

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2691 Disciplinary Docket No. 3
	:	
Petitioner	:	No. 88 DB 2020
	:	
v.	:	Attorney Registration No. 94817
	:	
STEPHEN DANIEL BRINTON,	:	(Out of State)
	:	
Respondent	:	

ORDER

PER CURIAM

AND NOW, this 27th day of July, 2020, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board, the Joint Petition in Support of Discipline on Consent is granted, and Stephen Daniel Brinton is suspended on consent from the Bar of this Commonwealth for a period of three years, with six months to be served. The remaining suspension period is stayed, and he is placed on probation for two years and six months, subject to the following conditions:

1. Respondent shall comply with all of the conditions of his criminal probation as directed by the Chester County Court of Common Pleas and supervised by the Chester County Office of Probation and Parole;
2. Respondent shall provide to the Board the name and contact information of his parole and probation officer and shall immediately report to the Board any changes to this information and/or a transfer to a new parole and probation officer;
3. Respondent shall file with the Board quarterly written reports which, at a minimum, establish his continued compliance with these conditions; and

4. Respondent shall immediately report to the Board any violations of the terms and conditions of this probation.

Respondent shall comply with all the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board pursuant to Pa.R.D.E. 208(g).

A True Copy Patricia Nicola
As Of 07/27/2020

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

**BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2691, Disciplinary Docket
	:	No. 3
Petitioner	:	
	:	No. 88 DB 2020
v.	:	
	:	Board File No. C2-19-852
	:	
	:	Attorney Reg. No. 94817
STEPHEN DANIEL BRINTON,	:	
Respondent	:	(Out of State)

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

Petitioner, the Office of Disciplinary Counsel ("ODC"), by Thomas J. Farrell, Chief Disciplinary Counsel and Elizabeth A. Livingston, Disciplinary Counsel, and Respondent, Stephen Daniel Brinton, Esquire ("Respondent"), by his counsel, Ellen C. Brotman, Esquire, respectfully petition the Disciplinary Board in support of discipline on consent, pursuant to Pennsylvania Rule of Disciplinary Enforcement ("Pa.R.D.E.") 215(d), and in support thereof state:

FILED
06/26/2020
The Disciplinary Board of the
Supreme Court of Pennsylvania

1. Pursuant to Pa.R.D.E. 207, ODC, whose principal office is situated at Office of Chief Disciplinary Counsel, Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, Pennsylvania, 17106, is invested 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 provisions of the Enforcement Rules.

2. Respondent was born on December 27, 1973, and was admitted to the Bar of the Commonwealth of Pennsylvania on May 10, 2005. Respondent is on active status and his last registered address is Dalton & Associates, P.A., 1106 West Tenth Street, Wilmington, Delaware, 19806-4522. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent is a former Critical Care Nurse who works for Dalton & Associates, P.A. in Wilmington, Delaware, where he reviews personal injury and medical malpractice cases using his medical expertise and provides paralegal services under the supervision of Mr. Dalton.

4. Dalton & Associates, P.A. is a Delaware law firm that primarily services Delaware clients in Delaware matters.

5. Respondent does not have a Delaware law license.

6. While working for Dalton & Associates, P.A., Respondent has never signed a pleading or represented a client in any Delaware matters. Respondent also has not served as lead counsel for firm clients in Pennsylvania matters in the past five years.

7. Disciplinary Counsel confirmed with the Office of Disciplinary Counsel for the Supreme Court of the State of Delaware that it does not consider Respondent's employment as a paralegal at Dalton & Associates, P.A. to be the unauthorized practice of law.

8. Respondent has no prior record of discipline in Pennsylvania.

SPECIFIC FACTUAL ALLEGATIONS ADMITTED

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

Respondent's DUI & REAP Convictions

10. On July 7, 2018, at approximately 8:00 p.m., Respondent was operating a silver Honda Pilot near the intersection of West Cypress Street and Scarlett Road, in Kennett Square, Pennsylvania.

11. Respondent had spent the day with his family and was on his way to get ice cream. Respondent's brother-in-law and niece were passengers in the Honda Pilot.

