

**IN THE SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2004 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 9 DB 2014
v.	:	
	:	Attorney Registration No. 33494
CHRYSTYNA M. FENCHEN,	:	
Respondent	:	(Northampton County)

**ORDER**

**PER CURIAM:**

AND NOW, this 23<sup>rd</sup> day of May, 2014, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated February 11, 2014, 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 Chrystyna M. Fenchen 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 5/23/2014

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

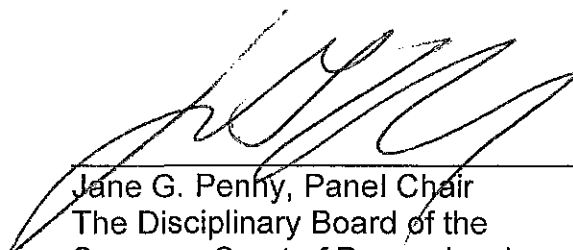
OFFICE OF DISCIPLINARY COUNSEL	:	No. 9 DB 2014
Petitioner	:	
	:	
v.	:	Attorney Registration No. 33494
	:	
CHRYSTYNA M. FENCHEN	:	
Respondent	:	(Northampton County)

RECOMMENDATION OF THREE-MEMBER PANEL  
OF THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

The Three-Member Panel of the Disciplinary Board of the Supreme Court of Pennsylvania, consisting of Board Members Jane G. Penny, Howell K. Rosenberg, and R. Burke McLemore, Jr., has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on January 17, 2014.

The Panel approves the Joint Petition consenting to a one year and one day suspension and recommends to the Supreme Court of Pennsylvania that the attached Petition be Granted.

The Panel further recommends that any necessary expenses incurred in the investigation and prosecution of this matter shall be paid by the respondent-attorney as a condition to the grant of the Petition.

  
\_\_\_\_\_  
Jane G. Penny, Panel Chair  
The Disciplinary Board of the  
Supreme Court of Pennsylvania

Date: 2/11/2014

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

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 9 DB 2014
Petitioner	:	
v.	:	ODC File No. C2-13-346
	:	
CHRYSTYNA M. FENCHEN,	:	Attorney Registration No. 33494
Respondent	:	(Northampton County)

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

Petitioner, the Office of Disciplinary Counsel (hereinafter, "ODC") by Paul J. Killion, Chief Disciplinary Counsel, and Harold E. Ciampoli, Jr., Disciplinary Counsel and Respondent, Chrystyna M. Fenchen (hereinafter "Respondent"), respectfully petition the Disciplinary Board in support of discipline on consent, pursuant to Pennsylvania Rule of Disciplinary Enforcement ("Pa.R.D.E.") 215(d), and in support thereof state:

1. ODC, whose principal office is situated at PA Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62485, Harrisburg, Pennsylvania 17106, is invested, pursuant to Pa.R.D.E. 207, with the power and duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Enforcement Rules.

**FILED**

JAN 17 2014

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

2. Respondent, Chrystyna M. Fenchen, was born on April 14, 1950, and was admitted to practice law in the Commonwealth on December 22, 1980. Respondent is on inactive status and her current registered address is 3686 Lower Saucon Road, Hellertown, PA 18055. Respondent is currently incarcerated at Muncy State Correctional Institute, OU 5162, P.O. Box 180, Muncy, PA 17756. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

**SPECIFIC FACTUAL ALLEGATIONS ADMITTED**

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

4. On February 6, 2013, Respondent was the operator of a vehicle on East Broad Street, Bethlehem, PA. A witness observed Respondent driving erratically. Police were summoned, and after investigation, arrested Respondent for Driving Under the Influence of Alcohol or Controlled Substance (DUI). Respondent was transported to Northampton County DUI Center and consented to having her blood drawn. The results of a laboratory examination of her blood showed a blood alcohol level of .28%.

5. On March 28, 2013, a Criminal Information (relating to the February 6, 2013 arrest) charging Respondent with DUI and related offense was filed in the Court of Common Pleas of Northampton County, docketed at No. CP-48-CR-0000842-2013.

6. On April 25, 2013, Respondent was the operator of a vehicle in Hellertown, PA after imbibing a sufficient amount of alcohol such that she was rendered incapable of safe driving. Witnesses observed Respondent unconscious behind the wheel of a vehicle. Police were summoned to the scene and Respondent refused to submit to chemical testing. Respondent was placed under arrest for DUI.

7. By fax dated July 24, 2013, Respondent notified the office of Chief Disciplinary Counsel that she had been arrested for 2 DUI charges which she intended to plead guilty to in the near future.

8. On August 5, 2013, a Criminal Information (relating to the April 25, 2013 arrest) charging Respondent with DUI was filed in the Court of Common Pleas of Northampton County, docketed at No. CP-46-CR-0002182-2013.

