

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 1410 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 88 DB 2008
v.	:	
	:	Attorney Registration No. 46472
JEFFRY STEPHEN PEARSON,	:	
Respondent	:	(Philadelphia)

**ORDER**

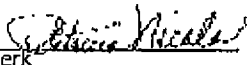
**PER CURIAM:**

AND NOW, this 28<sup>th</sup> day of June, 2011, upon consideration of the Report and Recommendations of the Disciplinary Board dated January 26, 2011, the Petition for Review and response thereto, it is hereby

ORDERED that Jeffry Stephen Pearson is suspended from the Bar of this Commonwealth for a period of twenty months and he 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 6/28/2011

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 1410 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 88 DB 2008
v.	:	
	:	Attorney Registration No. 46472
JEFFRY STEPHEN PEARSON	:	
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 November 20, 2009, Office of Disciplinary Counsel filed a Petition for Discipline against Jeffry Stephen Pearson. The Petition charged Respondent with violations of Rules of Professional Conduct and Rules of Disciplinary Enforcement arising out of allegations that he assisted a formerly admitted attorney in the unauthorized practice of law, and that he failed to comply with certain Rules while on temporary suspension. Respondent filed an Answer to Petition on December 18, 2009.

A disciplinary hearing was held on March 2, 2010 before a District I Hearing Committee comprised of Chair W. Matthew Reber, Esquire, and Members Marc P. Weingarten, Esquire, and Catherine M. Recker, Esquire. Respondent appeared on his own behalf.

Following the submission of briefs by the parties, the Hearing Committee filed a Report on August 3, 2010 and concluded that Respondent violated Rules of Professional Conduct 1.4(a)(2), 1.4(b), 1.5(b), 5.5(a), 8.4(d), and Rules of Disciplinary Enforcement 203(b) via Pa.R.D.E. 217(j)(4), 217(b), and 217(e). The Committee made a recommendation that Respondent be suspended for a period of 20 months.

Respondent filed a Request to Reopen Record and Exceptions on August 25, 2010 and requested oral argument before the Disciplinary Board. Respondent seeks a sanction of no greater than a stayed suspension with probation for a period of no more than two years.

Petitioner filed a Brief Opposing Exceptions on September 9, 2010 and urges the Board to accept the recommendation of the Hearing Committee.

Oral argument was held on October 5, 2010 before a three-member panel of the Board.

This matter was adjudicated by the Board at the meeting on October 11, 2010.

## II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is located at Suite 2700, 601 Commonwealth Avenue, Harrisburg, Pennsylvania, is vested, 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.

2. Respondent is Jeffry S. Pearson. He was born in 1963 and was admitted to practice law in the Commonwealth in 1986. He maintains his office at Suite 300-#19, 1800 JFK Boulevard, Philadelphia PA 19103. Respondent is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has no history of professional discipline.

4. By Orders of the Supreme Court of Pennsylvania dated March 3, 2006 and August 22, 2006, Allen L. Feingold was suspended for a total of five years and directed to comply with Pa.R.D.E. 217.

5. By Order of October 25, 2007, effective November 24, 2007, Dora A. Garcia was suspended for a period of 15 months, with conditions. This suspension was due to Ms. Garcia's assisting Mr. Feingold in the unauthorized practice of law.

6. From at least 2005 to the first suspension of Allen Feingold effective April 2006, Feingold and Garcia were sole principals in the firm of Feingold Feingold and Garcia (FFG), with an office located at 1515 Market St., Ste. 801, Philadelphia PA 19102.

7. At or around the time of Ms. Garcia's suspension, Respondent met with Feingold and/or Garcia to discuss Respondent's potential assumption of the representation of former FFG clients.

8. Prior to the meeting with Feingold and Garcia, Respondent had maintained a professional relationship with Feingold for approximately 20 years.

9. Following the meeting with Feingold and/or Garcia, Respondent agreed to assume the representation of approximately 70 former FFG clients.

10. By Order dated August 22, 2008, the Supreme Court disbarred Mr. Feingold for his continued unauthorized practice of law and failure to notify his clients of his inability to practice law.

11. At the time Respondent assumed representation of the 70 FFG clients, Respondent maintained a "mail drop" office in Philadelphia but generally worked out of his house.

