

**IN THE SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2458 Disciplinary Docket No. 3
	:	
Petitioner	:	No. 42 DB 2018
	:	
v.	:	Attorney Registration No. 53104
	:	
	:	(Lehigh County)
	:	
DOUGLAS M. MARINOS,	:	
	:	
Respondent	:	

**ORDER**

**PER CURIAM**

**AND NOW**, this 3<sup>rd</sup> day of December, 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 Douglas M. Marinós is suspended on consent from the Bar of this Commonwealth for a period of four years, retroactive to May 3, 2018. 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 12/03/2019

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2458 Disciplinary Docket  
Petitioner : No. 3 - Supreme Court  
: :  
v. : No. 42 DB 2018  
: :  
: Attorney Reg. No. 53104  
DOUGLAS M. MARINOS, :  
Respondent : (Lehigh County)

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

Petitioner, the Office of Disciplinary Counsel (hereinafter, "ODC") by Paul J. Killion, Chief Disciplinary Counsel, and Harold E. Ciampoli, Jr., Disciplinary Counsel and Douglas M. Marinos, (hereinafter "Respondent"), 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:

1. 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, pursuant to Pa.R.D.E. 207,

FILED  
10/23/2019  
The Disciplinary Board of the  
Supreme Court of Pennsylvania

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 the aforesaid Enforcement Rules.

2. Respondent was born on March 8, 1961, and was admitted to practice law in the Commonwealth on November 9, 1988. His Attorney Registration No. is 53104. Respondent's last registered office address is 101 N. Cedar Crest Blvd., Allentown, Pennsylvania 18104-4769. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

3. On March 19, 2018, Petitioner and Respondent filed with the Supreme Court of Pennsylvania a Joint Petition to Temporarily Suspend an Attorney.

4. By Order dated April 3, 2018, effective May 3, 2018, the Supreme Court of Pennsylvania granted the Joint Petition to Temporarily Suspend an Attorney and placed Respondent on temporary suspension.

**SPECIFIC FACTUAL ALLEGATIONS ADMITTED**

**CHARGE**

5. From at least 1995 through January 18, 2018, Respondent was the sole owner, principal and shareholder of the

law firm of Douglas M. Marinos P.C., (the name was later changed to CPMMD, P.C.), and the Law of Business, P.C. (collectively "the Marinos law firm").

6. CPMMD and the Law of Business, P.C. utilized the same office space, employed the same or overlapping employees, and engaged in the practice of law for profit.

7. As the sole owner of the Marinos law firm and the only person with control over the firm's finances, Respondent was personally responsible for ensuring that the firm's federal tax obligations were met and the firm's tax returns were timely filed.

8. In particular, Respondent had a personal duty to collect, truthfully account for, and pay over to the IRS, federal payroll taxes for the firm's employees, including Social Security and Medicare trust fund contributions required under the Federal Insurance Contribution Act ("FICA").

9. Respondent failed to truthfully account for and pay over withheld federal payroll taxes on behalf of the Marinos law firm, as the law required.

10. For sixteen separate quarters in tax years 2011 through 2015, (hereinafter, "the relevant period") the Marinos law firm did not pay over withheld quarterly payroll taxes to the IRS or timely file quarterly Form 941 returns.

11. During this period, Respondent personally and regularly distributed biweekly paystubs and annual W-2 tax forms to the Marinos law firm's employees, which falsely represented that federal payroll taxes (including Social Security and Medicare contributions) were being withheld from the employee's paychecks and paid over to the IRS.

12. Instead of paying the withheld payroll tax funds to the IRS, Respondent used the withheld payroll tax funds to, among other things, satisfy other financial obligations of the Marinos law firm, including paying creditors other than the IRS.

13. During the relevant period, Respondent acted willfully and was repeatedly informed by IRS representatives and others that he was required to pay over withheld payroll taxes and to timely file quarterly Form 941 returns for the Marinos law firm.

14. During the relevant period, Respondent was aware of his legal duty and his failure to timely file tax returns and to pay over withheld taxes was voluntary and intentional.

15. The unpaid tax loss to the federal government resulting from Respondent's misconduct was \$229,548.92. Of that loss figure, \$154,049.36 consisted of employee withholdings not paid over and \$75,494.73 consisted of employer payroll taxes not paid.

