

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 1373 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 4 DB 2008
v.	:	
	:	Attorney Registration No. 49533
MARC EDMUND LEVITT,	:	
Respondent	:	(Philadelphia)

ORDER

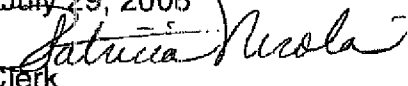
PER CURIAM:

AND NOW, this 29<sup>th</sup> day of July, 2008, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated March 28, 2008, the Joint Petition in Support of Discipline on Consent is hereby granted pursuant to Rule 215(g), Pa.R.D.E., and it is

ORDERED that Marc Edmund Levitt be subjected to public censure by the Supreme Court.

A True Copy Patricia Nicola

As of: July 29, 2008

Attest:   
Chief Clerk

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

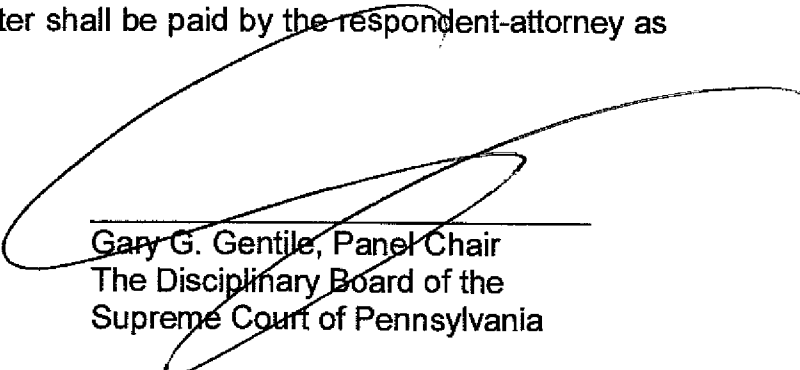
OFFICE OF DISCIPLINARY COUNSEL	:	No. 4 DB 2008
Petitioner	:	
	:	
v.	:	Attorney Registration No. 49533
	:	
MARC EDMUND LEVITT	:	
Respondent	:	(Philadelphia)

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 Gary G. Gentile, Charlotte S. Jefferies and Mark S. Baer, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on February 28, 2008.

The Panel approves the Joint Petition consenting to a Public Censure 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.

  
\_\_\_\_\_  
Gary G. Gentile, Panel Chair  
The Disciplinary Board of the  
Supreme Court of Pennsylvania

Date: March 28, 2008

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :

Petitioner : No. 4 DB 2008

v. :

MARC EDMUND LEVITT, :

: Attorney Registration No. 49533

Respondent : (Philadelphia)

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

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION  
CHIEF DISCIPLINARY COUNSEL

Donna M. Snyder  
Disciplinary Counsel  
Seven Penn Center  
1635 Market Street  
16<sup>th</sup> Floor  
Philadelphia, PA 19103  
(215) 560-6296

and

Samuel C. Stretton, Esquire  
301 South High Street  
P.O. Box 3231  
West Chester, PA 19381-3231  
(610) 696-4243

**FILED**

FEB 28 2008

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

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :

Petitioner : No. 4 DB 2008

v. :

MARC EDMUND LEVITT, :

: Attorney Registration No. 49533

Respondent : (Philadelphia)

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

Petitioner, Office of Disciplinary Counsel, by Paul J. Killion, Chief Disciplinary Counsel, and Donna M. Snyder, Disciplinary Counsel, and Respondent, Marc Edmund Levitt, represented by Samuel C. Stretton, Esquire, file this Joint Petition In Support Of Discipline On Consent Under Rule 215(d), Pennsylvania Rules of Disciplinary Enforcement and respectfully represent that:

1. Respondent, Marc Edmund Levitt, was born on September 18, 1954 and was admitted to practice law in the Commonwealth of Pennsylvania on November 9, 1987.

2. Respondent's attorney registration address is 319 Gates Street, Philadelphia, PA 19128. Respondent is no longer at that office. Respondent's current address is 1335 Bruce Road, Apt. D, Oreland, PA 19075.

3. Petitioner filed a Petition for Discipline against Respondent with the Secretary of the Disciplinary Board on January 10, 2008. On January 25, 2008, the Petition for Discipline with Notice to Plead was personally served on Respondent.

SPECIFIC FACTUAL ADMISSIONS AND  
RULES OF PROFESSIONAL CONDUCT VIOLATED

4. Respondent stipulates that the following factual allegations contained in the Petition for Discipline are true and correct and that he violated the charged Rules of Disciplinary Enforcement and Rules of Professional Conduct.

