was admitted to practice law in the Commonwealth on December 14, 1990. His current residence address is 1030 E. Lancaster Avenue, Apt. 617, Bryn Mawr, PA 19010.

3. By Order dated March 17, 2016, Respondent was placed on temporary suspension as requested by a joint petition filed by Petitioner and Respondent. A copy of the Order is attached hereto as Exhibit A.

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

SPECIFIC FACTUAL ADMISSIONS AND RULES VIOLATED

5. Respondent stipulates that the following factual allegations contained within the Joint Petition are true and correct, and stipulates that he has violated the Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement set forth in ¶ 27, *infra*.

6. In or about 1999, Respondent was a partner with Kleinbard Bell & Brecker (later Kleinbard LLC) ("the Firm").

7. In 1999, Respondent represented Retail Investment Concepts ("RIC").

- a. An investment group purchased securities, which gave the investment group controlling interest in RIC.
- b. RIC agreed to reimburse the investment group for legal fees.
- c. The Firm, acting as the escrow agent, deposited \$10,000 received from RIC into its PNC Bank escrow account.
- d. After closing, RIC reimbursed the investment group for legal fees.
- e. The original deposit of \$10,000 remained in the firm's escrow account.
- f. Respondent failed to return the funds to RIC.

8. In August 2011, a Firm's paralegal raised a concern to Respondent about the PNC escrow account, which contained RIC's escrowed \$10,000, and inquired about what should be done with the funds.

9. In or around August 2011, Respondent created a Delaware LLC, named RAL Partners, LLC ("RAL") and, using his own social security number, opened a checking account at Bank of America in the name of RAL.

10. Thereafter, Respondent notified PNC Bank that the escrow account that contained RIC's escrowed \$10,000 should be revived.

a. The escrow account had been dormant.

b. At that time, the balance in the PNC Bank escrow account was \$20,506.

11. Respondent withdrew the entire balance of \$20,506 from the PNC Bank escrow account and deposited the funds into his Bank of America account.

12. Respondent failed to advise the Firm that he had withdrawn the funds from the PNC escrow account.

13. Respondent was not authorized by the Firm to withdraw the funds from the PNC Bank escrow account.

14. Thereafter, Respondent used the funds for his personal expenses, including a tax payment to the IRS and a payment on Respondent's American Express credit card.

15. Respondent failed to report the funds on his federal income tax returns.

16. In 2012, Respondent closed the Bank of America account and dissolved the Delaware LLC.

17. Between March 2012 and June 2015, Respondent presented to the Firm false expense reports for over seventy items, which included meals, travel, CLE seminars and other miscellaneous expenses, of which he received reimbursement from the Firm in the amount \$11,310.37.

18. In or around 2014, Respondent diverted a \$4,000 client retainer and used the funds for his own personal use.

19. On June 29, 2015, Respondent made an unauthorized charge on the Firm's credit card in the amount of \$333.90 to pay for his internet service.

20. In or around June 2015, the Firm became aware of Respondent's unauthorized use of the Firm's credit card and falsified expense reports.

21. On or about September 1, 2015, Respondent resigned from the Firm.

22. By letter dated September 8, 2015, Respondent, through counsel, self-reported his violations of the Rules of Professional Conduct, including the misuse of law firm funds.

23. On March 3, 2016, Petitioner and Respondent filed with the Supreme Court a Joint Petition for Immediate Temporary Suspension Under Pa.R.D.E. 208(f) with the Supreme Court.

24. By Order dated March 17, 2016, the Supreme Court placed Respondent on temporary suspension.

25. In April 2016, Respondent entered into a confidential Separation Agreement and Release ("Agreement") with the Firm wherein Respondent agreed to make a lump sum payment to the Firm in the amount of \$71,984.90, which breakdown was as follows.

- a. \$69,709.02, which represented the Firm's direct losses and related attorney and accountants' fees; and

b. \$2,282.88, which represented the Firm's contribution to Respondent's 401(k).

26. Thereafter, Respondent forwarded to the Firm a check dated April 22, 2016 in the amount of \$71,984.90, and made payable to the Firm in accordance to the Agreement.

27. By his conduct as alleged in Paragraphs 6 through 26 above, Respondent violated the following Rules:

- a. RPC 1.15(b), which states that 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(e), which states in pertinent part, 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 and, upon request by the client or third person, shall promptly render a full accounting regarding the property; and
- c. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage

in conduct involving dishonesty, fraud, deceit or misrepresentation.

SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

28. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a suspension of three years.

29. Respondent hereby consents to that discipline being imposed upon him. Attached to this Petition is Respondent's executed Affidavit required by Rule 215(d), Pa.R.D.E., stating that he consents to the recommended discipline, including the mandatory acknowledgements contained in Rule 215(d)(1) through (4), Pa.R.D.E.