16. On November 17, 2017, a criminal information was filed against Respondent in the matter captioned: *United States of America v. Douglas Marinos*, United States District Court for the Eastern District of Pennsylvania, 5:17-cr-00610-JLS-1.

17. On January 18, 2018, Respondent pled guilty to the felony count of willful failure to collect and pay over taxes in violation of 26 United States Code § 7202.

18. As part of his guilty plea, Respondent agreed to pay any fine ordered by the Court, as well as restitution in the amount of \$284,567.84 (the calculated tax loss of \$229,548.92 for quarters 2008-03 to 2015-12, plus interest) to the IRS. Respondent agreed that the total amount of restitution reflected in the agreement resulted from his criminal conduct.

19. The crime of willful failure to collect and pay over taxes is a felony and is punishable by imprisonment for a maximum of five years.

20. The applicable guideline range for Respondent's sentencing was twelve to eighteen months imprisonment.

21. On June 22, 2018, Respondent was sentenced by the Honorable Jeffrey L. Schmehl to a term of imprisonment for twelve months and one day. Upon release from imprisonment, Respondent was sentenced to supervised release for three years.

Respondent was ordered to pay an assessment of \$100.00, a fine of \$10,000.00 and restitution to the IRS of \$284,567.84.

22. Respondent timely paid the restitution and assessment and is paying the fine by monthly installment payments.

23. Respondent self-reported to the Schuylkill Federal Prison Camp (FPC-Schuylkill), Minersville, Pennsylvania on August 3, 2018. On May 13, 2019, he was released from FPC-Schuylkill to a Residential Re-entry Center in Philadelphia, Pennsylvania. On May 17, 2019, he was released to "direct home confinement." Respondent was released from BOP custody on June 14, 2019.

24. Respondent is scheduled to be on supervised release until June 16, 2022.

25. Respondent's conviction for willful failure to collect and pay over taxes constitutes an independent basis for discipline, pursuant to Rule 203 (b) (1), Pa.R.D.E.

SPECIFIC RULES OF PROFESSIONAL CONDUCT AND  
RULE OF DISCIPLINARY ENFORCEMENT VIOLATED

Respondent violated the following Rules of Professional Conduct and Pennsylvania Rule of Disciplinary Enforcement:

- A. RPC 8.4(b), which states that it is professional misconduct for a lawyer to commit a criminal act

that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

B. RPC 8.4(c), which states that it is misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation; and

C. Pa.R.D.E. 203(b)(1), which provides that conviction of a crime shall be grounds for discipline;

**SPECIFIC RECOMMENDATION FOR DISCIPLINE**

26. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a four-year suspension, retroactive to the effective date he was placed on temporary suspension.

27. Respondent hereby consents to that discipline being imposed upon him by the Supreme Court of Pennsylvania. Attached to this Petition and marked Exhibit "A" is Respondent's executed Affidavit required by Rule Pa.R.D.E. 215(d), stating that he consents to the recommended discipline and including the mandatory acknowledgements contained in Rule 215(d)(1) through (4), Pa.R.D.E.



28. In support of Petitioner and Respondent's joint recommendation, it is respectfully submitted that the following mitigating circumstances are present:

- a) Respondent showed remorse by pleading guilty to his crime of willful failure to collect and pay over taxes in violation of 26 United States Code § 7202;
- b) Respondent has paid the full restitution of \$284,567.84 that was imposed upon him by the Court as a result of his guilty plea;
- c) Respondent had significant character support at his sentencing. He provided the sentencing court with forty-nine character letters, each one attesting to his dedicated support of his community, church and family. Several of these letters were from lawyers, two were from former employees, several were from clients, and many were from neighbors in his community, all of whom knew about his tax offense and supported him unconditionally;
- d) Respondent has admitted engaging in misconduct and violating the charged Rules of Professional Conduct and Rule of Disciplinary Enforcement;

- e) Respondent agreed to be placed on temporary suspension as evidenced by his participation in the filing of a Joint Petition to Suspend;
- f) Respondent is remorseful for his misconduct and understands he should be disciplined, as is evidenced by his cooperation with Petitioner and his consent to receiving a four-year suspension;
- g) Respondent has no record of discipline; and
- h) Respondent has no prior criminal history.

