

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1708 Disciplinary Docket No. 3
Petitioner :
: No. 6 DB 2011
v. :
: Attorney Registration No. 46495
ANN ADELE RUBEN, :
Respondent : (Philadelphia)

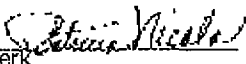
ORDER

PER CURIAM:

AND NOW, this 28th day of April, 2011, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated February 8, 2011, 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 Ann Adele Ruben is suspended on consent from the Bar of this Commonwealth for a period of one year and one day and she shall comply with all the provisions of Rule 217, Pa.R.D.E.

A True Copy Patricia Nicola
As Of 4/28/2011

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : **6 DB 2011**
Petitioner :
:
:
v. : ODC File No. C1-10-32
:
:
:
ANN ADELE RUBEN, : Atty. Reg. No. 46495
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 Richard Hernandez, Disciplinary Counsel, and by Respondent, Ann Adele Ruben, who is represented by Samuel C. Stretton, Esquire, file this Joint Petition In Support of Discipline on Consent under Pennsylvania Rule of Disciplinary Enforcement ("Pa.R.D.E.") 215(d), 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 Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement (hereinafter "Pa.R.D.E."), with the power and duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law

FILED

JAN 10 2011

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

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

2. Respondent, Ann Adele Ruben, was admitted to practice law in the Commonwealth on November 7, 1986. According to attorney registration records, Respondent's public access address is 623 W. Cliveden Street, Philadelphia PA 19119.

3. Pursuant to Pa.R.D.E. 201(a)(1), Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

4. In connection with ODC File No. C1-10-32, Respondent received a Request for Statement of Respondent's Position (Form DB-7) dated June 18, 2010.

5. By letter dated July 12, 2010, Respondent submitted a counseled response to the DB-7 letter.

6. On October 14, 2010, Respondent's counsel, Samuel C. Stretton, Esquire, advised Petitioner that Respondent had agreed to enter into a joint recommendation for consent discipline.

SPECIFIC FACTUAL ADMISSIONS AND
RULES OF PROFESSIONAL CONDUCT VIOLATED

7. Respondent hereby stipulates that the following factual allegations drawn from the DB-7 letter, as referenced above, are true and correct and that she violated the charged Rules of Professional Conduct as set forth herein.

8. At all times relevant hereto, Respondent was a partner at a Philadelphia law firm that limited its practice to immigration and nationality matters ("the firm").

a. The firm hired Respondent in May 1986 upon her graduation from law school; Respondent worked continuously and exclusively at the firm for twenty-three years, initially as an associate before becoming a partner.

9. At all times relevant hereto, Respondent was the attorney assigned to handle the following immigration cases on behalf of foreign employees who were employees of companies geographically located in the United States.¹

¹ The within Petition omits the identities of the employers and employees at their request.

I. COMPANY A

K.R.

10. Mr. K.R. was a foreign employee of Company A.

a. Mr. R was in the United States on an H-1B visa.

11. In May 2008, Respondent was advised by R.L., HR Coordinator for Company A, that Company A wanted Respondent to prepare and file on behalf of Mr. R an Application for Permanent Employment Certification, ETA Form 9089 ("labor certification application") with the United States Department of Labor ("the Labor Dept.") in order to obtain permanent resident status.

12. In May 2008, Respondent began working on Mr. R's labor certification application, which included overseeing the recruitment process.

13. By the end of 2008, the recruitment process had concluded and a labor certification application could have been filed by Respondent on behalf of Mr. R.

14. Respondent failed to file a labor certification application with the Labor Dept. on behalf of Mr. R.

15. In January 2009, Respondent misrepresented to B. C., HR Director for Company A, that she had filed that month a labor certification application on behalf of Mr. R.

16. By e-mail dated November 9, 2009, Mr. R inquired of Respondent as to the status of his labor certification application.

17. By e-mail dated November 9, 2009, Respondent told Mr. R that the Labor Dept. was processing applications filed in November 2008.

18. By e-mail dated November 23, 2009, Mr. R asked Respondent for a copy of his labor certification application.

19. By e-mail dated November 23, 2009, Respondent told Mr. R that she:

- a. "thought" she had sent him a copy of his labor certification application; and
- b. would arrange to send to him a copy of his labor certification application.

20. Respondent failed to advise Mr. R that she had not filed a labor certification application on his behalf with the Labor Dept.

M.T.

21. Ms. M.T. was a foreign employee of Company A.

- a. Ms. T was in the United States on an H-1B visa.
- b. Ms. T had commenced her H-1B visa status on September 19, 2003.

c. Under federal law, Ms. T's H-1B visa status was limited to six years and was set to expire sometime in September 2009, which is the limit of Ms. T's H-1B visa status unless a labor certification application had been filed on her behalf more than one year before her H-1B visa status expired.

22. Sometime in 2008, Respondent was advised that Company A wanted Respondent to prepare and file on behalf of Ms. T a labor certification application with the Labor Dept. to obtain permanent resident status.

23. Respondent began working on Ms. T's labor certification application, which included overseeing the recruitment process.

24. By no later than the middle of November 2008, the recruitment process had concluded and a labor certification application could have been filed by Respondent on behalf of Ms. T.

25. By e-mail dated November 19, 2008, sent to Ms. L and copied to Ms. C, Respondent represented that she would be filing Ms. T's labor certification application that week.

26. Respondent failed to file a labor certification application with the Labor Dept. on behalf of Ms. T.

27. In January 2009, Respondent misrepresented to Ms. L, Ms. C, and Ms. T that she had filed that month a labor certification application on behalf of Ms. T.

28. Sometime in 2009, Respondent filed an I-129 Petition for a Nonimmigrant Worker ("Form I-129") with the United States Citizenship and Immigrations Services ("USCIS") on behalf of Ms. T.

a. In the Form I-129, Respondent sought a continuation of Ms. T's H-1B visa status.

b. Respondent incorrectly stated in the H Classification Supplement to the Form I-129 that Ms. T had commenced her H-1B visa status on September 19, 2004.

29. Based on the incorrect information that Respondent provided in the Form I-129, an approval notice was issued on June 30, 2009, extending Ms. T's H-1B visa status until September 19, 2010.

30. Respondent failed to advise Ms. T that she had not filed a labor certification application on Ms. T's behalf with the Labor Dept.

31. Ms. T departed the United States upon the expiration of her H-1B visa status in September 2010 and must wait at least one year before she can attempt to obtain a visa to reenter the United States because

Respondent did not prepare and file a labor certification application with the Labor Dept. more than one year before Ms. T's H-1B visa status terminated.

S.P.

32. Ms. S.P. was a foreign employee of Company A.

a. Ms. P was in the United States on an H-1B visa.

33. In July 2008, Respondent was advised by Ms. L that Company A wanted Respondent to prepare and file on behalf of Ms. P a labor certification application with the Labor Dept. to obtain permanent resident status.

34. In August 2008, Respondent began working on Ms. P's labor certification application, which included overseeing the recruitment process.

35. By the end of 2008, the recruitment process had concluded and a labor certification application could have been filed by Respondent on behalf of Ms. P.