Charge I: The Welte Matter

5. On or about October 29, 2005, Angelo Casselli, was arrested at Carey's 19th Hole, a business establishment in Philadelphia, PA, and charged with pool selling.

6. Respondent represented Mr. Casselli in his criminal matter captioned *Commonwealth of Pennsylvania v. Angelo Casselli*, Docket Number MC-51-CR-1042721-2005.

7. On July 25, 2006, a not guilty verdict was entered on behalf of Mr. Casselli.

8. In or around January 2007, James F. Welte, an employee at Carey's 19th Hole, spoke with Respondent regarding a return of property.

9. Respondent agreed to file a petition to recover a 32" TV and several hundred dollars cash that had been confiscated by law enforcement officers from Carey's 19th Hole during a search conducted in Mr. Casselli's criminal matter.

10. Mr. Welte paid Respondent \$500 cash for which Respondent produced no receipt.

11. By Order dated March 16, 2007, the Supreme Court of Pennsylvania directed that Respondent would be transferred to inactive status pursuant to Rule 111(b) of the Pennsylvania Rules for Continuing Legal Education for failure to comply with Continuing Legal Education requirements.

12. By letter dated March 16, 2007, sent by certified mail, return receipt requested, Elaine M. Bixler, Secretary to the Disciplinary Board, enclosed a copy of that Order and advised Respondent that he would be transferred to inactive status effective April 15, 2007 and that he was required to comply with Rule 217 of the Pa.R.D.E. and §§91.91-91.99 of the Disciplinary Board Rules.

13. Respondent signed for that certified letter.

14. Respondent received notice of his transfer to inactive status.

15. Respondent failed to file a Statement of Compliance with the Secretary's Office within ten days after the effective date of the transfer to inactive status Order, as required by Pa.R.D.E. 217(e).

16. Respondent failed to tell Mr. Welte or anyone at Carey's 19th Hole that he no longer was licensed to practice law and could not represent the establishment.

17. Respondent failed to file a petition for return of property or to take any steps to have the property returned.

18. By letter dated July 24, 2007, sent by certified mail, return receipt requested, Mr. Welte advised Respondent that he was frustrated with him and his office regarding the handling of the return of property, that Respondent had been paid \$500, and that Respondent has not returned telephone messages.

19. The letter was returned to Mr. Welte after three attempts at delivery to 319 Gates Street, Philadelphia, PA 19128, Respondent's home and office address.

20. By his conduct as alleged in Paragraphs 5 through 19 above, Respondent violated the following Rules of Professional Conduct and Rules of Disciplinary Enforcement:

- a. RPC 1.4(a)(3), which states a lawyer shall keep the client reasonably informed about the status of the matter;
- b. RPC 5.5(a), which states that a lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction;
- 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;
- d. Pa.R.D.E. 203(b)(3), which states that it is grounds for discipline for a lawyer to wilfully violate any other provision of the

Enforcement Rules, via the Enforcement Rules charged in subsections e-g, *infra*;

- e. Pa.R.D.E. 217(a), which states that a formerly admitted attorney shall promptly notify, or cause to be notified, by registered or certified mail, return receipt requested, all clients being represented in pending matters, other than litigation or administrative proceedings, of the ... transfer to inactive status and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the ... transfer to inactive status and shall advise said clients to seek legal advice elsewhere;
- f. Pa.R.D.E. 217(e), which states that within ten days after the effective date of ... the transfer to inactive status order, the formerly admitted attorney shall file with the Board a verified statement showing that the provisions of the order and these rules have been fully complied with; and
- g. Pa.R.D.E. 217(j)(4)(iii)-(vi), which states that without limiting the other restrictions in this subdivision (j), a formerly admitted attorney is specifically prohibited from engaging in any of the following activities: (iii) performing any law-related services for any client who in the past was represented by the formerly admitted attorney; (iv) representing himself or herself as a

lawyer or person of similar status; (v) having any contact with clients either in person, by telephone, or in writing, except as provided in paragraph (3); and (vi) rendering legal consultation or advice to a client.

Charge II: The Kevin Lewis Matter

21. Respondent was court-appointed to represent Kevin Lewis in his appeal to Superior Court, Docket No. 2710 EDA 2005.

22. On September 1, 2005, Respondent filed a Notice of Appeal, which was docketed in Superior Court on October 4, 2005.

23. By Order dated February 8, 2006, the Superior Court dismissed Mr. Lewis' appeal due to Respondent's failure to file a brief.