12. Respondent failed to obey a steady red signal and continued into the intersection.

13. Respondent struck a Mercedes-Benz traveling south on Scarlett Road. The Mercedes Benz had a steady green signal.

14. Officer Jeremy O'Neill ("Officer O'Neill") was dispatched to the intersection of West Cypress Street and Scarlett Road to investigate a car accident.

15. Officer O'Neill discovered that the driver of the Mercedes-Benz had suffered an injury to his scalp and forehead and was bleeding profusely.

16. First responders transported the driver of the Mercedes-Benz and a three-year-old passenger in the Honda Pilot to the hospital for evaluation and treatment.

17. The driver of the Mercedes-Benz suffered serious injuries, including but not limited to a laceration on his forehead and a fracture to his vertebrae.

18. The three-year-old passenger in the Honda Pilot received a CAT scan at DuPont Hospital where she had been taken after the accident for evaluation and observation. The CAT scan was deemed normal.

19. The three-year-old passenger later was evaluated by her pediatrician, who determined she had not suffered head trauma or any other permanent injury from the car accident.

20. At the scene of the accident, Officer O'Neill detected the odor of alcohol on Respondent's breath and observed that his eyes were watery and bloodshot.

21. Respondent admitted that he had consumed alcohol that day.

22. Officer O'Neill administered several Standardized Field Sobriety Tests.

23. Respondent displayed signs of impairment during the tests.

24. Respondent waived the requirement of a search warrant so that police officers could remove the Honda Pilot's black box to determine whether he was speeding at the time of the accident. Respondent was not speeding.

25. Officer O'Neill took Respondent into custody and transported him to Southern Chester County Sub-Station where Respondent provided two positive breath samples indicating his BAC was between 0.147% and 0.148%.

26. Respondent participated in private, out-patient therapy for nine months after the car accident so that he could process that traumatic event.

27. On January 8, 2019, the Chester County District Attorney's Office filed an Information charging Respondent with:

- a. Count 1, DUI – Highest Amount of Alcohol in violation of 75 Pa.C.S.A. § 3802(b), an ungraded misdemeanor;
- b. Count 1, Driving Under Influence of Alcohol or Controlled Substance General Impairment/Incapable of Driving Safely in violation of 75 Pa.C.S.A. § 3802(a)(1), an ungraded misdemeanor;
- c. Count 2, Aggravated Assault By Vehicle in violation of 75 Pa.C.S.A. § 3732.1(a), a felony of the third degree;
- d. Counts 3 through 6, Recklessly Endangering Another Person in violation of 18 Pa.C.S.A. § 2705, a misdemeanor in the second degree;
- e. Count 7, Reckless Driving in violation of 75 Pa.C.S.A. § 3736(a), a summary offense;
- f. Count 8, Careless Driving in violation of 75 Pa.C.S.A. § 3714(a), a summary offense; and
- g. Count 9, Traffic Control Signals in violation of 75 Pa.C.S.A. § 3112(a)(3)(i), a traffic violation.

The matter was captioned *Commonwealth of Pennsylvania v. Stephen Daniel Brinton*, Criminal Action No. CP-15-CR-0000035-2019, in the Chester County Court of Common Pleas.

28. On August 22, 2019, Respondent pled guilty to:

- a. Count 1, Driving Under Influence of Alcohol or Controlled Substance General Impairment/Incapable of Driving Safely in violation of 75 Pa.C.S.A. § 3802(a)(1), an ungraded misdemeanor; and
- b. Counts 3 and 4, Recklessly Endangering Another Person in violation of 18 Pa.C.S.A. § 2705, misdemeanors in the second degree.

29. On August 22, 2019, the Court sentenced Respondent to eleven and a half (11 ½) months to twenty-three (23) months imprisonment, to be served concurrent with six (6) months of probation relating to the DUI conviction, and to be followed by twelve (12) months of probation for the REAP convictions.

30. Further, the Court required Respondent to perform one hundred (100) hours of community service, undergo a CRN and Drug & Alcohol Evaluation and follow all recommendations for treatment, attend and

complete the Alcohol Highway Safety School, and write an apology letter to the driver of the Mercedes-Benz.