12. Upon his assumption of the FFG representations, Respondent authorized Feingold to sign Respondent's name on Entries of Appearance in all but a "couple" of the cases, in which Respondent personally signed those. (ODC -1 p. 66)

13. Prior to the filing of the Entries of Appearance in the FFG cases, Respondent had met with "very few...perhaps one or two"... of the FFG clients. He did not meet or speak with the remaining clients and did not obtain their consent to his representation. (ODC-1 pp. 63-66)

14. Respondent did not communicate in writing with these clients about the basis or rate of his fee, although he had not regularly represented the FFG clients.

15. After assuming representation of the FFG clients, the case files were "for the most part" kept in Feingold's office. (ODC-1 pp.68-69)

16. If Respondent needed a file, he would have to ask Feingold or Garcia, and on some occasions, Respondent was denied access to client files by Feingold and/or Garcia.

17. At some point after Respondent assumed representation of the FFG clients, he was advised by Feingold that all clients had signed contingency agreements consenting to Respondent's involvement in their litigation.

18. With the exception of the "very few" clients with whom he had discussions, Respondent did not know whether FFG clients ever became aware of his representation. (ODC -1 pp.64-66)

19. From in or about January 2008 to in or about June 2009, Respondent was aware that Feingold was, sometimes with Respondent's consent and sometimes without, working on FFG files, including drafting and filing pleadings under what purported to be Respondent's signature; creating and using a false letterhead purporting to be Respondent's and sending correspondence to counsel and parties involved in various FFG cases; contacting counsel and courts with respect to various FFG cases; directing strategy in cases and performing law-related services from an office not staffed with a supervising attorney.

20. Respondent was made aware as early as December 2007 that Feingold had drafted and filed a motion in a FFG case, and had signed Respondent's name to said motion.

21. During the time he was representing the FFG clients, Respondent witnessed Feingold speaking with personnel at the Philadelphia County Court of Common Pleas Complex Litigation Center and Discovery Court about various FFG matters.

22. Throughout the course of his representation of the FFG clients, Respondent was aware that Feingold continued to interact with FFG clients and to give them advice as though he was still their lawyer.

23. Throughout the course of his representation of the FFG clients, in most cases where a settlement offer was communicated to Respondent, Respondent would communicate that offer to Feingold, and Feingold, either in consultation with the client or not, would advise Respondent whether the offer was accepted or rejected.

24. Petitioner's Exhibits 2 through 9 are true and correct copies of pleadings and letters purporting to have been prepared and sent by Respondent but which were evidently prepared and sent by Feingold.

25. By Office of Disciplinary Counsel subpoena dated May 16, 2008, Respondent was directed to produce all executed fee agreements for the FFG clients.

26. Respondent thereafter filed a Petition for Review with the Supreme Court, disputing service of the subpoena and asserting arguments in opposition to the compelled production.

27. By Order dated October 27, 2008, the Supreme Court directed Respondent to comply with the subpoena.

28. Following the order, Feingold faxed purportedly responsive documents to Office of Disciplinary Counsel.

29. Thereafter, by Petition to the Board, Office of Disciplinary Counsel sought production of the original fee agreements, to which Respondent objected.

30. By Order of January 13, 2009, the Board ordered that a hearing be held before Board Member Francis X. O'Connor, Esquire, to determine whether Respondent had complied with the subpoena.

31. The hearing proceeded on January 27, 2009, at which time Respondent appeared in Office of Disciplinary Counsel's Philadelphia office with 63 documents. He represented that they were original fee agreements.

32. Board Member O'Connor determined that of the 63 documents produced by Respondent, only seven could have been originals. The rest had signatures which were copies.

33. Respondent advised Mr. O'Connor that he could not explain the discrepancy, but that he may have grabbed the "wrong stack of documents" from Feingold, indicating that he didn't even look at the documents before arriving at the hearing.

34. Respondent then left the hearing, went to Feingold's office and retrieved a second set of documents, which he then brought back before Mr. O'Connor.

35. Board Member O'Connor made a Report to the Board on February 3, 2009. He found that with respect to the separate sets of documents produced by Respondent: only seven of the set of documents initially produced by Respondent could possibly have been originals; ten of the documents initially produced by Respondent related to five FFG clients, each of whom had two separate cases, but that two signatures of each of those five clients were exact duplicates; the second set of documents produced by Respondent was radically different from the first set of documents; and Respondent had failed to comply with the subpoena.

36. Following a recommendation by the Board, the Supreme Court of Pennsylvania, by Order dated May 28, 2009, placed Respondent on temporary suspension pursuant to Pa.R.D.E. 208(f)(5), further directing Respondent to comply with Pa.R.D.E. 217.