24. The Superior Court served Respondent with a copy of the Order.

25. Respondent had failed to advise Mr. Lewis that he was not going to file a brief on his behalf.

26. Respondent failed to keep Mr. Lewis apprised of the status of his case.

27. By Order dated March 16, 2007, the Supreme Court of Pennsylvania transferred Respondent to CLE inactive status, as explained in ¶ 11, *supra*.

28. By letter dated March 16, 2007, sent by certified mail, return receipt requested, Ms. Bixler, *inter alia*, advised Respondent of his transfer to inactive status.

29. Respondent signed for that certified letter.

30. Respondent failed to withdraw his appearance as defense counsel in the case *Johnson v. PA DOT*, Court of Common Pleas, Docket No. 0703-00675.

31. On February 15, 2007, Mr. Lewis sent Respondent a letter requesting that he return his file to him.

32. Respondent failed to respond to that request.

33. By letter dated April 10, 2007, Mr. Lewis again requested a copy of his file.

34. Respondent failed to respond to that request.

35. By his conduct as alleged in Paragraphs 21 through 34 above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- b. RPC 1.4(a)(3), which states that a lawyer shall keep a client reasonably informed about the status of the matter;
- c. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information;
- d. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;
- e. RPC 5.5(a), which states that a lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction;

- f. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- g. RPC 8.4(d), which states that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice;
- h. Pa.R.D.E. 203(b)(3), which states that it is grounds for discipline for a lawyer to wilfully violate any other provision of the Enforcement Rules, via the Enforcement Rules charged in subsections i-l, *infra*;
- i. Pa.R.D.E. 217(b), which states that a formerly admitted attorney shall promptly notify, or cause to be notified, by registered or certified mail, return receipt requested, all clients who are involved in pending litigation... and the attorney or attorneys for each adverse party in such matter or proceeding... of the transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the ... transfer to inactive status. The notice to be given to the client shall advise the prompt substitution of another attorney or attorneys in place of the formerly admitted attorney. In the event the client does not obtain substitute counsel before the effective date of the disbarment, suspension or transfer to inactive status, it shall be

the responsibility of the formerly admitted attorney to move in the court or agency in which the proceeding is pending for leave to withdraw;

- j. Pa.R.D.E. 217(c)(1), which states a formerly admitted attorney shall promptly notify, or cause to be notified... of the transfer to inactive status, by registered or certified mail, return receipt requested, all persons or their agents or guardians to whom a fiduciary duty is or may be owed at any time after the transfer to inactive status;
- k. Pa.R.D.E. 217(c)(2), which states that a formerly admitted attorney shall promptly notify, or cause to be notified, of the... transfer to inactive status, by registered or certified mail, return receipt requested, all other persons with whom the formerly admitted attorney may at any time expect to have professional contacts under circumstances where there is a reasonable probability that they may infer that he or she continues as an attorney in good standing;
- l. Pa.R.D.E. 217(j)(4)(iii)-(vi), which states that without limiting the other restrictions in this subdivision (j), a formerly admitted attorney is specifically prohibited from engaging in any of the following activities: (iii) performing any law-related services for any client who in the past was represented by the formerly admitted attorney; (iv) representing himself or herself as a

lawyer or person of similar status; (v) having any contact with clients either in person, by telephone, or in writing, except as provided in paragraph (3); (vi) rendering legal consultation or advice to a client.

#### SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

36. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a Public Censure.

37. Respondent hereby consents to that discipline being imposed upon him by the Supreme Court of Pennsylvania. 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 and including the mandatory acknowledgements contained in Rule 215(d)(1) through (4), Pa.R.D.E.

38. In support of Petitioner and Respondent's joint recommendation, it is respectfully submitted that as an aggravating factor Respondent has prior discipline. In June 2004, Respondent received an Informal Admonition for failure to file a brief in Superior Court resulting in his client's appeal being dismissed.

Although there are no *per se* rules for discipline in this jurisdiction, Respondent has received an Informal Admonition for the same conduct as in the Lewis matter. Respondent obviously did not take his past disciplinary history seriously. Respondent should receive a public censure in order to reinforce the fact that he cannot take court-appointments and not follow through for his clients nor can he assist someone in a legal matter when he is on inactive status.