36. Respondent failed to file a labor certification application with the Labor Dept. on behalf of Ms. P.

37. In January 2009, Respondent misrepresented to Ms. C that she had filed that month a labor certification application on behalf of Ms. P.

38. Respondent failed to advise Ms. P that she had not filed a labor certification application on Ms. P's behalf with the Labor Dept.

II. COMPANY B

P.A.

39. Mr. P.A. was a foreign employee of Company B.

a. Mr. A was in the United States on an H-1B visa.

40. In or about June 2007, Company B retained Respondent to prepare and file on Mr. A's behalf a labor certification application with the Labor Dept. to obtain permanent resident status.

41. In June 2007, Respondent began working on Mr. A's labor certification application.

42. Respondent failed to complete the necessary steps required to finalize and file a labor certification application with the Labor Dept. on behalf of Mr. A.

43. During a telephone conversation that took place in January 2008, Respondent misrepresented to Mr. A that she had filed that month a labor certification application on his behalf.

44. Respondent provided Mr. A with a false Labor Dept. file number for the labor certification application that Respondent had purportedly filed on his behalf.

45. Respondent failed to advise Mr. A that she had not filed a labor certification application on his behalf with the Labor Dept.

J.C.

46. Mr. J.C. was a foreign employee of Company B.

a. Mr. C was in the United States on an H-1B visa.

47. In May 2009, Company B retained Respondent to prepare and file on Mr. C's behalf a labor certification application with the Labor Dept. to obtain permanent resident status.

48. In May 2009, Respondent began working on Mr. C's labor certification application.

49. Respondent failed to complete the necessary steps required to finalize and file a labor certification application with the Labor Dept. on behalf of Mr. C.

50. Respondent misrepresented to Mr. C that she had filed a labor certification application on his behalf.

51. Respondent provided Mr. C with a false Labor Dept. file number for the labor certification application that she had purportedly filed on his behalf.

52. Sometime in June 2009, Respondent misrepresented to Mr. S.P., an employee with Company B who was overseeing the labor certification application of Mr. C and other

foreign employees of that company, that the Labor Dept.'s Atlanta processing center was subjecting certain labor certification applications that Respondent had purportedly filed on behalf of Company B's foreign employees, which included Mr. C's labor certification application, to an additional round of supervised recruitment, which had to be completed before the labor certification applications could be processed.

53. During a telephone conversation that occurred sometime in August 2009, Respondent misrepresented to Mr. P that she had contacted the Labor Dept. and that Company B would have to re-advertise certain job descriptions, which would delay the approval of the labor certification applications that Respondent had purportedly filed on behalf of Mr. C and others.

54. Respondent failed to advise Mr. C that she had not filed a labor certification application on his behalf with the Labor Dept.

S.M.

55. Mr. S.M. was a foreign employee of Company B.

- a. Mr. M was in the United States on an H-1B visa.
- b. Mr. M's H-1B visa status expired on July 30, 2010, which is the limit of Mr. M's H-1B

visa status unless a labor certification application had been filed on his behalf more than one year before his H-1B visa status expired.

56. In August 2007, Company B retained Respondent to prepare and file on Mr. M's behalf a labor certification application with the Labor Dept. to obtain permanent resident status.

57. In September 2007, Respondent began working on Mr. M's labor certification application.

58. Respondent failed to complete the necessary steps required to finalize and file a labor certification application with the Labor Dept. on behalf of Mr. M more than one year before Mr. M's H-1B visa status expired.

59. By e-mails dated January 4, 15, and 21, 2008, Mr. M inquired as to the status of his labor certification application.

60. During a telephone conversation that occurred in February 2008, Respondent misrepresented to Mr. M that she had filed a labor certification application on his behalf on January 15, 2008.

61. Sometime in 2008, Respondent provided Mr. P with a false filing date and a false Labor Dept. file number for

the labor certification application that she had purportedly filed on Mr. M's behalf.

62. Sometime in June 2009, Respondent misrepresented to Mr. P that the Labor Dept.'s Atlanta processing center was subjecting certain labor certification applications that Respondent had purportedly filed on behalf of Company B's foreign employees, which included Mr. M's labor certification application, to an additional round of supervised recruitment, which had to be completed before the labor certification applications could be processed.

63. Respondent failed to advise Mr. M that she had not filed a labor certification application on his behalf with the Labor Dept.

64. Because of Respondent's failure to timely file a labor certification application on behalf of Mr. M, Mr. M and his wife and children had to leave the United States on February 25, 2010, and did not return until October 1, 2010, when Mr. M was able to obtain another visa so that he could lawfully reside in the United States and continue his employment with Company B.

V.N.

65. Mr. V.N. was a foreign employee of Company B.

a. Mr. N was in the United States on an H-1B visa.

66. In January 2008, Company B retained Respondent to prepare and file on Mr. N's behalf a labor certification application with the Labor Dept. to obtain permanent resident status.

67. In February 2008, Respondent began working on Mr. N's labor certification application.

68. Respondent failed to complete the necessary steps required to finalize and file a labor certification application with the Labor Dept. on behalf of Mr. N.

69. Respondent misrepresented to Mr. N and Mr. P that she had filed a labor certification application on Mr. N's behalf in September 2008.

70. Sometime in November 2008, Respondent provided Mr. P with a false Labor Dept. file number for the labor certification application that Respondent had purportedly filed on Mr. N's behalf.

71. In response to e-mail inquiries sent to Respondent regarding the status of Mr. N's labor certification application, Respondent sent a May 13, 2009 e-mail to Mr. N and Mr. P, in which Respondent falsely stated that the Labor Dept.'s Atlanta processing center appeared to be delaying action in Company B cases, which required further investigation by her.

72. Respondent failed to advise Mr. N that she had not filed a labor certification application on his behalf with the Labor Dept.

R.M.A.

73. Mr. R.M.A. was a foreign employee of Company B.

a. Mr. A was in the United States on an H-1B visa.

b. Mr. A's H-1B visa status was scheduled to expire on May 29, 2010, which was the limit of Mr. A's H-1B visa status unless a labor certification application was filed on his behalf more than one year before his H-1B visa status expired.

74. In November 2007, Company B retained Respondent to prepare and file on Mr. A's behalf a labor certification application with the Labor Dept. to obtain permanent resident status.

75. In November 2007, Respondent began working on Mr. A's labor certification application.

76. Respondent failed to complete the necessary steps required to finalize and file a labor certification application with the Labor Dept. on behalf of Mr. A more than one year before Mr. A's H-1B visa status expired.

77. Respondent misrepresented to Mr. A and Mr. P that she had filed a labor certification application on Mr. A's behalf.

78. Respondent provided Mr. A with a false Labor Dept. file number for the labor certification application that she had purportedly filed on his behalf.

79. Sometime in June 2009, Respondent misrepresented to Mr. P, who was overseeing the labor certification application of Mr. A and other foreign employees of that company, that the Labor Dept.'s Atlanta processing center was subjecting certain labor certification applications that Respondent had purportedly filed on behalf of Company B's foreign employees, which included Mr. A's labor certification application, to an additional round of supervised recruitment, which had to be completed before the labor certification applications could be processed.