37. By letter dated May 29, 2009, Elaine M. Bixler, Secretary of the Disciplinary Board, advised Respondent of the Order of temporary suspension and advised Respondent he was required to comply with Pa.R.D.E. 217.



38. Respondent failed to notify his clients or opposing attorneys of his temporary suspension and failed to file a DB-25 with the Board.

39. A Verified Statement of Respondent's compliance with Rule 217 was required to be filed by Respondent on or before July 7, 2009.

40. Respondent filed a Petition for Accelerated Disposition on August 19, 2009. Petitioner did not file formal charges within 30 days of the Petition, and the temporary suspension was dissolved pursuant to Pa.R.D.E. 208(f)(6) as of September 29, 2009.

41. Respondent cooperated with Petitioner by providing evidence and testimony that was critical in Petitioner's successful efforts in obtaining orders enjoining Allen Feingold from the continued unauthorized practice of law and appointing a conservator over the FFG cases.

42. Respondent did not demonstrate genuine remorse or acceptance of responsibility.

### III. CONCLUSIONS OF LAW

By his actions as set forth above, Respondent violated the following Rules of Professional Conduct and Rules of Disciplinary Enforcement:

1. RPC 1.4(a)(2) - A lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished.

2. 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.

3. RPC 1.5(b) - When the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, in writing, before or within a reasonable time after commencing the representation.

4. RPC 5.5(a) - A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

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

6. Pa.R.D.E. 203(b) via Pa.R.D.E. 217(b) - Failing to promptly notify all clients who were involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matters or proceedings of his suspension.

7. Pa.R.D.E. 203(b)(3) via Pa.R.D.E. 217(e) - Failing to file with the Board a verified statement showing (1) the provisions of the suspension order and the Rules of Disciplinary Enforcement have been fully complied with; and(2) all other state, federal and administrative jurisdictions to which such person is admitted to practice, and the residence or other address of the formerly admitted attorney where communications to such person may thereafter be directed within ten days of the temporary suspension.

8. Pa.R.D.E. 203(b) via Pa.R.D.E. 217(j)(4) - Assisting and allowing Allen Feingold to:

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

(ii) perform law-related services for an office that is not staffed by a supervising attorney on a full-time basis;

(iii) perform law-related services for any client who in the past was represented by the formerly admitted attorney; and

(iv) negotiate or transact any matter for or on behalf of a client with third parties or have any contact with third parties regarding such a negotiation or transaction.

9. Respondent has failed to establish any valid jurisdictional or constitutional challenges to these proceedings.

#### IV. DISCUSSION

This matter is before the Disciplinary Board on a Petition for Discipline charging that Respondent actively assisted Allen L. Feingold, a suspended and later disbarred attorney, in practicing law from late 2007 until May 2009, when Respondent himself was temporarily suspended. Respondent's Answer to Petition stated that he assumed the representation of the former clients of Feingold's law firm, and admitted the essential facts of the charges against him.

The evidence of record supports the conclusion that Respondent engaged in a course of misconduct by assisting Allen Feingold. In the process of doing so, Respondent omitted, or ceded authority to Feingold of, the most basic and important duties to clients required of a lawyer.

The evidence shows that subsequent to Respondent's agreeing to assume the representation of the former FFG clients, Respondent's appearance was entered by

Feingold unbeknownst to the clients. Respondent failed to obtain the consent of the clients to his representation. Respondent was the attorney "in name only", as he actually met with very few of the clients, and only one or two signed a contingent fee agreement in Respondent's presence.

From the inception of the representations, Respondent was aware that Feingold was continuing to practice law from his old law office, working on the very cases in which Respondent's appearance had been entered. For instance, Respondent knew that Feingold was drafting and filing pleadings in which Feingold signed Respondent's name. Respondent was aware that Feingold was using a false letterhead, was contacting opposing counsel and third parties involved in cases, and was directing strategy. In sum, Respondent was aware that Feingold was performing law-related services from his former law office, an office that was not staffed by a supervising attorney. All of these actions by Feingold led the clients to assume that Feingold, and not Respondent, was their lawyer. Respondent admitted that he had little or no contact with the majority of clients and the files remained in Feingold's custody in Feingold's office.

By his knowledge of Feingold's activities, Respondent permitted and condoned Feingold's unauthorized practice of law. This pattern continued into 2009. On May 28, 2009, Respondent was placed on temporary suspension by the Supreme Court following his non-compliance with a subpoena issued by Petitioner for Respondent's fee agreements. This suspension was dissolved pursuant to Pa.R.D.E. 208(f)(6) on September 20, 2009.

