

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2025 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 4 DB 2014
v.	:	
	:	Attorney Registration No. 88164
ROBERT C. ZANICKY,	:	
Respondent	:	(Luzerne County)

ORDER

PER CURIAM:

AND NOW, this 30th day of September, 2014, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated May 19, 2014, 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 Robert C. Zanicky is suspended on consent from the Bar of this Commonwealth for a period of two years and he shall comply with all the provisions of Rule 217, Pa.R.D.E.

A True Copy Patricia Nicola
As Of 9/30/2014

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

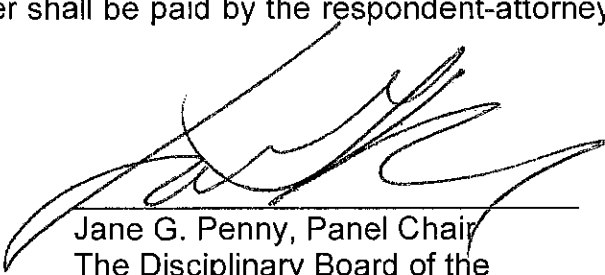
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RECOMMENDATION OF THREE-MEMBER PANEL
OF THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

The Three-Member Panel of the Disciplinary Board of the Supreme Court of Pennsylvania, consisting of Board Members Jane G. Penny, Howell K. Rosenberg, and Douglas W. Leonard, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on April 25, 2014.

The Panel approves the Joint Petition consenting to a two year suspension 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.



Jane G. Penny, Panel Chair
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date: 5/19/2014

BEFORE THE DISCIPLINARY BOARD
OF THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL : No. ²⁰²⁵ Disciplinary Docket No.
Petitioner :
: No. 4 DB 2014
:
v. : (File No. C3-13-433)
:
: Atty Registration No. 88164
ROBERT C. ZANICKY :
Respondent: (Luzerne)

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

OFFICE OF DISCIPLINARY COUNSEL
PAUL J. KILLION

CHIEF DISCIPLINARY COUNSEL

Julia M. Frankston-Morris
Disciplinary Counsel
District III
Pennsylvania Judicial Center
601 Commonwealth Ave, STE 5800
P.O. Box 62675
Harrisburg, PA 17106

and

Samuel C. Stretton
Counsel for Respondent
301 S. High Street
P.O. Box 3231
West Chester, PA 19107
Attorney I.D. No. 18491

FILED

APR 25 2014

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 : No. ²⁰²⁵ Disciplinary Docket No.
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Respondent: (Luzerne)

**JOINT PETITION IN SUPPORT OF DISCIPLINE ON CONSENT UNDER RULE
215(d) OF THE PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT**

Petitioner, the Office of Disciplinary Counsel, by Paul J. Killion, Chief Disciplinary Counsel, and Julia M. Frankston-Morris, Disciplinary Counsel, and the Respondent, Robert C. Zanicky, file this Joint Petition in Support of Discipline on Consent under Rule 215(d) of the Pennsylvania Rules of Disciplinary Enforcement and respectfully aver the following:

1. Petitioner, whose principal office is located at the Pennsylvania Judicial Center, 601 Commonwealth Avenue, Harrisburg, Pennsylvania, 17106, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement (hereafter "Pa.R.D.E."), with the power and the 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 Rules.

2. Respondent, Robert C. Zanicky, was born in 1973, and was admitted to practice law December 5, 2001.

3. Respondent's current registration address is The Immigration and Defense Firm, 16 Sand Hollow Drive, Drums, Pennsylvania, 18222.

4. Respondent is represented by Samuel C. Stretton, Esquire, 301 S. High Street, P.O. Box 3231, West Chester, Pennsylvania, 19381.

5. Respondent has no prior history of discipline.

Specific Factual Admissions and
Rules of Professional Conduct Violated

6. On November 5, 2013, Respondent pleaded no contest to two counts of Corruption of Minors, a first degree misdemeanor, in violation of 18 Pa.C.S §6301(a)(1). On that same date, Respondent was sentenced to twelve months of probation for each count, to run concurrently with each other, with conditions of probation. Respondent was required to have no contact with the victims, no unsupervised contact with minor females, and is permitted to travel as long as he alerts the Probation Department of the dates and locations.

7. According to the transcript of proceeding from the Plea/Sentencing, Respondent did not contest that the Commonwealth could have proven the following:

a. Respondent met a young woman who he knew was 16-years-old at the time, and began a relationship with her consisting of telephone calls and over 1,000 text messages within a two-week period, with the intent to eventually have sexual contact with her. Additionally, he rented a room at a local motel where he brought the 16-year-old with the intent to have sexual contact with her there.

b. Respondent met a young woman who he knew was 17-years-old at the time, and began a relationship with her consisting of telephone calls and over 1,000 text messages within a two-week period, with the intent to eventually have sexual contact with her. Additionally, he rented a room at a local motel where he brought the 17-year-old with the intent to have sexual contact with her there.