9. On August 5, 2013, Respondent pled guilty to Count 2 of Bill of Information 842-2013, 75 Pa.C.S.A. §3802 (c) (DUI, Highest rate of alcohol) and Count 1 of Bill of Information 2182-2013, 75 Pa.C.S.A. §3802 (a) (1) (DUI, General Impairment). Both counts were considered Respondent's third DUI offense for sentencing purposes and were each graded as a *misdemeanor* 1. On that date, Judge Kimberly McFadden sentenced Respondent to consecutive sentences of imprisonment in a State Correctional Institution of not less than one year or more than five years. Respondent was fined a total of \$5,000.00 and required to attend long-term residential dual diagnosis care and to pay the costs of prosecution.

#### **PRIOR HISTORY OF DUI AND DISCIPLINE**

10. In 1998, Respondent was arrested for DUI. She was admitted into the ARD program and successfully completed the terms of her probation.

11. On May 4, 2006, Respondent was the operator of a vehicle that veered off Lower Saucon Road in Northampton County and struck several trees. Police were summoned, and after investigation, arrested Respondent for DUI. Prior to the collision, Respondent had imbibed a sufficient amount of alcohol such that the alcohol concentration in her blood was .15% within two hours after she had driven.

12. On July 18, 2006, a Criminal Information (relating to the May 4, 2006 arrest) charging Respondent with DUI was filed in the Court of Common Pleas of Northampton County, docketed at No. 2115-2006.

13. On July 19, 2006, Respondent was the operator of a vehicle travelling southbound on Route 412. Witnesses observed Respondent driving "all over the road." Police were summoned to the Old Chevrolet 21 Parking Lot, where Respondent's vehicle was stopped. After investigation, Respondent was placed under arrest for DUI and transported to the Bethlehem DUI Center. Respondent's alcohol concentration in her blood was .29%.

14. On October 30, 2006, a Criminal Information (relating to the July 19, 2006 arrest) charging Respondent with DUI was filed in the Court of Common Pleas of Northampton County, docketed at No. 3318-2006.

15. On August 15, 2007, Respondent pled guilty to the two counts of DUI.

16. Respondent was a patient in the residential care alcoholism/chemical dependency treatment program at Marworth in Waverly, Pennsylvania, from January 4, 2007 through February 1, 2007.

17. Respondent attended the Mitchell Clinic Aftercare Program from February 6, 2007 through March 8, 2007.

18. On September 28, 2007, Respondent was sentenced by the Honorable Edward G. Smith. On the offense of 75 Pa.C.S.A. §3802 (c), Respondent was sentenced to a period of a minimum of ninety days to a maximum of five years incarceration in Northampton County Prison and a fine of \$1,500.00. Respondent was required to complete the alcohol highway safety school, comply with the recommendations of the drug and alcohol assessment and to pay the costs of prosecution. Respondent received credit for twenty-eight (28) days for inpatient

treatment that was completed subsequent to her arrest. On the offense of 75 Pa.C.S.A. §3802 (b), Respondent was sentenced to a minimum of thirty (30) days to a maximum of six months incarceration, to run concurrently with the sentence imposed for the 75 Pa.C.S.A. §3802 (c) offense and was fined an additional \$750.00. Respondent was ordered to report to the Northampton County Prison on Monday, October 1, 2007, to begin serving her ninety (90) day sentence.

19. Respondent was incarcerated at the Northampton County Prison from October 1, 2007 to December 2, 2007.

20. By Order dated June 5, 2008, the Supreme Court of Pennsylvania directed that Respondent's 2006 DUIs be referred to the Disciplinary Board, pursuant to Rule 214(f)(1) and (g), Pa.R.D.E.

21. By Order dated September 2, 2008, a three-member Panel of the Disciplinary Board approved a Joint Petition in Support of Consent Discipline filed in the matter captioned *Office of Disciplinary Counsel v. Chrystyna M. Fenchen*, No. 1360 Disciplinary Docket No. 3, No. 42 DB 2008. The Panel ordered that Respondent be subjected to a Private Reprimand and be placed on probation for a period of two years. Respondent's probation was subject to certain conditions including, *inter alia*, the appointment of a sobriety monitor and the requirement that she and her sobriety monitor filed quarterly written reports with the Secretary of the Board.

22. Respondent's disciplinary probation commenced on October 29, 2008, and was successfully completed in October 2010.

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

23. In connection with her two most recent DUI convictions, 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 adversely 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 shall be grounds for discipline.