30. In support of Petitioner and Respondent's joint recommendation, it is respectfully submitted that there are several mitigating circumstances:

- a. Respondent has admitted engaging in misconduct and violating the charged Rules of Professional Conduct;
- b. Respondent has cooperated with Petitioner, as is evidenced by Respondent's admissions herein and Respondent's consent to receiving a suspension of three years; and
- c. Respondent is remorseful for his misconduct and understands he should be disciplined, as

is evidenced by his consent to receiving a suspension of three years.

31. Aside from Respondent's temporary suspension, he does not have any other record of discipline, which may be a mitigating factor.

32. In addition, if this matter were to proceed to a hearing, Respondent would present mitigation evidence, under *Office of Disciplinary Counsel v. Braun*, 520 Pa. 157, 553 A.2d 894 (1989), that he was suffering from [REDACTED] [REDACTED] which were causal factors in his misconduct. (See letters from [REDACTED] attached collectively hereto as "Exhibit B").

33. Although there is no per se rule for discipline in this jurisdiction, a suspension of three years is within the range of discipline imposed on attorneys who have engaged in the misuse of law firm funds and/or resources, and misappropriation of fiduciary funds.

In *Office of Disciplinary Counsel v. Scott Sigman, No. 43 DB 2012*, (S.Ct. Order 2/28/2013), respondent, who had no history of discipline, was suspended on consent for thirty months. Respondent's suspension arose out of four matters where Respondent misappropriated fees and costs belonging to his former law firm; made false statements in a letter; affidavit and deposition; allowed an attorney outside of his

law firm to use the firm's Westlaw password incurring significant charges, and failed to advise his firm that a client's matter had originated with another attorney. Respondent Sigman agreed to reimburse his former firm \$25,468.19.

In *Office of Disciplinary Counsel v. Steven Robert Grayson, No. 95 DB 2007*, (D.Bd. Rpt. 11/14/07) (S.Ct. Order 3/20/2008), Respondent, who had no history of discipline, was suspended on consent for two years for converting over \$35,000 in fees and costs belonging to respondent's former employer over a thirty-three month period. Respondent Grayson cooperated, was remorseful and made restitution to his former employer. Respondent also made restitution to his former employer.

In *Office of Disciplinary Counsel v. Joan Gaughan Atlas, No. 171 DB 2004*, (S.Ct. Order 6/29/2004), Respondent, who had no history of discipline, was suspended for three years for converting approximately \$35,000 in fees belonging to her former law firm, commingling personal funds with fiduciary funds, failing to hold in trust client funds in several matters over a 44 month period, making misrepresentations to her former employer and filing false certifications with the Secretary's office. Although the Board recognized that Respondent achieved and maintained sobriety in her recovery from alcoholism, she was not afforded **Braun** mitigation.

Respondent Speranza's matter is more akin to the *Atlas* matter in that the current matter involves the misappropriation of fiduciary funds as well as the misuse of law firm funds. If the present matter went to a disciplinary hearing, Respondent Speranza intends to proffer evidence that his misconduct occurred while he was suffering from [REDACTED]. However, it is unclear based on the current expert reports whether or not he could meet the *Braun* standard and receive mitigation to lessen the discipline as was the case in the *Atlas* matter. For all of these reasons, having carefully considered the applicable precedent, a three-year suspension is appropriate.

34. Respondent requests that the three-year suspension be made retroactive to the date of his temporary suspension. Petitioner does not have an objection.

Respectfully and jointly submitted,

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION
CHIEF DISCIPLINARY COUNSEL

By Gloria Randall Ammons
Gloria Randall Ammons
Disciplinary Counsel

By Samuel C. Stretton
Samuel C. Stretton, Esquire
Counsel for Respondent

By Thomas H. Speranza
Thomas H. Speranza
Respondent

IN THE SUPREME COURT OF PENNSYLVANIA

IN THE MATTER OF : No. 2254 Disciplinary Docket No. 3
: :
THOMAS HENRY SPERANZA : Attorney Registration No. 60211
: :
: Board File No. C1-15-799 38 DIS 2016
: :
: (Philadelphia)
: :

ORDER

PER CURIAM

AND NOW, this 17th day of March, 2016, the Joint Petition to Temporarily Suspend an Attorney is granted, Thomas Henry Speranza is placed on temporary suspension, see Pa.R.D.E. 208(f), and he shall comply with all the provisions of Pa.R.D.E. 217.

A True Copy Patricia Nicola
As Of 3/17/2016

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

Exhibit B Redacted