

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2170 Disciplinary Docket No. 3
Petitioner :
 : No. 53 DB 2015
v. :
 : Attorney Registration No. 51520
MARTIN S. WEISBERG, :
Respondent : (Out Of State)

ORDER

PER CURIAM

AND NOW, this 4th day of June, 2015, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated May 13, 2015, the Joint Petition in Support of Discipline on Consent is hereby granted pursuant to Pa.R.D.E. 215(g), and it is

ORDERED that Martin S. Weisberg is suspended on consent from the Bar of this Commonwealth for a period of one year, and he shall comply with all the provisions of Pa.R.D.E. 217.

A True Copy Patricia Nicola
As Of 6/4/2015

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL : No. 53 DB 2015
Petitioner :
v. : Attorney Registration No. 51520
MARTIN S. WEISBERG :
Respondent : (Out of State)

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 Howell K. Rosenberg, Stefanie B. Porges, and David A. Fitzsimons, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on April 1, 2015.

The Panel approves the Joint Petition consenting to a one 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.



Howell K. Rosenberg, Panel Chair
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date: 5/13/2015

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 53 DB 2015
Petitioner :
v. :
: Attorney Reg. No. 51520
MARTIN S. WEISBERG, :
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 (hereinafter, "ODC") by Paul J. Killion, Chief Disciplinary Counsel, and Ramona Mariani, Disciplinary Counsel and Respondent, Martin S. Weisberg (hereinafter "Respondent"), and Arthur W. Lefco, Esquire, Counsel for 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, with the power and duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in

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

the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Enforcement Rules.

2. Respondent, Martin S. Weisberg, Esquire, was born on November 27, 1962, and was admitted to practice law in the Commonwealth on December 16, 1987. Respondent is on active status and his last registered address is 401 Route 70 East, Suite 100, Cherry Hill, NJ 08034. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

SPECIFIC FACTUAL ALLEGATIONS ADMITTED

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

4. By letter dated June 1, 2012, the Pennsylvania Continuing Legal Education Board ("CLE Board") wrote to Respondent and notified him that he had yet to complete his CLE requirements due by August 31, 2012.

5. Respondent failed to bring himself into CLE compliance by August 31, 2012.

6. By letter dated October 26, 2012, the CLE Board again wrote to Respondent and reminded him that he was non-compliant with the CLE requirement due by August 31, 2012.

7. The CLE Board further informed Respondent that due to his non-compliance, a \$100.00 late fee had been assessed, and that his failure to complete the CLE requirement and pay any outstanding late fees within sixty days from October 26, 2012, would result in the assessment of a second \$100 late fee and his name being included on a non-compliant report to the Supreme Court of Pennsylvania.

8. Respondent failed to pay the late fee and take other appropriate action to bring himself into compliance.

9. By letter dated January 25, 2013, the CLE Board sent Respondent a third notification regarding his continued non-compliance with CLE.

10. The CLE Board further informed Respondent that a second late fee had been assessed, and that failure to complete his CLE requirement and pay the outstanding late fees by 4:00 p.m. on March 1, 2013, would result in his name being included on a non-compliant report to the Supreme Court of Pennsylvania, which in turn would result in the Supreme Court of Pennsylvania entering an Order administratively suspending him.

11. Respondent failed to pay the late fees and take other appropriate action to bring himself into compliance.

12. By letter dated April 4, 2013, the CLE Board wrote to Respondent and, among other things, attached a letter from the

Disciplinary Board of the Supreme Court of Pennsylvania (the "Disciplinary Board") notifying Respondent that the Supreme Court of Pennsylvania had issued an Order providing for his administrative suspension effective May 3, 2013, for failure to comply with the Pennsylvania Rules for Continuing Legal Education by Respondent's compliance date of August 31, 2012.