**SPECIFIC RECOMMENDATION FOR DISCIPLINE  
ONE YEAR AND ONE DAY SUSPENSION**

24. The Disciplinary Board has noted that there is no *per se* discipline in Pennsylvania for an attorney convicted of DUI and that discipline has ranged from a Private Reprimand to a suspension, in recognition of the different facts and circumstances. *In re Anonymous No. 41 DB 1999*, No. 501, Disciplinary Docket No. 3 (Pa. June 26, 2000). Based on the particular facts of Respondent Fenchen's case, a one-year and one-day suspension is appropriate.

25. Respondent acknowledges that based on her prior criminal and disciplinary history, a suspension that requires her to petition for reinstatement to prove her fitness is required. Respondent has been arrested for DUI offenses five times over the course of fifteen years. Throughout that period she has participated in several inpatient and outpatient programs, has been given the opportunity for rehabilitation, and has received private discipline. Although her problems with drinking have always been related to stressful periods of her life and have not been a sustained problem, she realizes that she is an alcoholic who needs to abstain from drinking for the rest of her life. Her most recent relapse has resulted in a two-year prison term in



which she is required to attend long-term residential dual diagnosis treatment and be under a lengthy probationary supervision. A one-year and one-day suspension will require a reinstatement hearing, at which time she will be required to show that she is progressing and maintaining her treatment program and road to recovery.

26. In *Office of Disciplinary Counsel v. Kenneth Gallen*, No. 8 DB 2002 (2004) Gallen was convicted of three separate DUIs and in addition to his convictions had been arrested on five (5) other occasions for driving under the influence. His last conviction occurred after he had driven his vehicle into a wall at a speed of ninety-five (95) miles per hour with his two children in the front seat. This accident resulted in serious injury to Gallen and to one of his young daughters and minor injury to another daughter. After finding that Gallen had satisfied the Braun standard for alcoholism and a bi-polar psychiatric condition, the Board noted that attorneys convicted of DUI who had a history of DUI arrests and convictions and demonstrated they were alcoholics, have generally been suspended for periods in excess of one year where the incident leading to conviction involved an injury or fatality. The Court followed the recommendation of the Board Majority and suspended Gallen for one year and one day. Although there was no accident or injury in this matter, Respondent Fenchen has been arrested for DUI offenses five (5) times over the course of fifteen (15) years. Unlike Gallen, Respondent has a history of discipline involving previous DUIs.

27. *Office of Disciplinary Counsel v. Kimberly Neeb*, No. 68 DB 2006 (2006) involved a respondent who engaged in a second act for DUI when there was a similar charge pending. Neeb also violated her Intermediate Punishment sentence on multiple occasions. Her case did not involve an injury or fatality but she entered into a Consent Petition for a one-year and one-day suspension. In the Petition, Neeb acknowledged her unfitness and that a one-year

and one-day suspension was warranted because it required her to petition for reinstatement to prove her fitness. The Petition was approved by the Board and by the Court.

28. In sum, a one-year and one-day suspension is appropriate in this case because it necessitates Respondent Fenchen proving her fitness at a reinstatement hearing. Private discipline with probation was obviously ineffective and her two subsequent DUI arrests in rapid succession raise serious questions about her fitness that need to be addressed at a reinstatement hearing prior to her being permitted to resume the practice of law. Additionally, Respondent's two-year prison sentence supports the need for a similar lengthy suspension.

WHEREFORE, Joint Petitioners respectfully pray that Your Honorable Board:

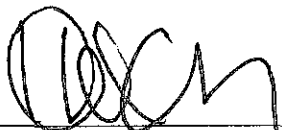
- a. approve this Petition; and
- b. enter an appropriate order:

Costs shall be paid by the Respondent.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL  
PAUL J. KILLION  
Attorney Reg. No. 20955  
Chief Disciplinary Counsel

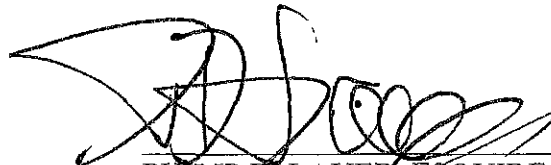
1/15/14  
DATE

  
HAROLD E. CIAMPOLI, JR.  
Disciplinary Counsel  
Attorney Registration Number 51159  
District II Office  
Suite 170, 820 Adams Avenue  
Trooper, PA 19403  
(610) 650-8210

12/28/13  
DATE

  
CHRYSTYNA M. FENCHEN  
Respondent


1/8/14  
DATE

  
PHILIP D. LAUER, ESQUIRE  
Counsel for Respondent

VERIFICATION

The statements contained in the foregoing *Joint Petition In Support of Discipline on Consent Pursuant To Pa.R.D.E. 215(d)* 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.