8. Respondent reported his conviction to the Secretary of the Disciplinary Board, as required by Pa.R.D.E. 214(a), on November 11, 2013.

DISCIPLINARY RULE VIOLATIONS

9. Respondent admits he violated the following Rules of Professional Conduct:

- a. RPC 8.4(b), which states that it is professional misconduct for an attorney to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects.
- b. Pa.R.D.E. 203(b)(1), which states that conviction of a crime is a ground for discipline.

SPECIFIC JOINT RECOMMENDATIONS FOR DISCIPLINE

10. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent is a Suspension for a period of two years. Respondent hereby consents to the discipline being imposed upon him by the Supreme Court of Pennsylvania. Attached to this Petition is Respondent's executed Affidavit required by Pa.R.D.E. 215(d), stating that he consents to the recommended discipline and including the mandatory acknowledgments contained in Pa.R.D.E. 215(d)(1) through (4).

11. In support of Petitioner and Respondent's Joint Recommendation, it is respectfully submitted as follows:

a. The aggravating factors are as follow:

- i. Respondent pleaded no contest to two counts of Corruption of Minors, a first degree misdemeanor, in violation of 18 Pa.C.S §6301(a)(1); and
- ii. Respondent engaged in an inappropriate relationship with two teenage girls.

b. The mitigating circumstances are as follows:

- i. Respondent has no prior discipline; and
- ii. By and through his Counsel, Respondent promptly notified the Disciplinary Board of his conviction, within days of his plea and sentencing; and
- iii. Respondent has complied and continues to comply with the terms of his probation; and
- iv. Respondent has expressed his sincere regret and remorse for the conduct described above, and agrees that professional discipline is appropriate given his misconduct.

12. The parties believe, and therefore aver, that their recommendation is consistent with relevant disciplinary case law. In cases involving attorneys who engage in more egregious and inappropriate relationships, the range of discipline is a private reprimand to a multi-year suspension. See **In re**

Anonymous, No. 116 DB 1993, 33 Pa.D.&C.4th 199 (1995)(imposing a private reprimand for an attorney who engaged in non-consensual sexual contact with a client's mother on two occasions; criminal charges were not filed); **Office of Disciplinary Counsel v. Tony S. Sangiamo**, No. 35 DB 2001 (D.Bd. Rpt. 5/31/02 p.7) (S.Ct. Order 7/25/02)(imposing a suspension of 20-months for an attorney convicted of one count of corrupting the morals of a minor for inappropriate behavior with respondent's 16-year-old intern; 20-month suspension "ensure[d] that [r]espondent remain[ed] suspended for the duration of his parole supervision"); **In re Anonymous (Anthony L.V. Picciotti)**, No. 77 DB 1997, 49 Pa.D.&C.4th 119 (2000)(imposing a three-year retroactive suspension for an attorney who was convicted of one count of indecent assault for inappropriate contact and statements to an adult female client; Disciplinary Board report explained that respondent's conduct was aggravated by the fact that the incident occurred in his law office). Respondent's conduct and convictions are not as egregious as that in other disciplinary cases wherein lengthy suspensions or disbarment was imposed. See **Office of Disciplinary Counsel v. Anthony C. Cappuccio**, 48 A.3d 1231 (Pa. 2012)(ordering disbarment for an attorney who, while serving as Chief Deputy District Attorney and a church youth group leader, engaged in an on-going consensual sexual relationship with one of the youth group members, among other

things; respondent pled guilty to *inter alia*, three counts of endangering the welfare of children, a third degree felony); ***Office of Disciplinary Counsel v. Mark Peter Pazuhanich***, No. 15 DB 2005 (D.Bd. Rpt. 8/11/06) (S.Ct. Order 11/17/06) (disbarring an attorney, a former two-term District Attorney and newly elected Common Pleas Court judge, following criminal conviction of, *inter alia*, two counts of indecent assault and one count of endangering the welfare of children for inappropriate sexual contact with a ten-year-old female); ***Office of Disciplinary Counsel v. John Rodes Christie***, 639 A.2d 782 (Pa. 1994) (imposing a suspension of five years for an attorney who pled guilty to thirteen misdemeanor sex offenses involving two minors, ages 12 and 14, over a ten day period; respondent's psychiatric condition was considered as mitigating evidence).

Based on the above, Petitioner and Respondent believe that a suspension of two years is necessary to protect the public, which is an overriding goal of the disciplinary system.