13. In addition, the CLE Board informed Respondent that a third late fee of \$100.00 had been assessed.

14. Respondent failed to pay the late fees and take other appropriate action to bring himself into compliance.

15. Respondent's transfer to administrative suspension precluded him from the continued practice of law in Pennsylvania.

16. Nonetheless, Respondent continued to practice law in Pennsylvania after the effective date of the Pennsylvania Supreme Court's Order.

17. Specifically, Respondent was counsel of record in 23 cases initiated in the Pennsylvania after his transfer to administrative suspension.

18. In addition, Respondent remained counsel of record in a total of 22 cases pending in Pennsylvania.

19. On April 2, 2014, Respondent participated in a phone conference in *Citizens Bank of Pennsylvania v Malade*, No. 2013-0822 in Bucks County before the Honorable James M. McMaster.

20. Shortly thereafter, Judge McMaster realized that Respondent was administratively suspended in Pennsylvania.

21. As a result, by letter dated April 24, 2014, Judge McMaster wrote to Respondent and advised him that he been placed on administration suspension and that he needed to "take the appropriate action."

22. On May 5, 2014, Respondent filed a praecipe to withdraw his appearance and his colleague, Alicia M. Sandoval, substituted her appearance on behalf of the plaintiff in the Case No. 2013-0822.

23. Shortly thereafter, Respondent took steps to become compliant with the CLE Board.

24. Accordingly, by letter dated May 16, 2014, Suzanne E. Price, Attorney Registrar, wrote to Respondent and, among other things, explained that the CLE Board had certified to the Attorney Registration Office that Respondent was CLE compliant, and sought the additional registration fee and Statement of Compliance necessary to finally reinstate Respondent to active status.

25. On or around May 19, 2014, Respondent returned the necessary documents along with submitting the fees to the Attorney Registration Office.

26. Respondent was reinstated to active status effective June 2, 2014.

27. During the period of time that he was administratively suspended, Respondent failed to notify his clients of his status and that he could not represent them.

28. By his conduct, as alleged in Paragraphs 4 through 27, above, Respondent violated the following Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement:

- a. 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, or assist another in doing so;
- b. RPC 5.5(b)(2), which states that a lawyer who is not admitted to practice in this jurisdiction shall not hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction;
- c. RPC 7.1, which states that a lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A

communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;

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

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 disbarment, suspension, administrative suspension or transfer to inactive status and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status and shall advise said clients to seek legal advice elsewhere;

f. 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 or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of the disbarment, suspension, administrative suspension or transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or 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, administrative suspension or transfer to 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. The notice to be given to the attorney or attorneys for an adverse party shall state the place of residence of the client of the formerly admitted attorney;

- g. Pa.R.D.E. 217(c), which states that a formerly admitted attorney shall promptly notify, or cause to be notified, of the disbarment, suspension, administrative suspension or transfer to inactive status, by registered or certified mail, return receipt requested: (1) all persons or their agents or guardians to whom a fiduciary duty is or may be owed at any time after the disbarment, suspension, administrative suspension or transfer to inactive status, and (2) 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. The responsibility of the formerly admitted attorney to provide the notice required by this subdivision shall continue for as long as the formerly admitted attorney is disbarred,

suspended, administratively suspended or on inactive status;

h. Pa.R.D.E. 217(e), which states that within ten days after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status order, the formerly admitted attorney shall file with the Board a verified statement showing: (1) that the provisions of the order and these rules have been fully complied with; and (2) all other state, federal and administrative jurisdictions to which such person is admitted to practice. Such statement shall also set forth the residence or other address of the formerly admitted attorney where communications to such person may thereafter be directed;

i. Pa.R.D.E. 217(i), a formerly admitted attorney shall keep and maintain records of the various steps taken by such person under these rules so that, upon any subsequent proceeding instituted by or against such person, proof of compliance with these rules and with the disbarment, suspension or transfer to inactive status order

will be available. Proof of compliance with these rules shall be a condition precedent to any petition for reinstatement; and

j. Pa.R.D.E. 217(j)(4), Without limiting the other restrictions in this subdivision (j), a formerly admitted attorney is specifically prohibited from engaging in any of the following activities:

(i) performing any law-related activity for a law firm or lawyer if the formerly admitted attorney was associated with that law firm or lawyer on or after the date on which the acts which resulted in the disbarment or suspension occurred, through and including the effective date of disbarment or suspension;

(ii) performing any law-related services from an office that is not staffed, on a full time basis, by a supervising attorney;

(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;

(vii) appearing on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, hearing officer or any other adjudicative person or body.