31. The Court also ordered Respondent to pay a fine of \$410.00 plus court costs.

32. Respondent's Pennsylvania driver's license was subject to a six month probation period.

33. Through his counsel, Respondent self-reported the guilty plea and conviction to the Office of Chief Disciplinary Counsel in compliance with Pa.R.D.E. 214.

34. Respondent was incarcerated in Chester County Prison beginning on August 22, 2019.

35. By Order dated August 22, 2019, the Court directed the Warden of Chester County Prison to place Respondent into the Work Release Program effective September 11, 2019, provided that Respondent did not incur any disciplinary infractions during his first three weeks of incarceration.

36. On September 11, 2019, the Warden of Chester County Prison placed Respondent into the Work Release Program and moved Respondent to the Work Release Center.

37. While in the Work Release Program, Respondent performed his regular tasks for Dalton & Associates, P.A.

38. As a result of COVID-19, on March 13, 2020, Respondent was paroled early and was on electronic home monitoring with restricted work hours until his release date of June 3, 2020.

39. Since March 13, 2020, Respondent has been performing his regular tasks for Dalton & Associates, P.A. Respondent expects he will continue to work for Dalton & Associates, P.A., indefinitely.

40. Also, a result of COVID-19, Respondent has not completed: (a) the required 100 hours of community service; (b) the CRN and Drug & Alcohol Evaluation; and (c) Alcohol Highway Safety School. Respondent will receive further instructions concerning completion of these requirements after county services have resumed.

41. Respondent provided a letter dated July 23, 2018 and written by Lauren Rudolph, LPC, Intensive Outpatient Therapist at Sanare Today, in which Ms. Rudolph documented a Substance Abuse Evaluation performed on July 19, 2018. The July 23 letter stated it was "not recommended [that Respondent undergo] follow up treatment in a Drug & Alcohol program" but was recommended that he "follow up with an individual therapist to address current life stressors." The July 23 letter further stated Respondent had submitted to a 10 panel Urine Drug Screen (UDS), the results of which were negative.

42. Respondent was not required to participate in drug and alcohol counseling during his time at Chester County Prison and the Work Release Center.

43. Respondent has not written the required apology letter to the driver of the Mercedes-Benz. Respondent is involved in a civil suit relating to the car accident and will not be writing the apology letter until after that suit is resolved, per the advice of his civil lawyer. Respondent's parole officer is aware of this situation and has not objected to it.

44. Respondent has been making payments towards the fines and costs assessed to him while he was in Chester County Prison and will continue to do so until he pays them in full.

45. Respondent states that he "takes responsibility for the accident and the injuries that occurred" but "does not believe that he was drunk, nor did any of the other witnesses who were with him leading up to the time he got into the car."

46. Respondent has no prior DUI convictions that were resolved by Accelerated Rehabilitative Disposition (ARD) or otherwise.

47. Respondent acknowledges the seriousness of his misconduct and its negative impact on the legal profession and has expressed his regret and remorse for his actions.

48. Respondent has fully cooperated with ODC in connection with its investigation, and, through his attorney, has expressed his willingness to accept the proposed discipline arising from his criminal convictions.

49. Respondent had no history of discipline in Pennsylvania before his criminal conviction, and he has no history of discipline after his criminal conviction.

**SPECIFIC RULES OF PROFESSIONAL CONDUCT AND
RULES OF DISCIPLINARY ENFORCEMENT VIOLATED**

50. Respondent violated the following Rule of Professional Conduct and Rule of Disciplinary Enforcement:

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

SPECIFIC RECOMMENDATION FOR DISCIPLINE

51. ODC and Respondent jointly recommend that an appropriate discipline for Respondent's admitted misconduct is a three year suspension from the practice of law – six months to be served, and two years and six

months to be stayed with probation. Respondent shall remain on stayed suspension and probation governed by Disciplinary Board Rule §89.291 until after the conclusion of his supervision by the Chester County Office of Probation and Parole.