39. A Public Censure is within the range of discipline imposed on attorneys who engage in neglect and have a record of discipline. *E.g.*, ***Office of Disciplinary Counsel v. Neil Jokelson***, Nos. 58 DB 1998 and 102 DB 1998, D.Bd. Rpt. 12/22/2000 (S.Ct. Order 2/26/2001)(attorney who neglected two client matters and had a history of private discipline for similar types of neglect received a public censure and probation with a practice monitor). In a recent consent discipline matter, the Court approved and imposed a public censure on a respondent who had neglected two criminal appellate matters and had a record of private discipline in the nature of an informal admonition on two complaint matters and a private reprimand. ***Office of Disciplinary Counsel v. Edward C. Meehan, Jr.***, No. 26 DB 2006 (S.Ct. Order 9/18/06).

WHEREFORE, Petitioner and Respondent respectfully request that:

(a) Pursuant to Rule 215(e) and 215(g), Pa.R.D.E., the 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 the Supreme Court enter an Order whereby Respondent receive a Public Censure for his neglect in two client matters; and

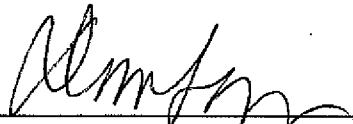
(b) Pursuant to Rule 215(i), the three-member panel of the Disciplinary Board order Respondent to pay the necessary expenses incurred in the investigation and prosecution of this matter as a condition to

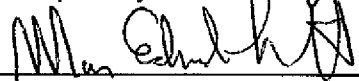
the grant of the Petition and that all expenses be paid by Respondent before  
the imposition of discipline under Rule 215(g), Pa.R.D.E.

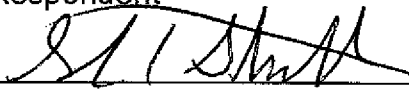
Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION  
CHIEF DISCIPLINARY COUNSEL

By   
Donna M. Snyder  
Disciplinary Counsel

By   
Marc Edmund Levitt  
Respondent

By   
Samuel C. Stretton, Esquire  
Counsel for Respondent

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :

Petitioner : No. 4 DB 2008

v. :

MARC EDMUND LEVITT, :

: Attorney Registration No. 49533

Respondent : (Philadelphia)

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

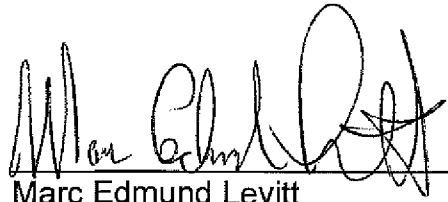
Respondent, Marc Edmund Levitt, hereby states that he consents to the imposition of a Public Censure, as jointly recommended by Petitioner, Office of Disciplinary Counsel, and Respondent in the Joint Petition In Support Of Discipline On Consent and further states that:

1. His consent is freely and voluntarily rendered; he is not being subjected to coercion or duress; he is fully aware of the implications of submitting the consent; and he has consulted with counsel in connection with the decision to consent to discipline;

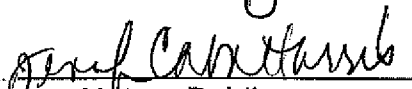
2. He is aware that there is presently pending a proceeding involving allegations that he has been guilty of misconduct as set forth in the Joint Petition;

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

4. He consents because he knows that if the charges pending against him continue to be prosecuted in the pending proceeding, he could not successfully defend against them.

  
\_\_\_\_\_  
Marc Edmund Levitt  
Respondent

Sworn to and subscribed  
before me this 26<sup>th</sup>  
day of February, 2008.

  
\_\_\_\_\_  
Notary Public

COMMONWEALTH OF PENNSYLVANIA  
Notarial Seal  
Jennifer Cava-Harris, Notary Public  
West Chester Boro, Chester County  
My Commission Expires Aug. 5, 2010  
Member, Pennsylvania Association of Notaries

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :

Petitioner : No. 4 DB 2008

v. :

MARC EDMUND LEVITT, :

Attorney Registration No. 49533

Respondent : (Philadelphia)


VERIFICATION

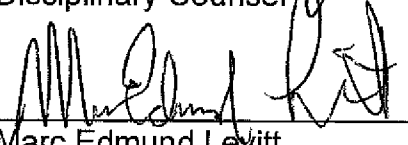
The statements contained in the foregoing Joint Petition In Support Of Discipline On Consent Under Rule 215(d), Pa.R.D.E. are true and correct to the best of our knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.


2/27/08  
Date

2/26/08  
Date

2/23/08  
Date

  
\_\_\_\_\_  
Donna M. Snyder  
Disciplinary Counsel

  
\_\_\_\_\_  
Marc Edmund Levitt  
Respondent

  
\_\_\_\_\_  
Samuel C. Stretton, Esquire  
Counsel for Respondent