80. In response to an e-mail inquiry sent to Respondent by Mr. A regarding his H-1B visa status, Respondent sent a June 8, 2009 e-mail to Mr. A and Mr. P, in which she incorrectly stated that Mr. A's H-1B visa status did not expire until October 21, 2011.

81. During a telephone conversation that occurred sometime in August 2009, Respondent misrepresented to Mr. P that she had contacted the Labor Dept. and that Company B

would have to re-advertise certain job descriptions, which would delay the approval of the labor certification applications that Respondent had purportedly filed on behalf of Mr. A and others.

82. Respondent failed to advise Mr. A that she had not filed a labor certification application on his behalf with the Labor Dept.

83. Because of Respondent's failure to timely file a labor certification application on behalf of Mr. A, Mr. A had to briefly leave the United States and return to Canada to obtain TN visa status so that he could lawfully reside in the United States and continue his employment with Company B.

M.T.

84. Mr. M.T. was a foreign employee of Company B.

- a. Mr. T was in the United States on an H-1B visa.
- b. Mr. T's H-1B visa status is scheduled to expire on March 8, 2011, which is the limit of Mr. T's H-1B visa status unless a labor certification application was filed on his behalf more than one year before his H-1B visa status is set to expire.

85. In December 2006, Company B retained Respondent to prepare and file on Mr. T's behalf a labor certification application with the Labor Dept. to obtain permanent resident status.

86. In January 2007, Respondent began working on Mr. T's labor certification application.

87. Respondent failed to complete the necessary steps required to finalize and file a labor certification application with the Labor Dept. on behalf of Mr. T more than one year before Mr. T's H-1B visa status is set to expire.

88. Respondent misrepresented to Mr. T that she had filed a labor certification application on his behalf in January 2008.

89. Respondent provided Mr. T with a false Labor Dept. file number for the labor certification application that she had purportedly filed on his behalf.

90. Respondent failed to advise Mr. T that she had not filed a labor certification application on his behalf with the Labor Dept.

91. Mr. T resigned from Company B and declined to pursue permanent residency in the United States.

A.P.

92. Mr. A.P. was a foreign employee of Company B.

a. Mr. P was in the United States on an H-1B visa.

93. In January 2009, Company B retained Respondent to prepare and file on Mr. P's behalf a labor certification application with the Labor Dept. to obtain permanent resident status.

94. In February 2009, Respondent began working on Mr. P's labor certification application.

95. Respondent failed to complete the necessary steps required to finalize and file a labor certification application with the Labor Dept. on behalf of Mr. P.

96. Respondent failed to advise Mr. P that she had not filed a labor certification application on his behalf with the Labor Dept.

J.J.K.

97. Mr. J.J.K. was a foreign employee of Company B.

a. Mr. K was in the United States on an H-1B visa.

98. In September 2007, Company B retained Respondent to prepare and file on Mr. K's behalf a labor certification application with the Labor Dept. to obtain permanent resident status.

99. In September 2007, Respondent began working on Mr. K's labor certification application.

100. Respondent failed to complete the necessary steps required to finalize and file a labor certification application with the Labor Dept. on behalf of Mr. K.

101. Respondent misrepresented to Mr. K that she had filed a labor certification application on his behalf.

102. Respondent provided Mr. K with a false Labor Dept. file number for the labor certification application that she had purportedly filed on his behalf.

103. Respondent failed to advise Mr. K that she had not filed a labor certification application on his behalf with the Labor Dept.

Z.Z.

104. Mr. Z.Z. was a foreign employee of Company B.

a. Mr. Z was in the United States on an H-1B visa.

105. In August 2007, Company B formally retained Respondent to prepare and file on Mr. Z's behalf a labor certification application with the Labor Dept. to obtain permanent resident status.

106. In July 2007, Respondent began working on Mr. Z's labor certification application.

107. Respondent failed to complete the necessary steps required to finalize and file a labor certification application with the Labor Dept. on behalf of Mr. Z.

108. Respondent misrepresented to Mr. Z that she had filed a labor certification application on his behalf.

109. Respondent provided Mr. Z with a false Labor Dept. file number for the labor certification application that she had purportedly filed on his behalf.

110. By e-mail dated March 27, 2009, Respondent falsely advised Mr. P that Mr. Z's labor certification application was pending before the Labor Dept.

111. Sometime in June 2009, Respondent misrepresented to Mr. P, who was overseeing the labor certification application of Mr. Z and other foreign employees of that company, that the Labor Dept.'s Atlanta processing center was subjecting certain labor certification applications that Respondent had purportedly filed on behalf of Company B's foreign employees, which included Mr. Z's labor certification application, to an additional round of supervised recruitment, which had to be completed before the labor certification applications could be processed.

112. By e-mail dated June 4, 2009, which responded to a June 3, 2009 e-mail Respondent received from Mr. Z, Respondent misrepresented to Mr. Z that based upon

information she received from the Labor Dept., "the priority date will be reset to the date of approval of our supervised recruitment."

113. Respondent failed to advise Mr. Z that she had not filed a labor certification application on his behalf with the Labor Dept.

III. COMPANY C

R.P.

114. Ms. R.P. was a foreign employee of Company C.

a. Ms. P was in the United States on an H-1B visa.

115. Sometime in 2007, Respondent was advised by Company C to prepare and file on Ms. P's behalf a labor certification application with the Labor Dept. to obtain permanent resident status.

116. Sometime in the summer of 2007, Respondent began working on Ms. P's labor certification application.

117. On or about November 26, 2007, Respondent filed a labor certification application with the Labor Dept. on behalf of Ms. P.

118. By letter dated July 25, 2008, Respondent was advised that Ms. P's labor certification application had been denied because there was a problem with the newspaper

advertisement for the position held by Ms. P with Company C.

119. In August 2008, Respondent began work on refiling Ms. P's labor certification application, which included overseeing the recruitment process.

120. By no later than October 2008, the recruitment process had concluded and a labor certification application could have been filed by Respondent on behalf of Ms. P.

121. After the recruitment process had concluded in October 2008, Respondent failed to file a timely labor certification application with the Labor Dept. on behalf of Ms. P.

122. Thereafter, Respondent again worked on refiling Ms. P's labor certification application, which included overseeing the recruitment process.

123. Respondent failed to ensure that the recruitment process was properly completed.

124. On August 1, 2009, Respondent filed a labor certification application with the Labor Dept. on behalf of Ms. P.

125. On February 16, 2010, the firm withdrew the labor certification application Respondent filed on behalf of Ms. P because the recruitment process was not properly completed.

IV. FREEDOM OF INFORMATION ACT REQUEST

T.O.O.

126. In May 2009, Dr. T.O.O. met with Respondent and explained that he wanted to learn why his father had recently been denied a visa for entry into the United States.

- a. Respondent told Dr. O that disclosure of this information could be obtained only by filing a Freedom of Information Act request.
- b. Respondent advised Dr. O that her fee for this service was \$300.00.

127. On June 29, 2009, Respondent received a \$300.00 payment from Dr. O, along with a hand-written note and a copy of his father's passport.