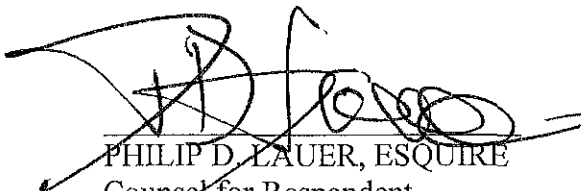
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HAROLD E. CIAMPOLI, JR.  
Disciplinary Counsel

12/28/13  
DATE

  
CHRYSZYNA M. FENCHEN  
Respondent

1/8/14  
DATE

  
PHILIP D. LAUER, ESQUIRE  
Counsel for Respondent

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

OFFICE OF DISCIPLINARY COUNSEL,	:	No. DB
Petitioner	:	
v.	:	ODC File No. C2-13-346
	:	
	:	Attorney Registration No. 33494
CHRYSTYNA M. FENCHEN,	:	
Respondent	:	(Northampton County)

**CERTIFICATE OF SERVICE**

I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 204 Pa. Code §89.22 (relating to service by a participant).

First Class and Overnight Mail, as follows:

Chrystyna M. Fenchel  
c/o Philip D. Lauer, Esquire  
Lauer & Sletvold, P.C.  
701 Washington Street  
Easton, PA 18042

Dated: \_\_\_\_\_

1/15/14



\_\_\_\_\_  
HAROLD E. CIAMPOLI, JR.  
Disciplinary Counsel  
Attorney Reg. No. 51159  
Office of Disciplinary Counsel  
District II Office  
820 Adams Avenue, Suite 170  
Trooper, PA 19403  
(610) 650-8210

LAW OFFICES

**LAUER & SLETVOLD, P.C.**

701 WASHINGTON STREET

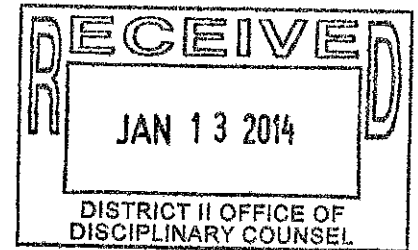
EASTON, PENNSYLVANIA 18042

PHILIP D. LAUER  
JENNIFER R. SLETVOLD  
JOSHUA D. FULMER

TELEPHONE (610) 258-5329  
FAX (610) 258-0155  
www.lauersletvold.com

January 9, 2014

Harold E. Ciampoli, Jr, Esquire  
Office of Disciplinary Counsel  
820 Adams Avenue, Suite 170  
Trooper, PA 19403



**RE: Chrystyna Fenchen**

Dear Mr. Ciampoli:

I enclose the Joint Petition in Support of Discipline, signed by myself and Ms. Fenchen. The Affidavit is signed by Ms. Fenchen, but not notarized. While I can confirm that the letter accompanying this document, when it came back to me, clearly indicates that she signed both the Petition and Affidavit, I am reluctant to have someone on this end notarize it, since it obviously is not signed in their presence.

Please let me know if you need anything else to move this to a conclusion.

Thank you very much.

Very truly yours,

  
PHILIP D. LAUER, ESQUIRE

PDL:gmb

cc: Chrystyna Fenchen

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

OFFICE OF DISCIPLINARY COUNSEL,	:	No.	DB
	:		
	:		
Petitioner	:		
v.	:	ODC File No.	C2-13-346
	:		
	:		
	:	Attorney Registration No.	33494
	:		
CHRYSTYNA M. FENCHEN,	:		
	:		
	:		
Respondent	:	(Northampton County)	

AFFIDAVIT

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

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF NORTHAMPTON

CHRYSTYNA M. FENCHEN, being duly sworn according to law, deposes and hereby submits this affidavit consenting to the recommendation of a one-year and one-day suspension from the practice of law in the Commonwealth of Pennsylvania, in conformity with Pa.R.D.E. 215(d) and further states as follows:

1. She is an attorney admitted in the Commonwealth of Pennsylvania, having been admitted to the bar on or about December 22, 1980.

2. She desires to submit a Joint Petition in Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d).

3. Her consent is freely and voluntarily rendered; she is not being subjected to coercion or duress, and she is fully aware of the implications of submitting this affidavit.

4. She is aware that there is presently pending a proceeding into allegations that she has been guilty of misconduct as set forth in the Joint Petition in Support of Discipline on

Consent of which this affidavit is attached hereto.

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

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

7. She acknowledges that she is fully aware of her right to consult and employ counsel to represent her in the instant proceeding. She has retained, consulted and acted upon the advice of counsel, Philip D. Lauer, Esquire, in connection with her decision to execute the within Joint Petition.

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 28 day of December, 2013.

  
\_\_\_\_\_  
CHRYSTYNA M. FENCHEN

Sworn to and subscribed  
before me this        day  
of                    , 2013.

\_\_\_\_\_  
Notary Public