

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2010 Disciplinary Docket No. 3
Petitioner :
: No. 132 DB 2012
v. :
: Attorney Registration No. 39053
NICHOLAS E. FICK, :
Respondent : (Lackawanna County)

ORDER

PER CURIAM:

AND NOW, this 31st day of March, 2014, upon consideration of the Report and Recommendations of the Disciplinary Board dated November 4, 2013, it is hereby

ORDERED that Nicholas E. Fick is suspended from the Bar of this Commonwealth for a period of eighteen 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.

Mr. Justice Baer and Mr. Justice Stevens dissent and would impose a suspension for a period of three years due to respondent's prior disciplinary history. See ODC v. Quinn, No. 2008 Disciplinary Docket No. 3 (Pa. March 31, 2014) (Baer and Stevens, JJ., dissenting) (opining that recidivist disciplinary offenders should receive more severe sanctions).

A True Copy Patricia Nicola
As Of 3/31/2014

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 132 DB 2012
Petitioner	:	
	:	
v.	:	Attorney Registration No. 39053
	:	
NICHOLAS E. FICK	:	
Respondent	:	(Lackawanna County)

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

By Petition for Discipline filed on August 30, 2012, Office of Disciplinary Counsel charged Nicholas E. Fick with violations of the Rules of Professional Conduct and Rules of Disciplinary Enforcement arising out of allegations that he failed to provide competent representation and act with reasonable diligence and promptness in three separate cases, and failed without good cause to respond to Petitioner's request. Respondent did not file an Answer to Petition.

A disciplinary hearing was held on March 25, 2013, before a District III Hearing Committee comprised of Chair Jeffrey B. Rettig, Esquire, and Members Joanne C. Ludwikowski, Esquire, and Dean V. Dominick, Esquire. Respondent was represented at the hearing by James F. Mundy, Esquire. Mr. Mundy withdrew his appearance on May 13, 2013, prior to the filing of the Hearing Committee Report.

Following the submission of briefs by the parties, the Hearing Committee filed a Report on August 13, 2013, concluding that Respondent violated the Rules as contained in the Petition, and recommending that he be suspended for a period of 18 months.

Respondent filed a Brief on Exceptions on September 3, 2013.

Petitioner filed a Brief Opposing Exceptions on September 23, 2013.

This matter was adjudicated by the Disciplinary Board at the meeting on October 9, 2013.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62485, Harrisburg, Pennsylvania 17106-2485, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, with the power and the 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 Rules.

2. Respondent is Nicholas E. Fick. He was born in 1956 and was admitted to practice law in Pennsylvania in 1983. His attorney registration address is 310 Spruce Street, Suite 301, Scranton PA 18503. He is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has a history of discipline in Pennsylvania.

4. An Informal Admonition was administered in 1999 for violations of the Rules arising from Respondent's neglect of two cases. A Private Reprimand was imposed in 2002 for his neglect of a client in a personal injury matter.

5. In 2005, Respondent was suspended from the practice of law for a period of one year, the suspension was stayed in its entirety and he was placed on probation of a period of one year with a practice monitor. The discipline was based on Respondent's failure to follow through with his client after receipt of a settlement check from the insurance company.

The Norton Workers' Compensation Matter

6. On June 11, 2001, Christopher A. Norton was employed by K-Mart in Wilkes Barre, Pennsylvania. While inflating a tire on a hand truck, the tire exploded, causing injuries to Mr. Norton's head and eye.

7. Respondent represented Mr. Norton in connection with a claim for workers' compensation benefits. By decision dated October 20, 2003, Mr. Norton was awarded specific loss benefits for the loss of use of his right eye, as well as other benefits, through April 30, 2002.

8. Respondent unsuccessfully appealed the April 2002 termination of Mr. Norton's benefits, which appeal was concluded in April 2005.

9. In or about early 2008, Respondent filed a Petition to Reinstate Benefits, as well as a Penalty Petition (related to employer's failure to pay medical bills Mr. Norton claimed were due to his workplace injuries.)

10. An initial hearing was held on November 4, 2008. At this hearing, the Workers' Compensation Judge took limited testimony from Mr. Norton, and then recessed the hearing. He gave Respondent 90 days to complete the assembling and presentation of medical evidence.

11. The matter was rescheduled for a full hearing on January 6, 2009.

12. The January 6, 2009 hearing was continued at Respondent's request. It was rescheduled for January 20, 2009.

13. On January 20, 2009, Respondent advised the Workers' Compensation Judge that he had not yet scheduled a deposition of his medical expert. As a result, the matter was continued again.

14. The Workers' Compensation Judge issued an Order, circulated January 23, 2009, which specified that Respondent had until March 21, 2009, to submit medical evidence, and that medical evidence submitted after that date would not be accepted.

15. Respondent failed to develop or submit any medical evidence.

16. On April 1, 2009, opposing counsel requested that Mr. Norton's Petitions be dismissed with prejudice for failure to proceed, based upon the fact that Respondent had not yet scheduled nor conducted medical depositions.