SPECIFIC RECOMMENDATION FOR DISCIPLINE

29. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a license suspension of one year.

30. 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, including the mandatory acknowledgements contained in Rule 215(d)(1) through (4), Pa.R.D.E.

31. 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 and Rules of Disciplinary Enforcement;
- b. Respondent has cooperated with Petitioner, as is evidenced by Respondent's admissions herein and his consent to receiving a one-year license suspension;
- c. Respondent has no record of discipline in over 27 years of practicing law;
- d. Respondent is remorseful for his misconduct and understands that he should be disciplined, as is evidenced by his consent to receiving the one-year license suspension.
- e. Although his name appeared on Pennsylvania pleadings as the supervising attorney in his office, Respondent only personally participated in the one conference call during the time of his administrative suspension, and did not appear in any other courtroom in Pennsylvania during the period of his administrative suspension or participate in any other telephone conferences.

32. Respondent has explained that his misconduct occurred at a time when he expanded his role at his firm, Mattleman, Weinroth & Miller, P.C., to include not only supervising the

foreclosure practice but also overseeing the collections department and supervising the overall creditor practice. This was a busy and stressful time for Respondent. However, he acknowledges that he was aware of the issues with his CLE compliance, but neglected to care of the matter in a timely fashion.

33. In Pennsylvania, there is no per se discipline for specific types of misconduct. Instead, each disciplinary case is reviewed individually. *Office of Disciplinary Counsel v. Lucarini*, 417 A.2d 186 (Pa. 1893).

34. Generally, misconduct consisting of the unauthorized practice of law results in public discipline. Where the unauthorized practice is limited in scope and/or of short duration, the discipline imposed has ranged from a public reprimand to license suspension. For example, in *Office of Disciplinary Counsel v. Paul Charles Quinn*, 39 DB 2006 (2007) respondent received a three-month suspension for engaging in the unauthorized practice of law in one client matter over a four-month period, although Respondent Quinn had been on inactive status for two years. In *Office of Disciplinary Counsel v. Ruth Ann Price*, No. 113 DB 2006 (2006) respondent received a six-month suspension for having engaged in the unauthorized practice of law in three client matters over a period of approximately

six months. In *Office of Disciplinary Counsel v. Bloom*, 44 DB 2008 (2010) the Pennsylvania Supreme Court granted a consent petition and suspended respondent for six months where Respondent engaged in the unauthorized practice of law for six months in at least four client matters. Respondent Bloom appeared in Court on behalf of some of those clients and made affirmative misrepresentations with respect to his status. In *Office of Disciplinary Counsel v. Gustee Brown*, No. 64 DB 2003, 71 Pa. D. & C.4th 99 (2004), Respondent Brown received a one-year and one-day license suspension where he represented approximately 120 clients in criminal cases. In *Office of Disciplinary Counsel v. Thomas Joseph Coleman, III*, 98 DB 2003 (2005) Coleman received a two-year license suspension where, for a period of ten months, Coleman signed numerous pleadings in mortgage foreclosure actions in Pennsylvania while on inactive status. Even after being charged with misconduct, Coleman failed to file for reinstatement or file a verified statement in conformance with Pa.R.D.E. 217(e). Coleman affirmatively misled his client with respect to his status and ability to sign Pennsylvania pleadings.