128. By letter dated September 3, 2009, Dr. O, *inter alia*:

- a. stated that he had tried contacting Respondent by calling her and sending her e-mails, but he had not received any reply from her;
- b. inquired if she had filed the Freedom of Information Act request and if she had received a response; and

c. provided her with his address and e-mail address.

129. Respondent received this letter.

130. Respondent failed to respond to this letter.

131. Respondent failed to prepare and file the Freedom of Information Act request.

V. COMPANY D

R.C.R.

132. Mr. R.C.R. was a foreign employee of Company D.

a. Mr. R was in the United States on an H-1B visa.

b. Mr. R's H-1B visa status was scheduled to expire on August 4, 2009, which was the limit of Mr. R's H-1B visa status unless a labor certification application was filed on his behalf more than one year before his H-1B visa status expired.

133. In October 2007, Respondent was advised by G.S., Director of Employee Relations for Company D, that Company D wanted Respondent to prepare and file on behalf of Mr. R a labor certification application with the Labor Dept. to obtain permanent resident status.

134. In November 2007, Respondent began working on Mr. R's labor certification application.

135. Respondent failed to complete and file a labor certification application on behalf of Mr. R more than one year before Mr. R's H-1B visa status expired.

136. Respondent misrepresented to Mr. R that she had filed a labor certification application on his behalf.

137. Respondent timely filed a Form I-129 with the USCIS to extend Mr. R's H-1B visa status to cover the period of August 4, 2009 through January 3, 2011.

138. By Form I-797 dated August 19, 2009, the Form I-129 was returned to Respondent by the USCIS and she was advised of certain deficiencies in the Form I-129 that needed to be addressed.

139. Respondent failed to correct the deficiencies in the Form I-129 and to file a corrected Form I-129 with the USCIS on behalf of Mr. R.

140. Respondent failed to advise Mr. R that she had not filed a labor certification application on his behalf with the Labor Dept.

141. Because of Respondent's failure to timely file a labor certification application on behalf of Mr. R and to file a corrected Form I-129 to extend Mr. R's H-1B visa status, Mr. R had to briefly leave the United States and return to Mexico in January 2010 to obtain TN visa status

so that he could lawfully reside in the United States and continue his employment with Company D.

VI. COMPANY E

E.N.

142. Mr. E.N. was a foreign employee of Company E.

- a. On information and belief, Mr. N was in the United States on an H-1B visa.
- b. Mr. N's H-1B visa status expired in April 2009.

143. Sometime before April 2009, Respondent was retained to file on behalf of Mr. N the necessary paperwork to obtain an extension of his H-1B visa status.

144. Respondent failed to file on behalf of Mr. N the necessary paperwork to obtain an extension of his H-1B visa status.

145. Mr. N did not learn that Respondent had failed to file the necessary paperwork to obtain an extension of his H-1B visa status until November 2009, more than 180 days after Mr. N's authorization to be in the United States had expired.

- a. Thereafter, Respondent prepared a sworn statement acknowledging her culpability in Mr. N's case; this statement was provided to Company E's general counsel to use in

obtaining a retroactive extension of status for Mr. N.

VII. COMPANY F

Y.Y.

146. Y.Y. was a foreign employee of Company F.

- a. Y.Y. was in the United States on an H-1B visa.
- b. Y.Y.'s H-1B visa status was to expire in less than one year.

147. Sometime before Y.Y.'s H-1B visa status was to expire, Respondent was retained to prepare and file on behalf of Y.Y. a labor certification application with the Labor Dept. to obtain permanent resident status.

148. Respondent failed to complete and file a labor certification application on behalf of Y.Y. more than one year before Y.Y.'s H-1B visa status was to expire.

149. Respondent failed to advise Y.Y. that she had not filed a labor certification application with the Labor Dept.

150. Because of Respondent's failure to timely file a labor certification application on behalf of Y.Y., Y.Y. may have to leave the United States for up to one year before attempting to return to the United States.

151. Respondent admits that by her conduct as set forth in Paragraphs 8 through 150 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 the 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 4.1(a), which states that in the course of representing a client a lawyer shall not knowingly make a false statement of material fact or law to a third person;
- 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; and

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.

SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

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

153. Respondent hereby consents to that discipline being imposed upon her 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 she consents to the recommended discipline, including the mandatory acknowledgements contained in Rule 215(d)(1) through (4), Pa.R.D.E.

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

a. Respondent has been diagnosed with Attention Deficit/Hyperactivity Disorder, Dysthymia, which is described as a "chronic and persistent form of depression," and

Generalized Anxiety Disorder, and has submitted the attached psychiatric report detailing her diagnosis, treatment, and prognosis. (Attachment A);

- b. Respondent has established that there is a causal connection between her misconduct and her mental disorders so as to constitute mitigation under *Office of Disciplinary Counsel v. Braun*, 553 A.2d 894 (Pa. 1989);
- c. Respondent has agreed to serve the entire term of suspension before filing a petition for reinstatement and waives her right under D.Bd. Rules §89.272(b) to file a petition for reinstatement prior to the expiration of the term of her suspension;
- d. Respondent had self-reported her misconduct to the Disciplinary Board;
- e. Respondent has admitted engaging in misconduct and violating the charged Rules of Professional Conduct;
- f. Respondent has cooperated with Petitioner, as is evidenced by Respondent's admissions herein and her consent to receiving a suspension of one year and one day;

- g. Respondent is remorseful for her misconduct and understands she should be disciplined, as is evidenced by her consent to receiving a suspension of one year and one day; and
- h. Respondent has no prior record of discipline since being admitted to practice law in the Commonwealth in 1986.

155. Respondent, through her attorney, desires to bring to the attention of the three-member panel of the Disciplinary Board and the Supreme Court of Pennsylvania that if the within disciplinary matter had proceeded to a disciplinary hearing, Respondent would have testified that she:

- a. is addressing her mental disorders through medication, counseling, and education;
- b. performed *pro bono* work during her years of practice through the American Immigration Lawyers Association;
- c. experienced stress in her work environment because she did not have "back-up";
- d. received criticism from her partners for her periodic shortcomings, particularly from one former law partner, which episodes are

discussed in more detail on page 5 of the attached psychiatric report; and

e. was terminated from employment after the firm discovered her misconduct.

156. There is precedent that supports the recommendation that Respondent receive a suspension of one year and one day for her misconduct, which is best characterized as involving a pattern of neglect and misrepresentations.

In *Office of Disciplinary Counsel v. Thomas William Smith*, No. 21 DB 2000 (D.Bd. Rpt. 9/8/03) (S.Ct. Order 12/9/03), Respondent Smith received a suspension of one year and one day for engaging in neglect in eleven client matters during a three-year period and sought to conceal his misconduct by making misrepresentations to his clients (in 4 matters) and his employer (in 7 client matters) over a three-month period. All of the cases Respondent Smith neglected were dismissed; however; Respondent Smith's former firm was successful in having the cases reinstated. D.Bd. Rpt. at 36. Although the clients' cases were resurrected, the Disciplinary Board remarked that some of the clients may not have obtained the "full recovery" they would have received had their cases not been mishandled. *Id.* An aggravating factor was Respondent Smith's public

censure, but that sanction was not given substantial weight because it was imposed fourteen years earlier. *Id.* at 38. Respondent Smith had **Braun** mitigation due to his alcoholism, as well as mitigation consisting of remorse, cooperation, and good character testimony. *Id.* The Board recommended a four-year suspension, retroactive to December 13, 1998, the date Respondent Smith was transferred to inactive status for failing to meet his continuing legal education requirements. However, the Pennsylvania Supreme Court imposed a prospective suspension of one year and one day.