WHEREFORE, the Petitioner and Respondent respectfully request that:

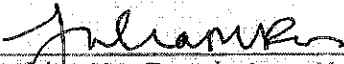
- a. Pursuant to Pa.R.D.E. 215, a three-member panel of the Disciplinary Board review and approve the above Joint Petition in Support of Discipline on Consent and file its recommendation with the Supreme Court of

Pennsylvania in which it is recommended that
the Supreme Court of Pennsylvania enter an
Order:

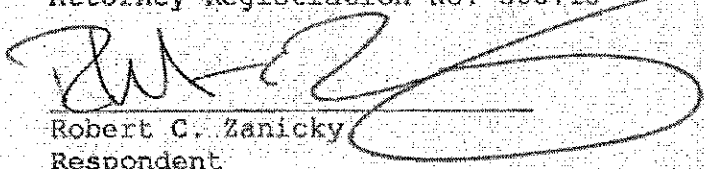
- i. suspending Respondent from the practice
of law for two years; and
- ii. directing Respondent to comply with all
the provisions of Pa.R.D.E. 217.

Respectfully submitted,

4/25/14
DATE


Julia M. Frankston-Morris
Disciplinary Counsel
District III
601 Commonwealth Avenue, STE 5800
P.O. Box 62675
Harrisburg, PA 17106
Attorney Registration No. 308715

4/9/2014
DATE


Robert C. Zanicky
Respondent
16 Sand Hollow Drive
Drums, PA 18222
Attorney Registration No. 88164

4/9/14
DATE


Samuel C. Stretton
Counsel for Respondent
301 S. High Street
P.O. Box 3231
West Chester, PA 19107
Attorney Registration No. 18491

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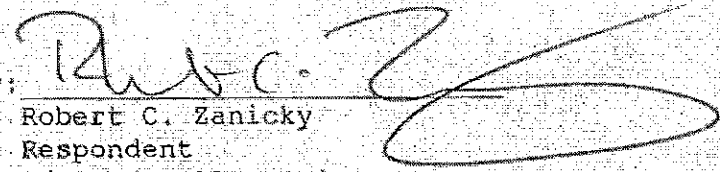
VERIFICATION

The statements contained in the foregoing Joint Petition in
Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d)
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.
§4904, relating to unsworn falsification to authorities.

Date: 4/25/14

By: 
Julia Frankston-Morris
Disciplinary Counsel
District III
Atty. Registration No. 308715
Pennsylvania Judicial Center
601 Commonwealth Ave, STE 5800
P.O. Box 62675
Harrisburg, PA 17106
(717) 772-8572

Date: 4/9/2014

By: 
Robert C. Zanicky
Respondent
16 Sand Hollow Drive
Drums, PA 18222
Attorney Registration No. 88164

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**RESPONDENT'S AFFIDAVIT UNDER RULE 215(d) OF THE
PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT**

I, Robert C. Zanicky, Respondent in the above-captioned matter, hereby consent to the imposition of a Suspension of two years, as jointly recommended by the Petitioner, Office of Disciplinary Counsel, and myself, in a Joint Petition in Support of Discipline on Consent and further state:

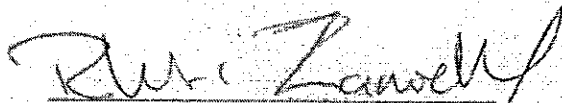
1. My consent is freely and voluntarily rendered; I am not being subjected to coercion or duress; I am fully aware of the implications of submitting the consent;

2. I am aware there is presently an investigation into allegations that I have been guilty of misconduct as set forth in the Joint Petition;

3. I acknowledge that the material facts set forth in the Joint Petition are true;

4. I consent because I know that if the charges against me were prosecuted I could not successfully defend against them; and

5. I am fully aware of my right to consult and employ counsel to represent me in the instant proceeding. I have retained, consulted and acted upon the advice of counsel, Samuel C. Stretton, Esquire in connection with my decision to execute the within Joint Petition.



Robert C. Zanicky
Respondent
16 Sand Hollow Drive
Drums, PA 18222
Attorney Registration No. 88164
(717) 884-2065

BEFORE THE DISCIPLINARY BOARD
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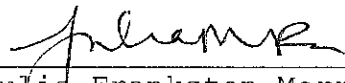
CERTIFICATE OF SERVICE

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 Pa.R.A.P. 121.

First Class Mail, as follows:

Samuel C. Stretton
Counsel for Respondent
301 S. High Street
P.O. Box 3231
West Chester, PA 19107

Dated: 4/25/14



Julia Frankston-Morris
Disciplinary Counsel
District III
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