While on temporary suspension, Respondent failed to comply with the notification provisions of Rule 217(b), Pa.R.D.E., and did not file the verified statement of compliance pursuant to Rule 217(e), Pa.R.D.E. Respondent's position is that he was not

required to comply with Rule 217 as his obligation to do so was extinguished when his suspension dissolved on September 20, 2009. However, during the time frame after the effective date of the suspension and prior to the dissolution, Respondent's obligation remained in force under the Rules, and he failed to comply with them. Respondent further argues that he did make good faith efforts to comply, but failed to introduce any evidence of these efforts, or evidence that any of his clients in fact received notice of his suspension.

As part of Respondent's Exceptions filed post-hearing, he has requested that the Board reopen the record to allow him to put in evidence regarding Petitioner's post-hearing conduct. Respondent claims that Petitioner deliberately misled Respondent in its intent to uphold a promise regarding the sanction that would be recommended in this proceeding. Respondent claims he was told Petitioner would advocate for a suspension of two years, stayed in favor of probation. Instead, Petitioner argued for a suspension of not less than two years and no probation. Respondent claims he would have secured legal counsel to represent him had he known that such a penalty was being sought.

The Committee found no evidence to support Respondent's version of events, and furthermore, Respondent had the opportunity to obtain counsel and chose to proceed without, and was given every opportunity to put evidence into the record. The Committee emphasized that regardless of any discussions between Petitioner and Respondent, it had the responsibility to review all evidence and provide a recommendation. The Board's review of this issue indicates that the Committee's analysis is correct and the Board so denies Respondent's request to reopen the record.

In the majority of cases in Pennsylvania involving the unauthorized practice of law, the respondent-attorney is the one directly engaging in the actual unauthorized practice. Herein, Respondent assisted another in the misconduct. Rule of Professional

Conduct 5.5(a) draws no distinction between assisting another in the unauthorized practice and the actual unauthorized practice. Therefore, the sanction imposed on Respondent need not be a lighter sanction merely because he, as an attorney in good standing, fostered the conduct and did not directly engage in it. There are significant policy reasons for preventing the unauthorized practice of law and avoiding public confusion regarding the status of a suspended or disbarred attorney. Respondent did a great disservice to the public by assisting Feingold in his unlawful and unethical activities.

There are several mitigating factors to consider in this matter. Respondent has practiced law in Pennsylvania since 1986 and has no prior discipline. He cooperated with Petitioner by voluntarily testifying at the Feingold conservatorship proceeding seeking to enjoin Feingold from continuing to practice law. Respondent's testimony was central to the successful outcome of that proceeding.

Aggravating factors in this matter are that Respondent lacks genuine remorse and has refused to accept full responsibility for his misconduct. The Hearing Committee found that despite claims of contrition, Respondent did not demonstrate true remorse. His testimony and demeanor on the witness stand, as observed by the Committee, "at times betrayed a cavalier, almost dismissive attitude towards the charges against him." (H.C. Rpt. P. 25) Respondent continued to minimize his misconduct and press his argument that others were to blame. This doesn't reflect acceptance of responsibility.

The Committee recommended a suspension of 20 months, taking into consideration Respondent's temporary suspension, as well as the aggravating and mitigating factors. The Board is persuaded that this sanction is appropriate for Respondent's misconduct. This is not a case of an isolated lapse of judgment or inattention to detail. Rather, Respondent assumed representation of some 70 clients

undoubtedly understanding that the lawyer who referred them had every intention of continuing to practice law despite his suspended status. Additionally, Respondent displayed very poor judgment in his handling of Petitioner's subpoena, which eventually resulted in his own suspension. Thereafter, he continued to ignore his professional responsibilities as a formerly admitted attorney. Respondent's conduct deserves suspension.

For the reasons as set forth above, the Board recommends that Respondent be suspended for a period of 20 months.

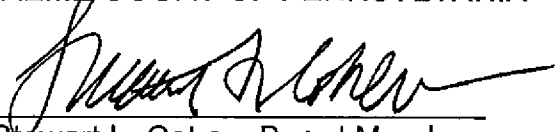
V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Jeffry Stephen Pearson, be Suspended from the practice of law for a period of 20 months.

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:   
Stewart L. Cohen, Board Member

Date: January 26, 2011  
Jan 26 2011

Board Members McLemore, Jefferies and Lawrence recused. Board Member Baer did not participate in the adjudication.