29. A suspension of four years is appropriate in light of the specific facts of this case. Discipline imposed for tax evasion convictions ranges from a public censure to disbarment. More recent cases have consistently resulted in lengthy suspensions. See, e.g., *In re Anonymous No. 86 DB 93 (Patrick C. Campbell)*, 28 Pa.D.&C.4th 390 (1995) (attorney received public censure in connection with his plea of guilty to tax evasion of \$6,000.00-\$7,000.00 arising from his filing of a false and fraudulent tax return for tax year 1985); *In re Anonymous No. 87 DB 93 (Thomas L. McGill, Jr.)* (1995) (attorney received public censure in connection with his conviction of two counts of failure to pay \$30,906.93 in violation of 26 U.S.C. §7203 and one count of tax evasion of \$1,593.00 in violation of 26 U.S.C. §7201); *In re Anonymous No 18 DB 1994 (Yaier Yona Lehrer)* (1996)

(attorney suspended for two years in connection with his plea of guilty to tax evasion of \$15,515.00 over a two-year period); *Office of Disciplinary Counsel v. Danielle M. Ross*, No. 179 DB 2013 (2015) (attorney suspended on consent for twenty-six months in connection with her plea of guilty to tax evasion of \$63,124.00 where she failed to disclose monies paid to her by private parties involved in cases where she was appointed as the Guardian ad Litem); *In re Anonymous No. 99 DB 92* (Nino Tinari), 24 Pa.D.&C.4th 279 (1994) (attorney suspended for 30 months in connection with his plea of guilty to tax evasion of \$475,000.00 arising from his intentional failure over a five year period to report as income cash fees from clients of his law practice in the amount of over a million dollars); *Office of Disciplinary Counsel v. Mark Anthony DeSimone*, No. 11 DB 2002 (2004) (attorney suspended for two years and eight months in connection with his plea of guilty to tax evasion of \$85,000.00 arising from his "sophisticated concealment" of income); *Office of Disciplinary Counsel v. Dean Ian Weitzman*, No. 24 DB 2000 (2002) (attorney suspended for three years in connection with his plea of guilty to tax evasion of \$197,828 arising from his failure over a three-period to report legal fee income of \$575,569); *Office of Disciplinary Counsel v. John A. Havey*, No. 42 DB 2006 (2008) (attorney suspended on consent for three years in

connection with his conviction of income tax evasion of \$205,532.00); *Office of Wayne Bozeman*, No. 183 DB 2009 (2011) (attorney suspended on consent for five years in connection with his guilty plea of conspiracy to defraud the United States of \$137,635.00 of income tax revenue for the tax years 2000 through 2006); *Office of Disciplinary Counsel v. Steven James Lynch*, No. 29 DB 2017 (2019) (attorney disbarred on consent in connection with his conviction by a jury of 16 counts of willful failure to pay over withheld employment taxes in violation of 26 U.S.C. § 7202 which resulted in a \$793,145.00 tax loss to the government).

30. Petitioner and Respondent submit that a four-year suspension, retroactive to the effective date of temporary suspension, is a fair and appropriate resolution based upon the specific facts of this case and analysis of prior cases.

Respondent's case is distinguishable from the disbarment case of Lynch, who, like Respondent, was also convicted of 26 U.S.C. § 7202. However, the facts relating to Lynch are more serious. Lynch did not plead guilty to the underlying criminal offense, was sentenced to forty-eight months of incarceration (thirty-six months more than Respondent) and was ordered to pay restitution of close to \$800,000.00.

Respondent's case is also distinguishable from Bozeman, who

received a five-year suspension. Bozeman's sanction was elevated by aggravating factors not present here. At the time Bozeman was participating in a major conspiracy to defraud the Government, he attended law school, sat for two bar exams; served as an intern in a prosecutor's office; and clerked for a Judge of the Superior Court of New Jersey.

The parties agree that a four-year suspension is appropriate based on the facts and circumstances of this case. A four-year suspension would necessitate the filing of a petition for re-instatement and would coincide approximately with the time when Respondent's term of supervision is scheduled to end. Compare, *Ross, Weitzman and DeSimone, supra.*, imposing terms of suspension covering the period of probation or release.