Respondent Ruben's matter is similar to Respondent Smith's case in that both attorneys engaged in serial neglect and misrepresentations, exhibited remorse, cooperated, and established **Braun** mitigation. *Smith* and Respondent Ruben's matter are different in that Respondent Ruben has no prior disciplinary history.

In *In re Anonymous No. 56 DB 93 (Malcolm P. Rosenberg)*, 36 Pa. D.&C.4th 11 (1996), the attorney received a suspension of one year and one day for the neglect of ten legal matters during a period of approximately two years, but did not engage in any misrepresentations. Respondent Rosenberg received **Braun** mitigating by proving that his misconduct was caused by a severe mental depression that

resulted from the cumulative effect of family misfortunes, including his father's death and his mother's serious health problems, and the resulting stress. *Id.* at 28-29. Respondent Rosenberg received informal admonitions on three occasions either shortly before or during the period of misconduct. *Id.* at 29. The Disciplinary Board, after reviewing similar cases, determined that it was appropriate to recommend a suspension of one year and one day, which would require Respondent Rosenberg to undergo the reinstatement process and would protect the interests of the public and the courts. *Id.* at 30. *Rosenberg* and Respondent Ruben's matter are dissimilar in that Respondent Rosenberg did not make misrepresentations to his clients. However, unlike Respondent Rosenberg, Respondent Ruben has no record of discipline and self-reported her misconduct.

In *In re Anonymous No. 54 DB 83 and 59 DB 83 (Howard L. Rubenfield)*, 34 Pa. D.&C.3rd 606 (1985), the attorney was suspended for two years for engaging in neglect and misrepresentations in nine client matters over a time period encompassing four and one-half years. The Board concluded that some of the clients suffered financial harm. *Id.* at 607. Respondent Rubenfield lied to the Hearing Committee regarding the reason offered for seeking a continuance of the hearing and testified at the hearing

that he could not guarantee that his misconduct would not recur. *Id.* at 632. Previously, Respondent Rubenfield had been issued an unspecified number of informal admonitions. *Id.* at 633. The Board recommended that Respondent Rubenfield receive a one-year suspension; however, the Court suspended Respondent Rubenfield for two years. Unlike Respondent Rubenfield, Respondent Ruben has no record of discipline and has not testified falsely before a hearing committee. Furthermore, Respondent Ruben has **Braun** mitigation, a mitigating factor not present in Respondent Rubenfield's case.

In short, **Smith** and **Rosenberg** stand for the proposition that if an attorney has **Braun** mitigation, serial neglect, regardless of whether accompanied by misrepresentations, will result in a suspension of at least one year and one day. **Rubenfield** suggests that absent **Braun** mitigation, an attorney who engages in serial neglect and misrepresentations should receive a suspension greater than one year and one day.

Based on **Smith** and **Rosenberg**, a suspension of one year and one day would be appropriate discipline for Respondent's misconduct. Respondent's mitigating factors also support the imposition of a suspension of one year and one day, which will require Respondent to prove at a

reinstatement hearing that her psychiatric problems are sufficiently resolved so that she can resume the practice of law without endangering the public.

157. Respondent, through her attorney, desires to bring to the attention of the three-member panel of the Disciplinary Board and the Supreme Court of Pennsylvania the following two disciplinary cases.

In Office of Disciplinary Counsel v. Frank C. Arcuri, No. 140 DB 2005 (Recommendation of the Three-Member Panel of the Disciplinary Board 2/13/06)(S.Ct. Order 4/7/06), Respondent Arcuri was suspended for one year for engaging in misconduct in 19 separate appellate matters, of which 18 of the cases involved neglect. Five of Respondent Arcuri's clients suffered harm because they were unable to pursue their appeals. A misrepresentation was made to one of the clients; however, it was Respondent's paralegal, not Respondent, who was responsible for the misrepresentation. An aggravating factor in determining discipline was Respondent Arcuri's record of discipline, consisting of two non-summary private reprimands and one summary private reprimand for misconduct in eleven client cases. In mitigation, Respondent Arcuri admitted his misconduct, cooperated with Petitioner and his former clients, handled many court-appointed cases at reduced rates of

compensation, and suffered from depression during the period he engaged in misconduct. *Arcuri* and Respondent Ruben's matter are dissimilar in that Respondent Arcuri did not make misrepresentations to his clients. However, unlike Respondent Arcuri, Respondent Ruben has no record of discipline and self-reported her misconduct.

In *Office of Disciplinary Counsel v. Joseph Edward Hudak*, Nos. 148 & 174 DB 2003 (D.Bd. Rpt. 10/25/04) (S.Ct. Order 3/1/05), Respondent Hudak received a suspension of one year and one day for engaging in misconduct in eight separate client matters. Seven of the cases involved neglect and four of the cases involved misrepresentations. Since June of 2002, Respondent Hudak had been placed on notice of 46 complaints that had been filed against him. Respondent Hudak had previously received an informal admonition in 2001, which was four years earlier. *Hudak* and Respondent Ruben's matter are different in that Respondent Ruben has no prior disciplinary history and has *Braun* mitigation.

WHEREFORE, Petitioner and Respondent respectfully request that:

- a. Pursuant to Pa.R.D.E. 215(e) and 215(g), the three-member panel of the Disciplinary Board review and approve the Joint Petition in

Support of Discipline on Consent and file its recommendation with the Supreme Court of Pennsylvania recommending that the Supreme Court enter an Order that Respondent receive a suspension of one year and one day.

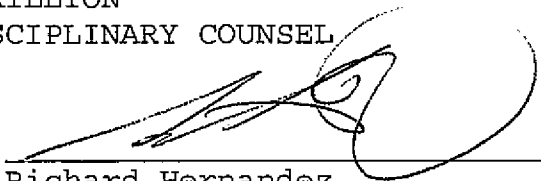
- b. Pursuant to Pa.R.D.E. 215(i), the three-member panel of the Disciplinary Board enter an order for Respondent to pay the necessary expenses incurred in the investigation and prosecution of this matter as a condition to the grant of the Petition, and that all expenses be paid by Respondent before the imposition of discipline under Pa.R.D.E. 215(g).

Respectfully and jointly submitted,

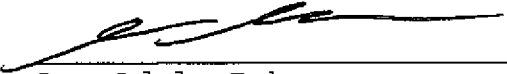
OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION
CHIEF DISCIPLINARY COUNSEL


12/20/2010
Date

By 
Richard Hernandez
Disciplinary Counsel

1/1/2011
Date

By 
Ann Adele Ruben
Respondent

1/5/11
Date

By 
Samuel C. Stretton, Esquire
Respondent's Counsel

ATTACHMENT A

rd 5/5/10
△

Howard S. Baker, M.D.

1420 Walnut Street, Suite 1412
Philadelphia, PA 19102
215-735-7141
Fax: 610-896-1779
dochbaker@gmail.com

April 29, 2010

Mr. Samuel Stretton
Attorney at Law
310 South High Street
P.O. Box 3231
West Chester, PA 19381-3231

RE: Ruben, Ann
DOB: 3/12/59

Dear Mr. Stretton:

I am writing in regard to Attorney Ann Ruben, whom you are representing in her disciplinary proceedings before the Pennsylvania Bar. The reason I am writing is to describe the psychiatric and psychological factors that I believe, with reasonable medical certainty caused the misconduct at issue here.

Ms. Ruben was referred to me by her psychotherapist, Catherine Bean, who thought that Ms. Ruben had anxiety and depression that needed treatment with medication. As well, Ms. Bean suspected that Ms. Ruben had Attention Deficit/Hyperactivity Disorder. Our initial consultation was on 12/7/2009.

Ms. Ruben began by explaining that after working for her firm for 23 years and being a partner for the last 16 years, she was expelled from the practice because she had failed to file critical immigration petitions and applications for more than a dozen clients. While this was problematic enough, she reported that she was not forthcoming about these failures to anyone, and at times deliberately lied to conceal them. It was clear that she was consumed with grief and remorse about her misconduct and its impact on her clients and co-workers. Ms. Ruben was entirely forthcoming about her misbehavior. It was clear that she understood the gravity of what she had done and the import of the disciplinary proceeding. It took several further meetings until I felt reasonably confident that I understood what led to the failures of both commission and omission.

Ruben, Ann

Page # 1

Exhibit A

DIAGNOSIS

As of the date of this letter, I have evaluated Ms. Ruben over the course of nine sessions. In addition, I have communicated with Ms. Bean to solicit her observations.

At this point it is clear to me that Ms. Ruben has suffered for many years from **Dysthymia (DSM-IV: 300.4)**, a chronic and persistent form of depression. Although the symptoms of Dysthymia are generally less severe (and less obvious) than those of Major Depressive Disorder, they fluctuate in intensity. Over time, they can cause significant functional impairment if not correctly diagnosed and treated. Ms. Ruben also has symptoms that meet the diagnostic criteria for **Generalized Anxiety Disorder (300.02)**, as well as both obsessive-compulsive and avoidant tendencies that do not fit neatly into the DSM-IV categories. Underlying all this is the fact that Ms. Ruben has **Attention Deficit/Hyperactivity Disorder (314.10)**¹, accompanied by the intense feelings of shame and

¹ Because Ms. Ruben's history indicates that her depression and anxiety are a result of or greatly exacerbated by her previously undiagnosed AD/HD, it is important to understand what AD/HD is.

I am well aware that many people think AD/HD is over-diagnosed. I have extensive experience dealing with these patients, and have carefully evaluated Ms. Ruben's diagnosis. The following symptoms—which have a genetically based biological basis that dates back to childhood—have already improved significantly with appropriate medication:

- Great difficulty attending to tasks, sometimes unable to focus for even a few minutes, and rarely able to attend to detailed work for more than half an hour.
- Frequent changing of tasks in ways that make little sense and interfere with completing things in a timely fashion.
- Making careless mistakes.
- Difficulty getting things in order, and getting particularly confused and distracted by interruptions.
- Difficulty wrapping up final details.
- Avoiding tasks when thought or detailed work is required.

Besides these symptoms, Ms. Ruben also meets all the other established diagnostic criteria. On the Adult Self-Report Scale (ASRS), an established diagnostic test, she fell into the "highly likely" category on inattentive symptoms, but was in the "unlikely" category on hyperactive-impulsive symptoms. This was consistent with my clinical evaluation.

I have also evaluated Ms. Ruben's diagnosis using the Quotient System. Her initial testing performed on December 22, 2009, was consistent with the diagnosis of AD/HD. This is explained on page # This is a continuous performance test that was developed at the McLean Hospital/Harvard AD/HD group. It has been normed on well over 2000 subjects, and it reliably and accurately assists in making the diagnosis. When repeated after an appropriate medication regimen has been established, it is helpful in determining whether the regimen is actually optimal. On the initial testing, this evaluation confirmed the ASRS and my clinical observations that Ms. Ruben does indeed suffer from AD/HD, primarily inattentive type.

low self-image, even self-loathing, typical of adult women struggling with undiagnosed² ADHD. Because Ms. Ruben had never been diagnosed as suffering from ADHD, she found the lapses caused by her ADHD symptoms to be both inexplicable and deeply shameful. These psychological conditions combined with external stressors including repeated episodes of serious illness and loss proved to be a “perfect storm” leading inexorably to Ms. Ruben's professional misconduct including her neglect of certain cases and her efforts to conceal that neglect.

HISTORY

Ms. Ruben sought treatment with Therapist Bean approximately 7 years ago. This was related to problems in her long-term relationship to her partner. What became obvious during this time were the intense, perfectionistic demands that Ms. Ruben placed on herself. When she could not meet these unreasonable standards, she would fall into periods of significant depression and paralyzing

² Since one aspect of AD/HD is that the symptoms date to early childhood, one might reasonably wonder why this problem was not diagnosed and treated much earlier in Ms. Ruben's life. In fact, this is something that happened regularly when she was a child for several reasons. First, the diagnosis was not widely recognized when she was in grade school. Secondly, it was regularly missed in girls, who (like Ms. Ruben) are generally not hyperactive. Thirdly, it is often missed in highly intelligent people, because their intellect enables them to perform well enough in the academic setting despite the complications imposed by AD/HD. Never the less, there is clear evidence she was having difficulty in grade school. For example, she did not read until she was in 4th grade. Her mother thought she was dyslexic, but she didn't have the essential symptoms for this diagnosis. School was a struggle until the 5th grade when she had a wonderful teacher who realized she was very advanced in math skills. This teacher was able to establish a powerful supportive bond with her. This is a very common feature of AD/HD children—that is to say that the right sort of relationship helps their performance, whereas interactions with teachers and others who focus on their shortcomings makes their performance much worse. Ms. Ruben also struggled some in high school, but she figured out how to take tests and did so well enough to get into and graduate from Bryn Mawr College. However, she had considerable difficulties completing the increased reading demands. She managed by putting in many more hours of work than her classmates, something she was able to do because she loved the material. Additionally, she made a point of never missing class, sitting in the front, and taking copious notes (which helped her to attend). These problems persisted in law school, despite her genuinely liking the material. She wrote an article for the Law Review, but this was absolute torture for her because it was a long-term project with no external structure. Wrapping up the final details was particularly problematic.

When bright children with AD/HD are not appropriately diagnosed, teachers and parents must explain their puzzling behavior. Often, as in Ms. Ruben's case, they are thought to be lazy, careless or defiant, and they are treated as if that were true. The internal consequence of this is that these people feel misunderstood, blamed, even humiliated by an apparent reality that nothing they do is sufficient, that they are a fraud, and/or that there are constant, unremitting demands and instructions that can provoke rebellion. All of this happened to Ms. Ruben, resulting in a combination of both biological and psychological factors that are typical of bright people with AD/HD. This, of course, was a precursor of what was yet to come.

anxiety. This included extreme self-loathing and a terrified conviction that if others discovered how she had not met these standards, they would surely reject her. As a consequence she followed a pattern dating back to childhood in which she tried to cover up her perceived failures while unrealistically committing herself to put things right by exerting ever-greater effort. She could not confide in others or seek help because (at least in her mind) that would surely lead to scorn and rejection. Thus even minor shortcomings led to terrible anxiety, loss of self-esteem increased isolation and illogical thinking.

For the past several years, as Ms. Ruben became increasingly unable to compensate for the inattentive errors, procrastination and disorganization that are hallmarks of AD/HD, she became increasingly anxious, depressed and isolated. Her terror of rejection prevented her from asking for the help she desperately needed. Instead, she set even higher standards for herself. Moreover, the particular work she did actually required exceptional attention to detail. She believed, I think with some accuracy, that relatively modest errors could ruin a client's chances of residing in the United States. If she thought a particular client was a "good, hardworking, decent person", she would feel even greater burden to do more perfect work. Worse yet, this would make it more and more difficult to complete needed work. She was increasingly terrified that, when the client realized that there were problems, they might not merely fire her as their attorney. They also would despise her. That, of course, would lead to further loss of self-esteem, greater anxiety and depression, and to a sort of pressure that significantly impaired her judgment, and further reduced her ability to think clearly and perform well.³

AD/HD is often co-morbid with symptoms of depression and anxiety. If one particular diagnosis is found in, for example, 20 % of the population, and another diagnosis is found in 10% of the population, 10% or the original 20%, or 2% would be expected to have both illnesses. When diagnoses are co-morbid, the incidence is higher than would be expected randomly. One reason for this is that the genetics of the disorder are linked by one or more of mechanisms. Another reason is that the symptoms of one diagnosis have social effects that increase the likelihood of the other diagnoses. In fact, this is the case with AD/HD, depression and anxiety disorders. Ms. Ruben is a

³ It is worth noting, however, that this self-defeating circle did not happen with most clients—only with ones she particularly admired or liked. Paradoxically, the more Ms. Ruben wanted to perform perfectly, the less able she became to perform at all.

textbook case of this pernicious interaction between biology and the environment. For example, she could not get work done in a reasonable length of time, would have to work extra hours, and then conclude that there must be something wrong with her that she couldn't understand. Also, others might be critical of her because of the time she took. It is well known that emotional upset intensifies the frequency, duration, and extent of inattention. There is, thus, a pernicious interaction of biological, psychological and interpersonal factors in which everything made everything worse. This ultimately created unbearable feelings of loss of self-esteem, depression and anxiety when she believed that her work was not good enough. She came to set impossible standards that few if any people could meet. This guaranteed failure, provoked intolerable emotions, and further impaired her judgment. Moreover, she believed that others hold similar standards and actually meet them. For her, perfection was the only standard, and failure did not lower the bar. It raised it.

Her situation in her partnership was particularly difficult. Her partners became frustrated with her periodic shortcomings. Like many of her teachers, and like her highly accomplished but professionally preoccupied parents, they were critical in a way that was humiliating. Moreover, it is a truism in AD/HD that the symptoms increase when the person feels humiliated or insulted. The aggressive and repeated criticisms directed at her by one partner in particular were devastating to her because, commencing about six years ago, they were very public and persistent, and because she had previously enjoyed and even thrived on this partner's support and approval. As is typical, her self-esteem suffered greatly; and she became her own worst enemy by setting such perfectionistic standards that the perfect became the enemy of the good. Each failure seemed to lead to ever more perfectionistic demands that were neither necessary nor obtainable. I should note here that most of these were ordinary failures, not those at hand in the complaint against her. She would work on a file, the work wouldn't meet her standards, and she would vow to return to it the next day. Her guilt and shame made it seem necessary that she do still better work; and, of course, she failed, setting off a repetitive, pernicious cycle of delay and then missing deadlines. Her particular professional situation was unlike her life in 5th grade when her teacher's responses were consolidating and her performance improved.

Interactions with her colleagues deteriorated, further injuring her self-esteem and adding to the witch's brew of anguish, isolation and failure. Her fear of rejection by her partners impelled her to:

- 1) take on more and more administrative and management tasks and
- 2) to always make herself

available to provide assistance and support to her partners and to the firm's employees. To close her door and work in quiet isolation, something certainly required for someone with AD/HD to complete the required detailed filings, was simply inconceivable to her. It is often true in people with AD/HD that such a simple action doesn't happen. In the atmosphere of her firm, she felt like she *should* be able to keep focus like the other attorneys who presumably do not have AD/HD.

I do not wish to seem to fault the others, who seem to have been well motivated and did their best to work with Ms. Ruben. I believe they took action when they came to understand that her failures were unacceptable and below the standard both of their firm and the exemplary work they knew she could usually perform.

In addition to all of the above, Ms. Ruben has endured an unusual number of significant psychosocial stressors. When she was 27, her thirty-seven year old husband suffered a heart attack. Two years later he had to undergo quadruple bypass surgery. Several years later, he was diagnosed with a lymphoma and developed severe sarcoidosis. Shortly thereafter, Ms. Ruben, then 38, was diagnosed with and treated for breast cancer that recurred seven years later (and is currently presumed to be cured). Meanwhile, despite ongoing treatment, her husband's lymphoma progressed to acute leukemia. Their life together became little other than caring for each other's illnesses; and, though their marriage ended in divorce, they remained extremely close and depended heavily on each other. Ms. Ruben took care of him through his final illness and was with him when he died less than five years ago. Between then and now, Ms. Ruben has endured more loss including the death of her grandmother, with whom she had an especially strong bond, and the death of both of the well-loved dogs she and her husband had raised. These events are significant because, in addition to the increased symptoms of depression and anxiety they triggered, they provided what appeared to be an obvious and reasonable explanation for the shortcomings Ms. Ruben exhibited. It seemed the she surely would resume her previously superior work. This made it nearly impossible for Ms. Ruben or anyone close to her to recognize and address her actual psychological disabilities before they spiraled out of control.

In the end, this "perfect storm" led Ms. Ruben to have extreme difficulty with work that she should have been able to complete if one only considered her intellect, but that became impossible in her circumstances. Biological, psychological and interpersonal factors interacted in a way that intensified

her depression, anxiety and AD/HD symptoms to intolerable levels whenever she had to confront the unacceptable work that she had done and was continuing to do. Though Ms. Ruben, with great effort, was able to isolate and deny those feelings, in order to function and perform acceptable work on many cases, what she believed to be her unforgivable failures triggered such paralyzing shame, anxiety and depression and so impaired her judgment that honestly confronting those failures became impossible. However, the crisis of the matter at hand finally required her to confess her failures to Therapist Bean and those close to her and to seek psychiatric help from me.

PROGNOSIS

All of this would be irrelevant if there were no way to improve Ms. Ruben's ability to function in an appropriate fashion. Fortunately, there is ample evidence that correct treatment is extremely helpful, regularly enabling people with depression, anxiety and AD/HD to function to their optimal potential (which in Ms. Ruben's case is very high indeed given her high level of academic and professional achievement over many years despite the lack of psychiatric or psychological support). I can state with reasonable medical certainty that this is and will be the expected case with Ms. Ruben. Given the support system now in place and her departure from a work environment that was clearly toxic for her, I am confident that she is capable of practicing law competently and ethically. Medication has already been helpful, reducing her inattention to a level that is virtually within normal limits. Similarly, Ms. Ruben's depression and anxiety have decreased significantly with twice weekly therapy sessions.

Most significantly, over the past three months Ms. Ruben has come to understand and accept that she can ask for help and be honest about the inevitable shortcomings and failures that she (like other people) commits. Rather than becoming the prelude to certain disgust and rejection, the mistakes become what they should be: an essential opportunity to assess what went wrong and correct it.

The experience of being expelled from her law firm and having to explain her misconduct to her family, friends and colleagues has been an incredibly powerful object lesson in two ways. First, though the discovery of her misconduct did indeed cause her law partners to reject and scorn her, the humiliation she felt was far easier to bear than the isolation, guilt and paralysis her efforts at concealment caused. More importantly (and much to her astonishment), her honest and detailed descriptions of her neglect and deceit were met with understanding and support from those close to *Ruben, Ann*

her, including her partner, parents, siblings, friends and colleagues—albeit none that I am aware of dismissed the significance of her behavior.. This is an enormous breakthrough that confirms my confidence that Ms. Ruben will not repeat her misconduct.

To summarize, Ms. Ruben will continue with psychotherapy with Ms. Bean who will be in regular contact with me so that we may make sure that “all bases are covered” and that things don’t “slip between the cracks.” Ms. Ruben, on my recommendation, will obtain the services of a professional AD/HD coach experienced in working with lawyers and other professionals, who will help organize Ms. Ruben’s work flow, check that it is completed in a timely fashion, and assist with general organization.

Her psychological and psychiatric treatment should provide a structure that ensures that all of the above will be accomplished, and I think we may be assured that she will continue to cooperate fully with her treatment.

It is important to note that Ms. Ruben is well motivated to pursue treatment and that she genuinely does not want to repeat the mistakes she has made. To this end, in addition to increased therapy and medication, she has spent a great deal of time educating herself about AD/HD and the many strategies and techniques available to improve organization, workflow and follow through. She has purchased and implemented a specialized, immigration law case management system that provides automatic deadline reminders and is completely transparent to clients, so that they can log on to it and see what and when needed steps have been taken. She talks regularly with trusted colleagues about her work. She has been addressing specific organizational issues with her therapist. She states that she has not missed any deadlines with the cases she continues to work with.

Her responses to the Quotient System Testing (see www.biobehaviorldiagnostics.com) are very significant. This testing is a continuous performance test that was developed by the McLean Hospital/Harvard AD/HD group. It has been normed on well over 2000 subjects, and it assists in making the diagnosis of AD/HD in a *quantified* and *reliable* way. Because 1) there is no learning effect, 2) it is quantified, and 3) it reliable, comparing the results during the initial evaluation (when the patient is not medicated) to follow-up testing (when the patient is taking medication) helps determine whether the medication is effective. During the *first testing*, Ms. Ruben’s results were

statistically significant for a diagnosis of AD/HD. During the second testing when taking AD/HD medication her performance scores were within the normal range.

The results are shown in greater detail here:

Total Time 20 Minutes	Attentive Minutes	Impulsive Minutes	Distracted Minutes	Disengaged Minutes
Testing Date				
22-Dec-09	3.5	8.5	7.5	0.5
3-May-10	13.5	1.5	4.5	0.5
Difference	+10	-7	-3	0
	Increased Improved	Decreased Improved	Decreased Improved	Unchanged Unchanged

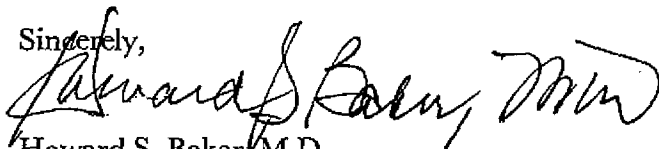
These results confirm other diagnostic testing and my careful clinical evaluation that Ms. Ruben had AD/HD and that it is substantially improved with medication.

It is my professional opinion that Attorney Ruben is sincerely motivated to provide a high quality of legal help to her clients. Since her AD/HD and the coexisting emotional factors are being addressed, and she is not avoiding her work, her competence to provide legal services is reliable.

All of the above is stated with reasonable medical certainty. I recognize that it is difficult to present a great deal of complex medical information in a coherent way. I hope I have accomplished this to some degree.

I would like to thank you and the Disciplinary Board in advance for your consideration of this report. Please feel free to contact me if you need further information.

Sincerely,



Howard S. Baker, M.D.

Board Certified Psychiatrist

Clinical Associate Professor of Psychiatry, University of Pennsylvania School of Medicine


BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :
Petitioner :
:
:
v. : ODC File No. C1-10-32
:
:
:
ANN ADELE RUBEN, : Atty. Reg. No. 46495
:
Respondent : (Philadelphia)

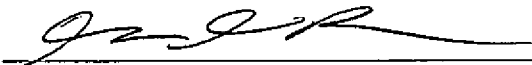
VERIFICATION

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

12/20/2010
Date


Richard Hernandez
Disciplinary Counsel

1/1/2011
Date


Ann Adele Ruben
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :
Petitioner :
:
: ODC File No. C1-10-32
v. :
:
:
: Atty. Reg. No. 46495
ANN ADELE RUBEN, :
Respondent : (Philadelphia)

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

Respondent, Ann Adele Ruben, hereby states that she consents to the imposition of a suspension of one year and one day, 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. Her consent is freely and voluntarily rendered; she is not being subjected to coercion or duress; she is fully aware of the implications of submitting the consent; and she has consulted with Samuel C. Stretton, Esquire, in connection with the decision to consent to discipline;

2. She is aware that there is presently pending an investigation into allegations that she has been guilty of misconduct as set forth in the Joint Petition;

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

4. She consents because she knows that if charges predicated upon the matters under investigation were filed, she could not successfully defend against them.

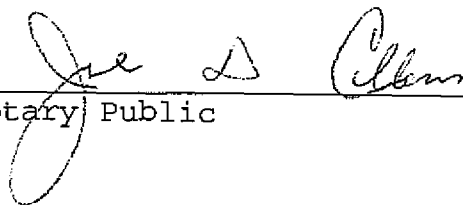


Ann Adele Ruben, Esquire
Respondent

Sworn to and subscribed

before me this 3

day of January, 2010.



Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
John D. Collins, Notary Public
Springfield Twp., Montgomery County
My Commission Expires Oct. 16, 2012
Member Pennsylvania Association of Notaries