52. Respondent's cooperation with law enforcement representatives and with ODC, his acceptance of responsibility for the car accident and the injuries he caused to the driver of the Mercedes-Benz, his good behavior during time served in Chester County Prison and in the Work Release Program, and his compliance with electronic home monitoring requirements make Respondent a good candidate for discipline on consent in the form of a three year suspension and probation as set forth above. Probation by the Disciplinary Board will help ensure Respondent's continued compliance with the terms and conditions of his supervision by the Chester County Office of Probation and Parole and will allow the Disciplinary Board to track his compliance. This resolution will protect the public and maintain the interests of the legal profession and the Bar of the Commonwealth of Pennsylvania.

53. Precedent establishes suspension of Respondent's license as an appropriate form of discipline due to the nature and circumstances of the criminal behavior for which Respondent was convicted. See *In re Kunkle* No. 101 DB 2001 (D. Bd. Rpt. 4/1/2002) (S. Ct. Order 4/19/2002)

(suspending attorney who endangered, but did not seriously injure, six-year-old child). In *In re Kunkle*, the respondent smoked marijuana at home, handled his gun collection, and accidentally fired a bullet through the wall of an adjacent home, nearly striking a young child. The respondent was convicted of one count of REAP and received two years of probation with conditions. The district attorney did not pursue any drug charges. The respondent fully cooperated with law enforcement and had no prior history of discipline. The Hearing Committee found that respondent exhibited a “lapse of judgment . . . severe enough to require that he take a step back from the practice of law to examine the harm he caused.” *In re Kunkle*, No. 101 DB 2001 at 9. In summarizing the respondent’s conduct leading to violations of RPC 8.4(b) and Pa.R.D.E. 203(b)(1) and warranting suspension, the Disciplinary Board stated the respondent “engaged in a course of activity that placed other persons in risk of harm.” *Id.* The Supreme Court of Pennsylvania accepted the recommendation of the Disciplinary Board and ordered that the respondent’s license be suspended for six months, retroactive to the date on which his license was temporarily suspended on an emergency basis. Upon entry of the Supreme Court’s Order, the respondent already had served the six month suspension.

54. In a more recent matter, the respondent-attorney received a one year suspension with four months to be served and eight months stayed. See *In re Donohue*, 136 DB 2013 (S. Ct. Order 3/31/2014) (Consent Discipline). In *In re Donohue*, the respondent injured a 14-year-old boy in a hit-and-run. The respondent failed to stop, render aid, and notify the police. He subsequently concealed his damaged car in a garage. The respondent's conduct was aggravated because he was an assistant district attorney who violated the laws he had been charged with enforcing. Suspension was warranted because of the boy's injuries and the respondent-attorney's betrayal of the faith and trust of the public. In the criminal trial, the respondent was acquitted of aggravated assault and DUI-related charges but found guilty of Accidents Involving Death or Personal Injury, a misdemeanor in the first degree, and the summary offenses of: (1) Reckless Driving; (2) Failure to Give Information and Render Aid; (3) Failure to Give Notice of Accident to Police; and, (4) Careless Driving.

55. Finally, in a more serious case, the respondent resigned from the practice of law as a result of two criminal conviction matters – one involving cocaine-related DUI and REAP convictions, and the other involving a harassment conviction. See *In re Hoicker*, 53 DB 2009 (S. Ct. Order 11/2/2011).

56. The facts presented here are similar to those presented in *In re Kunkle* and *In re Donohue*, such that they support the appropriateness of public discipline in the form of a suspension. Respondent imbibed alcohol and then caused a major car accident in which he recklessly endangered a three-year-old passenger in his car and the driver of a Mercedes-Benz, who suffered substantial injuries to his head and back. The injuries suffered by the driver of the Mercedes-Benz were more significant than the injuries suffered by the 14-year-old boy in *In re Donohue*. Like the respondent in *In re Kunkle*, Respondent nearly injured a child under the age of five. Respondent cooperated with law enforcement officers who arrived at the scene of the accident. Respondent failed Standardized Field Sobriety Tests and provided two positive breath samples indicating his BAC was between 0.147% and 0.148%. Respondent maintains he was not intoxicated. At the very least, he was impaired and distracted, and he engaged in a course of activity that placed other persons in the risk of harm.