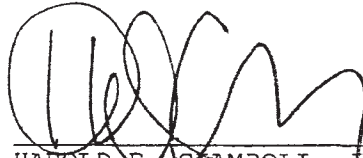
WHEREFORE, Petitioner and Respondent respectfully request that, pursuant to Pennsylvania Rules of Disciplinary Enforcement 215(e), 215(g) and 215(i), a three-member panel of the Disciplinary Board review and approve the Joint Petition in Support of Discipline on Consent and file a recommendation with the Supreme Court of Pennsylvania that Respondent be suspended for four years retroactive to the effective date of his temporary suspension.

Respectfully submitted,  
OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION,  
Attorney Registration No. 20955,  
Chief Disciplinary Counsel

10/23/19

DATE



HAROLD E. CIAMPOLI, JR.

Disciplinary Counsel

Attorney Registration No. 51159

Office of Disciplinary Counsel

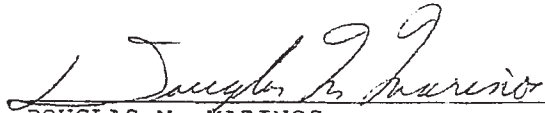
Suite 170, 820 Adams Avenue

Trooper, PA 19403

(610) 650-8210

10/22/19

DATE



DOUGLAS M. MARINOS

Attorney Registration Number 53104

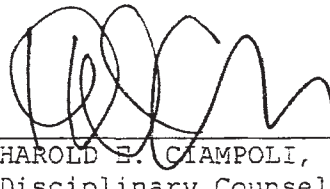
Respondent

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.

10/23/19

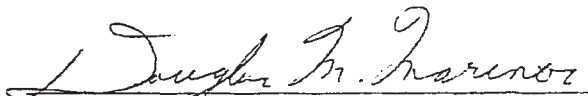
DATE



HAROLD E. CIAMPOLI, JR.  
Disciplinary Counsel

10/22/19

DATE



DOUGLA M. MARINOS  
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE  
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Petitioner : No. 3 - Supreme Court  
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Respondent : (Lehigh County)

CERTIFICATE OF SERVICE

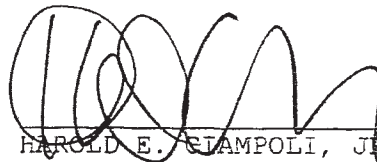
I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 204 Pa. Code §89.22 (relating to service by a participant).

First Class and Overnight Mail, as follows:

Douglas M. Marinos  
2290 Bishop Road  
Allentown, PA 18103

Dated:

10/23/19



HAROLD E. STAMPOLI, JR.  
Disciplinary Counsel  
Attorney Registration No. 51159  
Office of Disciplinary Counsel  
820 Adams Avenue, Suite 170  
Trooper, PA 19403  
(610) 650- 8210



BEFORE THE DISCIPLINARY BOARD OF THE  
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DOUGLAS M. MARINOS, :  
Respondent : (Lehigh County)

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

COMMONWEALTH OF PENNSYLVANIA:  
COUNTY OF MONTGOMERY:

DOUGLAS M. MARINOS, being duly sworn according to law, deposes and hereby submits this affidavit consenting to the recommendation of a Four-Year Suspension retroactive to the effective date of his temporary suspension in conformity with Pa.R.D.E. 215(d) and further states as follows:

1. He is an attorney admitted in the Commonwealth of Pennsylvania, having been admitted to the bar on or about November 9, 1988.

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 into 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.

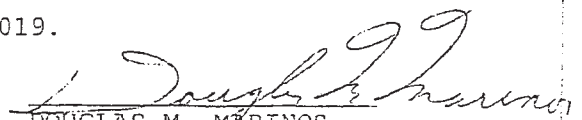
5. He acknowledges that the material facts set forth in the Joint Petition are true.

6. He submits the within 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.

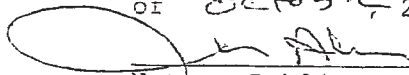
7. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant proceeding. He has/has not retained, consulted and acted upon the advice of counsel, in connection with his decision to execute the within Joint Petition.

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 22 day of October, 2019.

  
DOUGLAS M. MARINOS

Sworn to and subscribed  
before me this 22 day  
of October, 2019.

  
Notary Public

COMMONWEALTH OF PENNSYLVANIA  
NOTARIAL SEAL  
Iram Ahmed, Notary Public  
South Whitehall Twp., Lehigh County  
My Commission Expires Aug. 8, 2020  
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES