

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1783 Disciplinary Docket No. 3
Petitioner :
 : No. 77 DB 2010
v. :
 : Attorney Registration No. 53888
MADELINE E. SCHWARTZ, :
Respondent : (Philadelphia)

ORDER

PER CURIAM:

AND NOW, this 6th day of February, 2012, upon consideration of the Report and Recommendations of the Disciplinary Board dated October 4, 2011, it is hereby

ORDERED that Madeline E. Schwartz is suspended from the Bar of this Commonwealth for a period of three years and she shall comply with all the provisions of Rule 217, Pa.R.D.E.

It is further ORDERED that respondent shall pay costs to the Disciplinary Board pursuant to Rule 208(g), Pa.R.D.E.

A True Copy Patricia Nicola
As Of 2/6/2012

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 77 DB 2010
Petitioner	:	
	:	
v.	:	Attorney Registration No. 53888
	:	
MADELINE E. SCHWARTZ	:	
Respondent	:	(Philadelphia)

REPORT AND RECOMMENDATIONS OF
THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES
OF THE SUPREME COURT OF PENNSYLVANIA:

Pursuant to Rule 208(d)(2)(iii) of the Pennsylvania Rules of Disciplinary Enforcement, the Disciplinary Board of the Supreme Court of Pennsylvania ("Board") herewith submits its findings and recommendations to your Honorable Court with respect to the above-captioned Petition for Discipline.

I. HISTORY OF PROCEEDINGS

On May 25, 2010, Office of Disciplinary Counsel filed a Petition for Discipline against Madeline E. Schwartz. The Petition charged Respondent with violations of Rules of Professional Conduct 1.3, 1.4(a)(3), 1.4(a)(4), 1.4(b), 1.15(b), 1.15(e), 1.15(f), 1.15(h), 4.4(a), 8.4(c) and 8.4(d) in two separate matters. Respondent did not file an Answer.

A disciplinary hearing was held on September 27, 2010 before a District I Hearing Committee comprised of Chair Jerry M. Lehocky, Esquire, and Members Alison Tanchyk, Esquire, and Kevin J. O'Brien, Esquire. Respondent did not appear.

Following the submission of a brief by Petitioner, the Hearing Committee filed a Report on March 11, 2011, concluding that Respondent violated the Rules as charged in the Petition for Discipline, and recommending that she be suspended for a period of 30 months.

This matter was adjudicated by the Disciplinary Board at the meeting on July 23, 2011.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, Harrisburg, Pennsylvania, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, with the power and duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of said Rules of Disciplinary Enforcement.

2. Respondent is Madeline E. Schwartz. She was born in 1960 and was admitted to practice law in the Commonwealth in 1988. Her attorney registration address is 2332 S. Broad St., Philadelphia PA 19145. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

3. Respondent is currently on administrative suspension for having failed to comply with annual Continuing Legal Education requirements.

4. Respondent has a record of prior professional discipline. She received a Private Reprimand in 2011, an Informal Admonition in 2008, and a three month Suspension in 2001.

5. In the Private Reprimand matter, Respondent was found to have commingled fiduciary funds with non-fiduciary funds in an escrow account and an operating account that she maintained with another attorney; delayed refunding a portion of her retainer to a client; failed to return documents to a client after her discharge; and failed to act to prevent her partner's mishandling of the law partnership's accounts.

6. In the Informal Admonition matter, Respondent commingled non-fiduciary funds with fiduciary funds she held in an IOLTA account and failed to hold inviolate \$200.00 in funds belonging to a client.

7. In the suspension matter, the Court reciprocally suspended Respondent for three months due to a three month suspension imposed in New Jersey for practicing law while ineligible to practice, failing to pay an annual assessment, and misrepresenting to the Bankruptcy Court that she was an attorney in good standing.

WILLIAMS MATTER

8. From 1994 through 1996, Respondent represented Gerald S. Williams in obtaining a divorce from Theresa Marsh-Williams. A divorce action was filed in the Philadelphia Court of Common Pleas in 1994.

9. On July 31, 1995, the court entered a Decree and Order divorcing the Williams and incorporating a Marital Agreement dated July 31, 1995, which was facially inconsistent in its terms.

a. Under Article V of the Agreement entitled "PENSION," the parties agreed that Ms. Williams was entitled to one-half of Mr. Williams' pension, that amount being \$4,918.09.

b. Under Article V of the Agreement, a Domestic Relations Order was to be prepared and submitted to the court, which would provide for distribution to Ms. Williams "of 26.43 percent of the present value of accrued pension that [Mr. Williams] shall be receiving from the Philadelphia Inquirer."

10. On June 24, 1996, the court entered an Order that incorporated a document entitled "Stipulation for the Entry of 'Qualified Domestic Relations Order'" (QDRO).

11. The QDRO was intended to give effect to that provision of the Agreement that provided that Ms. Williams was entitled to receive one-half of the pension, in the amount of \$4,918.09. However, as drafted by counsel and subsequently entered by the court, the QDRO did not provide that Ms. Williams was entitled to receive one-half of the pension, in the amount of \$4,918.09, but instead provided Ms. Williams was entitled to receive a portion of the present value of monthly pension benefits.

12. In August 2008, Mr. Williams' employment with the Philadelphia Inquirer was terminated.

13. Shortly thereafter, Mr. Williams filed documents with Richard Gabriel Associates, the administrator for the pension plan, seeking early pension benefits.

14. Sometime in October 2008, Mr. Williams was advised by Richard Gabriel Associates that the QDRO entered by the court entitled Ms. Williams to receive a portion of the present value of Mr. Williams' monthly pension benefits for the duration of Mr. Williams' life, rather than the \$4,918.09 amount provided for in the Agreement.

15. In October 2008, Mr. Williams contacted Respondent and brought to her attention the problem he encountered when trying to collect early pension benefits.

16. Respondent agreed to assist Mr. Williams, at no charge, in having the court enter a new QDRO that reflected that Ms. Williams was entitled to receive \$4,918.09.

17. In November 2008, Respondent requested that Mr. Williams pay to her the sum of \$4,918.09, which amount Respondent would hold in escrow and use to pay Ms. Williams, in furtherance of an anticipated written agreement that would be the basis of the new QDRO.

18. As Respondent requested, Mr. Williams sent her a check dated November 25, 2008, made payable to Respondent in the amount of \$4,918.09.

19. On November 26, 2008, Respondent deposited the \$4,918.09 check into an account she maintained at TD Bank, entitled "IOLTA/MADELINE SCHWARTZ ESQUIRE ATTORNEY TRUST ACCOUNT."

a. As of November 27, 2009, the balance in the trust account was \$52.88.

b. Respondent converted to her own use the \$4,918.09 in funds that Mr. Williams had entrusted to Respondent, which funds were to be used to pay Ms. Williams.

c. Mr. Williams did not authorize Respondent to make personal use of any portion of the funds.

d. Respondent did not advise Mr. Williams that she had converted to her own use all of the funds he entrusted to her.

e. From December 5, 2008 through September 28, 2009, Respondent deposited fees she received for representing clients in legal matters into the trust account.

f. Respondent commingled in the trust account her own funds with those of Mr. Williams.

20. Respondent failed to promptly resolve Mr. Williams' pension problem.

21. By e-mails sent to Respondent dated March 5, March 14, March 26, March 27, March 28, April 7, April 25, and April 29, 2009, and by letter dated March 17, 2009, Mr. Williams expressed that his dire financial circumstances required immediate action; inquired about the status of his matter; and stated that he had complied with Respondent's request to sign and return to her, notarized, the signature page of a one-page document he received from Respondent via facsimile transmission on March 30, 2009.

22. Respondent received Mr. Williams' e-mails and letter.

23. Respondent failed to respond to the e-mails she received in April 2009.

24. By e-mail to Respondent dated May 5, 2009, Mr. Williams stated that he was unaware of the status of his matter since Respondent had not communicated with him, and he attached a letter he received which stated he was losing his healthcare coverage for non-payment.

25. Respondent received this e-mail.

26. By letter of May 6, 2009, sent to Respondent via certified mail, return receipt requested, Mr. Williams:

a. requested that Respondent return to him the \$4,918.09 that he had entrusted to her in November 2008 if it would take longer than 30 days to obtain a court order that would "free up" his pension;

b. stated that he needed the funds to pay his delinquent healthcare, mortgage and car bills; and

c. expressed his intention to withdraw the sum of \$4,918.09 from his pension funds to pay to Ms. Williams if a written agreement was reached and the court signed the appropriate order.

27. Respondent received this letter.

28. By e-mail dated May 6, 2009, sent by Respondent to Mr. Williams,

Respondent:

a. denied that she had filed with the court a QDRO that did not accurately reflect that provision in the Agreement concerning division of Mr. Williams' pension;

b. stated that she would contact Mr. Williams when she had something significant to tell him; and

c. requested that he not convey to her his "current financial status."

29. By e-mail to Respondent dated May 6, 2009, which she received, Mr.

Williams:

a. disputed Respondent's contention that she was not responsible for the QDRO that was signed by the parties and entered by the court;

b. stated that he was still unaware of the status of his matter, as he had not received from her the complete written agreement that would be

the basis for the new QDRO and he had not been told by her that an agreement had been filed with the court; and

c. directed her to return to him the \$4,918.09 that he entrusted to her if it would take longer than 30 days to resolve the matter; and

d. requested that Respondent contact him.

30. By e-mail dated May 8, 2008, sent by Respondent to Mr. Williams,

Respondent:

a. acknowledged receipt of the May 6, 2009 certified letter, but stated her intention not to read the letter "until the case is over";

b. requested that Mr. Williams advise her by e-mail if it was his intention to terminate her services;

c. represented to Mr. Williams that Ms. Williams' counsel, Jettie D. Newkirk, Esquire, stated that Ms. Williams would be "dropping off the signed Stip" to Ms. Newkirk by the end of next week;

d. stated that she would forward to Mr. Williams the agreement as a PDF file; and

e. requested authorization from Mr. Williams to take further action on his behalf.

31. From May 8, 2008 through the present time, Respondent did not and has not provided to Ms. Newkirk a written agreement for the purpose of obtaining a new QDRO from the court for Ms. Williams' signature.

32. Respondent misrepresented to Mr. Williams that Ms. Newkirk had told Respondent that Ms. Williams would be "dropping off the signed Stip" to Ms. Newkirk.

33. By a second e-mail dated May 8, 2009, sent by Respondent to Mr. Williams, Respondent inquired if she had his permission to deposit a check for "costs."

34. By e-mail to Respondent dated May 9, 2009, Mr. Williams directed Respondent to conclude his case and requested that she read the May 6, 2009 certified letter and offer "[her] opinion."

35. By a second e-mail dated May 9, 2009, Mr. Williams informed Respondent that his bank statement showed that a \$75.00 check she received from him, as well as the \$4,918.09 check, had been negotiated.

36. Respondent received this e-mail.

37. By a third e-mail dated May 9, 2009, Mr. Williams provided Respondent with specific information concerning the dates the \$75.00 check and the \$4,918.09 check were negotiated by her and the manner in which they were delivered to her.

38. Respondent received this e-mail.

39. By a fourth e-mail to Respondent dated May 9, 2009, Mr. Williams summarized the information contained in the May 6, 2009 certified letter and requested that she offer her opinion on how long it would take for the court to act.

40. Respondent received this e-mail.

41. By e-mail dated May 10, 2009, sent by Respondent to Mr. Williams, she advised Mr. Williams that she could not predict how long it would take for the court to act.

42. By e-mail to Respondent dated May 11, 2009, Mr. Williams thanked Respondent for her reply and inquired as to her "gut feeling" on the length of time it would take for the court to act and explained his dire financial circumstances.

43. Respondent received this e-mail.

44. By e-mail dated May 11, 2009, sent by Respondent to Mr. Williams, she requested that Mr. Williams refrain from conveying to her his dire financial circumstances; expressed that Ms. Williams would likely delay the matter longer if she knew of the circumstance; and offered to contact companies regarding Mr. Williams' mortgage, car loan, and healthcare insurance.

45. By a second e-mail to Respondent dated May 11, 2009, Mr. Williams explained that he had spoken to the various companies and requested a portion of the \$4,918.09 so that he could make payments towards his outstanding debts.

46. Respondent received this e-mail.

47. Mr. Williams further requested that Respondent telephone him when she was available.

48. By e-mail to Respondent dated May 21, 2009, Mr. Williams stated that he had not heard from Respondent and again requested a portion of the \$4,918.09 so he could make payments to his creditors.

49. Respondent received this e-mail and failed to respond.

50. By e-mail to Respondent dated May 22, 2009, Mr. Williams:

a. attached foreclosure documents he received that day from Wells Fargo Bank;

b. directed Respondent to return to him the entire \$4,918.09 he entrusted to her so that he could satisfy his mortgage arrears;

c. stated that Ms. Williams would have to wait to receive payment from his pension monies; and

d. requested that Respondent e-mail or telephone him immediately to confirm her receipt of his certified letter to her of the same date, which contents were the same as the e-mail.

51. Respondent received this e-mail and failed to respond.

52. By e-mail to Respondent dated May 29, 2009, Mr. Williams again reiterated his request that Respondent return his monies as he needed them to pay his mortgage.

53. Respondent received this e-mail and failed to respond.

54. By e-mail to Respondent dated June 6, 2009, Mr. Williams stated that he had not heard from Respondent in over a week and that he was facing a deadline of June 15 or Wells Fargo would commence foreclosure proceedings. He reiterated his request for the return of his monies.

55. Respondent received this e-mail and failed to respond.

56. By letter of June 16, 2009, sent to Respondent via certified mail, Express Mail, and e-mail, Mr. Williams:

a. stated that Respondent had failed to meaningfully communicate with him regarding his legal matter, such as providing him with a copy of the agreement, either unsigned or signed, that was to result in a new QDRO being issued by the court;

b. complained that she had ignored his various communications requesting information and updates;

c. noted that he had no proof that she had been acting on his behalf to negotiate an agreement with Ms. Newkirk;

d. explained that he had entrusted to her the sum of \$4,918.09 to be distributed to Ms. Williams after the court had issued a new QDRO based on an agreement signed by him and Ms. Williams.

e. stated that the \$4,918.09 was not entrusted to her for any other purpose;

f. recounted his communications to her requesting the return of the \$4,918.09 and her failure to comply with his requests or to provide information concerning where she was holding the funds;

g. directed her to return to him the \$4,918.09 he had entrusted to her; and

h. requested that she advise him of the true status, with proof, of her negotiations with Ms. Newkirk.

57. Respondent received the e-mail, and received the Express Mail on June 17, 2009.

58. Respondent failed to claim the certified letter.

59. The unclaimed certified letter was returned to Mr. Williams.

60. Respondent failed to send to Ms. Newkirk a written agreement for Ms. Williams' signature that would be the basis for a new QDRO.

61. Respondent failed to provide to Mr. Williams information concerning the financial institution where the \$4,918.09 was being held, and she failed to release to Mr. Williams the \$4,918.09 that was entrusted to her.

DAGOSTINO AND LOMAISTRO MATTERS

62. Respondent represented Ms. Linda M. Baldi and Mr. Victor L. Baldi, III in a civil case filed against them in the Philadelphia Court of Common Pleas by the Reserve at Packer Park Homeowners Association.

63. The trial for the Reserve lawsuit was scheduled for August 31, 2009 at 9:30 a.m. in Courtroom 653, City Hall, before the Honorable Sandra M. Moss.

64. By letter dated August 28, 2009, addressed to Mr. Reno Dagostino, Respondent enclosed a subpoena duces tecum that directed Mr. Dagostino to appear as a witness on behalf of Mr. and Mrs. Baldi on August 31, 2009.

65. Respondent attached an exhibit which listed the documents for Mr. Dagostino to bring with him to the trial, and she enclosed a witness fee check in the amount of \$25.00 which was drawn on an account Respondent maintained with United Savings Bank.

66. By letter dated August 28, 2009, addressed to Mr. Anthony Lomaistro, Respondent enclosed a subpoena duces tecum that directed Mr. Lomaistro to appear as a witness on behalf of Mr. and Mrs. Baldi on August 31, 2009.

67. Respondent attached an exhibit which listed the documents for Mr. Lomaistro to bring with him to the trial, and she enclosed a witness fee check in the amount of \$25.00 which was drawn on an account Respondent maintained with United Savings Bank.

68. Mr. Dagostino appeared in court on August 31, 2009, and continued to appear every day until the trial of the lawsuit concluded on September 4, 2009.

69. Mr. Lomaistro appeared in court on August 31, 2009, and was on call every day for the remainder of the trial, until it concluded on September 4, 2009.

70. On September 7, 2009, Mr. Dagostino deposited the \$25.00 witness fee check into an account he maintained with Citizens Bank.

71. On September 21, 2009, Mr. Dagostino received a notice from Citizens Bank returning the witness fee check and advising him that the sum of \$25.00 was subtracted from his account because the witness fee check was returned to Citizens Bank as unpaid. Citizens Bank charged Mr. Dagostino's account a \$10.00 returned item fee.

72. On October 1, 2009, Mr. Lomaistro deposited the \$25.00 witness fee check into an account he maintained with Citizens Bank.

73. On October 9, 2009, Mr. Lomaistro received a notice from Citizens Bank returning the witness fee check and advising him that the sum of \$25.00 was subtracted from his account because the witness fee check was returned to Citizens Bank as unpaid. Citizens Bank charged Mr. Lomaistro's account a \$10.00 returned item fee.

74. Respondent received notice of the September 27, 2010 hearing date, time and location.

75. Respondent did not appear at or participate in the September 27, 2010 hearing.

76. On December 16, 2008, the balance in Respondent's trust account first fell below \$4,918.09.

77. Respondent's conversion of funds was knowing and intentional.

III. CONCLUSIONS OF LAW

By her conduct as set forth above, Respondent violated the following Rules of Professional Conduct:

1. RPC 1.3 - A lawyer shall act with reasonable diligence and promptness in representing a client.

2. RPC 1.4(a)(3) - A lawyer shall keep the client reasonably informed about the status of the matter.

3. RPC 1.4(a)(4) - A lawyer shall promptly comply with reasonable requests for information.

4. RPC 1.4(b) - A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

5. RPC 1.15(b) - A lawyer shall hold all Rule 1.15 Funds and property separate from the lawyer's own property. Such property shall be identified and appropriately safeguarded.

6. RPC 1.15(e) - Except as stated in the Rule or otherwise permitted by law or by agreement with the client or third person, a lawyer shall promptly deliver to the client or third person any property, including but not limited to Rule 1.15 Funds, that the client or third person is entitled to receive, and, upon requests by the client or third person, shall promptly render a full accounting regarding the property; provided however, that the delivery, accounting and disclosure of Fiduciary Funds or property shall continue to be governed by the law, procedures and rules governing the requirements of fiduciary administration, confidentiality, notice and accounting applicable to the Fiduciary entrustment.

7. RPC 1.15(f) - When a lawyer is in possession of funds or property in which two or more persons, one of whom may be the lawyer, claim an interest, the funds or property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall

promptly distribute all portions of the funds or property, including Rule 1.15 Funds, as to which the interests are not in dispute.

8. RPC 1.15(h) - A lawyer shall not deposit the lawyer's own funds in a Trust Account except for the sole purpose of paying service charges on that account and only in an amount necessary for that purpose.

9. RPC 4.4(a) - In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

10. RPC 8.4(c) - It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

11. RPC 8.4(d) - It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

IV. DISCUSSION

This matter is before the Disciplinary Board for consideration of the charges of professional misconduct filed against Respondent. Petitioner has the burden of proving ethical misconduct by a preponderance of the evidence that is clear and satisfactory. Office of Disciplinary Counsel v. Grigsby, 425 A.2d 730 (Pa. 1981). The factual allegations set forth in the Petition, which are deemed admitted pursuant to Pa.R.D.E. 208(b)(3), as well as the exhibits introduced at the hearing, prove that Respondent violated eleven sections of the Rules of Professional Conduct: 1.3, 1.4(a)(3), 1.4(a)(4) 1.4(b), 1.15(b), 1.15(e), 1.15(f), 1.15(h), 4.4(a), 8.4(c) and 8.4(d).

Respondent's representation of Gerald Williams was thoroughly lacking of professional competence. Mr. Williams came to her with a matter requiring prompt

attention, yet Respondent repeatedly failed to act. Respondent did not respond to many of Mr. Williams' written communications, nor did she attempt to keep him updated on the status of his matter. Moreover, in the several instances where she did respond to Mr. Williams, she made misrepresentations that she was communicating with opposing counsel, when in fact this was not happening.

Most egregiously, after Mr. Williams entrusted to Respondent the sum of \$4,918.09 to hold in trust pending the resolution of the pension matter, Respondent converted the funds to her own use. Despite Mr. Williams' many requests, including pleas for the return of at least a portion of his monies so that he could satisfy his creditors, Respondent did not return the monies, and actually informed Mr. Williams that she did not want to hear about his dire financial circumstances. Additionally, in a separate instance of misconduct also of a fiscal nature, Respondent delivered witness fee checks from an overdrawn account to two witnesses, resulting in these witnesses being burdened with bank charges. There is no evidence that Respondent has since paid these monies.

There are also significant aggravating circumstances present in this matter. First, Respondent chose to ignore the charges brought against her by failing to participate in the proceedings or appear at the disciplinary hearing. Second, Respondent has a lengthy record of discipline consisting of a Suspension for three months imposed in 2001; an Informal Admonition in 2008; and, a Private Reprimand in 2011. The two prior instances of private discipline also relate to the commingling of funds, and, in the one instance, a failure to return client funds. These prior violations are similar to Respondent's wrongdoing in the instant matter. The prior Suspension was reciprocal discipline resulting from Respondent's practice of law in New Jersey while ineligible to do so, as well as a misrepresentation made to the Bankruptcy Court concerning her status.

Respondent's conversion of client funds is serious misconduct. "The primary purpose of our system of lawyer discipline is to protect the public from unfit attorneys and to maintain the integrity of the legal system." Office of Disciplinary Counsel v. Keller, 506 A.2d 872, 875 (Pa. 1986). The Supreme Court has concluded that an attorney who converts fiduciary funds is considered a threat to future clients, and the public. Matter of Leopold, 366 A.2d 227 (Pa. 1976). A review of relevant case law establishes that appropriate discipline for such violations ranges from a suspension of not less than one year and one day up to disbarment. Office of Disciplinary Counsel v. Marvin F. Galfand, No 25 DB 2004, 1083 Disciplinary Docket No. 3 (Pa. Feb. 7, 2006).

Cases where the length of suspension is closer in range to one year and one day typically involve attorneys with no record of discipline, who participate in the disciplinary proceedings and express remorse. Office of Disciplinary Counsel v. Jill A. Devine, No. 183 DB 2007, 1600 Disciplinary Docket No. 3 (Pa. June 23, 2010); Office of Disciplinary Counsel v. James Lawrence Paz, No. 97 DB 2010, 1630 Disciplinary Docket No. 3 (Pa. Aug. 20, 2010). This is not the case here, where Respondent has three prior incidents of discipline, two involving commingling of funds including a failure to return client funds, and where Respondent has not only failed to show remorse, but also failed to participate in the disciplinary process.

In Keller, where an attorney in two transactions converted client funds but in addition engaged in forgery as part of a cover-up, the sanction was disbarment with the Supreme Court holding that, "the magnitude of the derelictions and its impact upon the legal profession and the administration of justice requires the imposition of the most severe sanction at our command." 506 A.2d at 879.

Failure to participate in the disciplinary process is also an aggravating factor. For instance, in a conversion matter that resulted in a suspension for two years, the attorney had no record of discipline, but failed to participate in the disciplinary proceedings. Office of Disciplinary Counsel v. Margot S. Jones, No. 167 DB 2004, 1084 Disciplinary Docket No. 3 (Pa. Jan. 5, 2006).

Using the above cited cases as guidance, and considering the totality of the facts and circumstances of the instant matter, including Respondent's violation of eleven sections of Rules of Professional Conduct, Respondent's prior disciplinary violations of a similar nature and Respondent's failure to participate in the disciplinary proceedings, the Board recommends that Respondent be suspended for a period of three years.


V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Madeline E. Schwartz, be Suspended from the practice of law for a period of three years.

It is further recommended that the expenses incurred in the investigation and prosecution of this matter are to be paid by the Respondent.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: 
Gerald Lawrence, Board Member

Date: October 4, 2011