35. While Respondent's unauthorized practice cannot be described as limited in duration, it was limited in scope in that Respondent's Pennsylvania practice consisted of reviewing

and signing pleadings prepared by junior attorneys. During the entire time of his license suspension, Respondent participated in only one conference call on a Pennsylvania case. Unlike Coleman and Bloom, Respondent did not affirmatively misrepresent his status to his clients or the courts, although he failed to disclose it. Respondent has cooperated with ODC and has agreed to a significant license suspension. Considering Respondent's many years of practice with no history of discipline, it is respectfully suggested that despite the serious nature of the misconduct there is very little likelihood it will be repeated. Therefore, there is no reason to require Respondent to go through the reinstatement process.

WHEREFORE, Petitioner and Respondent respectfully request, pursuant to Rules 215(e) and 215(g)(2), that 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 a period of one year, and that Respondent be ordered to pay all necessary expenses incurred in

the investigation and prosecution of this matter as a condition to this Joint Petition being granted.

Respectfully submitted,
OFFICE OF DISCIPLINARY COUNSEL
PAUL J. KILLION,
Attorney Registration No. 20955,
Chief Disciplinary Counsel

3/31/15
DATE

Ramona Mariani by DEC
RAMONA MARIANI,
Disciplinary Counsel
Attorney Registration Number 78466
Office of Disciplinary Counsel
District II Office
Suite 170, 820 Adams Avenue
Trooper, PA 19403
(610) 650-8210

3/16/15
DATE

Martin S. Weisberg
Martin S. Weisberg, Esquire
Respondent

3/26/15
DATE

Arthur W. Lefco
Arthur W. Lefco, Esquire
Counsel for Respondent

VERIFICATION

The statements contained in the foregoing *Joint Petition In Support of Discipline on Consent* 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.

3/31/15
DATE

Ramona Mariani Esq
RAMONA MARIANI,
Disciplinary Counsel

3/16/15
DATE

Martin S. Weisberg
Martin S. Weisberg, Esquire
Respondent

3/26/15
DATE

Arthur W. Lefco
Arthur W. Lefco, Esquire
Counsel for Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. DB 2015
Petitioner :
:
: Attorney Reg. No. 51520
MARTIN S. WEISBERG, :
Respondent : (Out of State)

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:

Arthur W. Lefco, Esquire
Marshall Dennehey Warner Coleman & Goggin
2000 Market Street, Suite 2300
Philadelphia, PA 19103

and

Alesia S. Sulock, Esquire
Marshall Dennehey Warner Coleman & Goggin
2000 Market Street, Suite 2300
Philadelphia, PA 19103
Counsel for Respondent

Dated:

3/31/15

Ramona Mariani Esq HSC
RAMONA MARIANI,
Disciplinary Counsel
Attorney Registration No. 78466
Office of Disciplinary Counsel
District II Office
Suite 170, 820 Adams Avenue
Trooper, PA 19403
(610) 650-8210

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Respondent : (Out of State)

AFFIDAVIT

Martin S. Weisberg, hereby tenders this affidavit in support of the Joint Petition in Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d), and further states as follows:

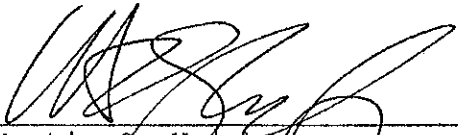
1. He freely and voluntarily consents to the proposed discipline; he is not being subjected to coercion or duress; he is fully aware of the implications of submitting the consent; and he has consulted with counsel in connection with the decision to consent to discipline.

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.

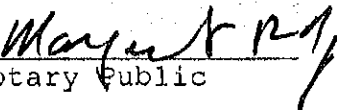
4. He consents because he knows that if charges continued to be prosecuted in the pending proceeding, he could not successfully defend against them.

Signed this 16th day of March 2015.



Martin S. Weisberg
Attorney Registration No. 51520

Sworn to and subscribed
Before me this 16th day
of March 2015.



Notary Public

MARGARET R. IP
Notary Public
State of New Jersey
My Commission Expires January 24, 2016