57. Some facts distinguish this disciplinary matter from *In re Kunkle*, *In re Donohue*, and *In re Hoicker*, such that they support a long period of suspension. Here, Respondent pled guilty to one count of DUI and two counts of REAP. In *In re Kunkle*, the respondent was convicted only of one count of REAP, and the district attorney did not pursue any drug-related

charges. In *In re Donohue*, the respondent was charged with but not convicted of DUI and aggravated assault. The respondent was found guilty of, *inter alia*, Accidents Involving Death or Personal Injury, Reckless Driving, and Careless Driving – convictions that are similar to REAP. In *In re Hoicker*, the respondent resigned from the practice of law amid convictions for cocaine-related DUI and REAP – the same convictions that Respondent has here, except that Respondent drank alcohol, a legal drug, and did not use an illegal drug.

58. Considering all of the circumstances, ODC and Respondent recommend a three year suspension from the practice of law – six months to be served, and two years and six months to be stayed with probation. Respondent's probation would be governed by Disciplinary Board Rule §89.291 and would continue until after the conclusion of his supervision by the Chester County Office of Probation and Parole. A violation of the terms of probation would be grounds for further action pursuant to Pa.R.D.E. 208(h).

WHEREFORE, Petitioner and Respondent respectfully request, pursuant to Pennsylvania Rules of Disciplinary Enforcement 215(e) and 215(g), that a three member panel of the Disciplinary Board review and approve this Joint Petition in Support of Discipline on Consent and file a

recommendation with the Supreme Court of Pennsylvania that Respondent receive a three year suspension from the practice of law – six months to be served, and two years and six months to be stayed with probation, and subject to the following conditions:

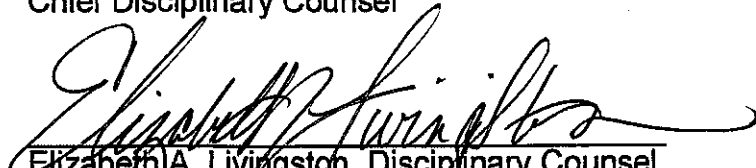
1. Respondent shall comply with all conditions of his criminal probation as directed by the Chester County Court of Common Pleas and supervised by the Chester County Office of Probation and Parole;
2. Respondent shall provide to the Board the name and contact information of his parole and probation officer and shall immediately report to the Board any changes to this information and/or transfer to a new parole and probation officer;
3. Respondent shall file with the Board quarterly written reports which, at a minimum, establish his continued compliance with these conditions; and
4. Respondent shall immediately report to the Board any violations of the terms and conditions of this probation.

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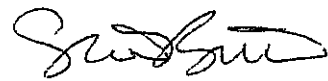
Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL
THOMAS J. FARRELL
Attorney Registration No. 48976
Chief Disciplinary Counsel


6/26/20
DATE


Elizabeth A. Livingston, Disciplinary Counsel
Attorney Registration Number 208126
Office of Disciplinary Counsel, District II Office
820 Adams Avenue, Suite 170
Trooper, PA 19403
(610) 650-8210

6/25/20
DATE


Stephen Daniel Brinton, Esquire
Respondent
Attorney Registration Number 94817

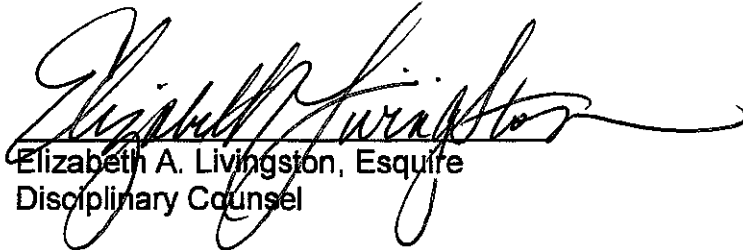
6/25/20
DATE


Ellen C. Brotman, Esquire
Counsel for Respondent

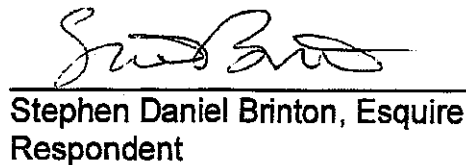
VERIFICATION

The statements contained in the foregoing *Joint Petition In Support of Discipline on Consent* are true and correct to the best of my knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.

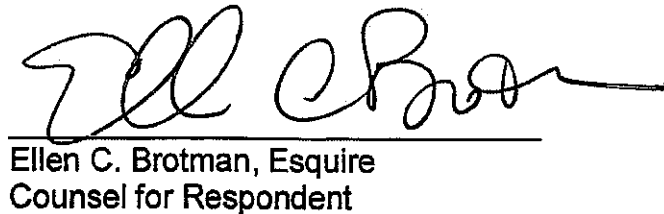
6/25/20
DATE


Elizabeth A. Livingston, Esquire
Disciplinary Counsel

6/25/20
DATE


Stephen Daniel Brinton, Esquire
Respondent

6/25/20
DATE


Ellen C. Brotman, Esquire
Counsel for Respondent

**BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA**

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	:	Attorney Reg. No. 94817
STEPHEN DANIEL BRINTON,	:	
Respondent	:	(Out of State)

CERTIFICATE OF SERVICE

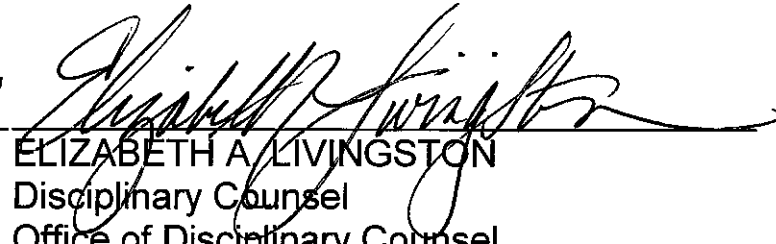
I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of Administrative Order of the Disciplinary Board of the Supreme Court of Pennsylvania dated April 7, 2020 (relating to electronic service upon a respondent-attorney).

Via E-Mail, as follows:

Ellen C. Brotman, Esquire
Brotman Law
One South Broad Street, Suite 1500
Philadelphia, PA 19107
ebrotman@ellenbrotmanlaw.com

(Counsel for Respondent)

Dated:

6/26/20 

ELIZABETH A. LIVINGSTON
Disciplinary Counsel
Office of Disciplinary Counsel
District II Office
820 Adams Avenue, Suite 170
Trooper, PA 19403
(610) 650-8210

EXHIBIT A

**BEFORE THE DISCIPLINARY BOARD OF THE
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OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2691, Disciplinary Docket
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STEPHEN DANIEL BRINTON,	:	
Respondent	:	(Out of State)

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

STEPHEN DANIEL BRINTON, being duly sworn according to law, deposes and submits this affidavit consenting to the recommendation of a three year suspension from the practice of law – six months to be served, and two years and six months to be stayed with probation, in conformity with Pa.R.D.E. 215(d), and further states as follows:

1. He is an attorney admitted to the Bar of the Commonwealth of Pennsylvania on or about May 10, 2005.
2. He desires to submit a Joint Petition in Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d).
3. His consent is freely and voluntarily rendered; he is not being

subjected to coercion or duress, and he is fully aware of the implications of submitting this affidavit.

4. He is aware that there is presently pending a proceeding regarding allegations that he has been guilty of misconduct as set forth in the Joint Petition in Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d) to which this affidavit is attached.

5. He acknowledges that the material facts set forth in the Joint Petition are true.

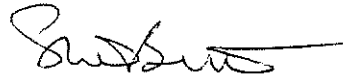
6. He submits this affidavit because he knows that if charges predicated upon the matter under investigation were filed, or continued to be prosecuted in the pending proceeding, he could not successfully defend against them.

7. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant proceeding. He has retained, consulted, and acted upon the advice of Ellen C. Brotman, Esquire, in connection with his decision to execute the Joint Petition.

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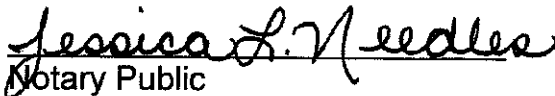
It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S.A. §4904 (relating to unsworn falsification to authorities).

Signed this 25th day of June, 2020.



Stephen Daniel Brinton, Esquire

Sworn to and subscribed
Before me on this 25
day of June, 2020


Notary Public

JESSICA L. NEEDLES
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires Dec. 19, 2020