17. By Decision dated April 10, 2009, Mr. Norton's Reinstatement Petition and Penalty Petition were dismissed by the Workers' Compensation Judge, who opined that "Claimant failed to adhere to the evidentiary guidelines established by this Workers'

Compensation Judge, and failed to, at the very least, request an extension of time to present evidence.”

18. Respondent failed to advise his client that his case had been dismissed.

19. Respondent failed to depose medical experts, or otherwise obtain medical evidence, despite the fact that Mr. Norton provided Respondent with medical records and information on several occasions during 2008.

20. By DB-7 Letter of Inquiry dated January 31, 2012, Petitioner requested that Respondent respond and state his position in connection with the allegations of Mr. Norton. This certified letter was received by Respondent on February 1, 2012.

21. This January 31, 2012 letter, as well as a follow-up letter from Disciplinary Counsel dated April 24, 2012, stated that Respondent’s failure to respond within 30 days, without due cause, was an independent basis for discipline under Pa.R.D.E. 203(b)(7).

22. Respondent failed to respond, in any manner, to either letter.

The Norton Automobile Accident Matter

23. On October 6, 2001, a vehicle operated by Christopher A. Norton was involved in an accident with another vehicle driven by Thomas Hirschler. As a result, Mr. Norton sustained various injuries.

24. Respondent agreed to represent Mr. Norton in connection with this personal injury matter. Respondent already had an attorney’ client relationship with Mr. Norton in the aforementioned workers’ compensation matter.

25. No fee writing was ever provided by Respondent to Mr. Norton during the course of this representation.

26. On January 30, 2003, Respondent filed a complaint on behalf of his client in the Lackawanna County Court of Common Pleas.

27. On December 5, 2003, defense counsel Robert T. Panowicz filed an Answer to Respondent's Complaint.

28. On April 30, 2004, Attorney Panowicz filed a Certificate of Service regarding Interrogatories submitted to Respondent by mail.

29. Respondent failed to respond to these Interrogatories.

30. On July 6, 2006, Attorney Panowicz filed a Motion to Compel Discovery Responses and an Order directing Respondent to provide full and complete responses to the Interrogatories within 20 days.

31. Respondent failed to do so.

32. On February 8, 2007 Attorney Panowicz filed a Motion for Sanctions, alleging that Respondent had failed to obey the Court's Order of July 6, 2006, and had not provided any discovery responses whatsoever for a period approaching three years.

33. In response to this Motion for Sanctions, the court issued a Rule to Show Cause dated February 8, 2007, directing Respondent to show cause why sanctions should not be imposed for failure to take discovery-related actions, and scheduling a return date for March 2, 2007.

34. Respondent failed to file any response. As a result, on March 9, 2007, the Rule was made Absolute and sanctions were imposed, which included the award of counsel fees and which prohibited the introduction into evidence of certain claims, defenses and evidence.

35. Over the next 25 months, Respondent took no action to bring Mr. Norton's case to a resolution.

36. Throughout this representation, Respondent failed to act despite numerous requests for action from Mr. Norton, and failed to respond to Mr. Norton's numerous requests for information.

37. On May 12, 2009, defense counsel filed a Motion for Summary Judgment.

38. Mr. Norton sought and obtained new counsel, Attorney William Blaum.

39. Despite repeated attempted communications by Attorney Blaum, who sought Respondent's voluntary withdrawal as counsel of record, Respondent failed to withdraw his appearance, and otherwise failed to communicate or cooperate with, Mr. Norton or Attorney Blaum.

40. On May 21, 2009, Attorney Blaum filed a Motion seeking the entry of his appearance and the withdrawal of Respondent.

41. By Order dated May 21, 2009, Respondent's appearance was withdrawn by the Court and Attorney Blaum's appearance was entered.

42. By DB-7 Letter of Inquiry dated January 31, 2012, the Office of Disciplinary Counsel requested that Respondent respond and state his position in connection with the allegations of Mr. Norton. This certified letter was received by Respondent on February 1, 2012.

43. This January 31, 2012 letter, as well as a follow-up letter from Disciplinary Counsel dated April 24, 2012, stated that Respondent's failure to respond within 30 days, without due cause, was an independent basis for discipline under Pa.R.D.E. 203(b)(7).

44. Respondent failed to respond, in any manner, to either letter.

The Keating Matter

45. On September 22, 2007, Joseph T. Keating was involved in an altercation, which resulted in his allegedly being struck with nightsticks by police officers employed by the Clarks Summit Police Department. As a result, Mr. Keating claimed he suffered various physical/mental injuries.

46. At some unknown point in time prior to September 2008, Respondent agreed to represent Mr. Keating to pursue a claim against the police officers and police department.

47. Respondent failed to provide Mr. Keating with a written fee agreement stating the rate or basis of Respondent's fee at the commencement of Respondent's representation, or at any time thereafter.

48. On September 22, 2008, Respondent filed a Praecipe for Summons naming Mr. Keating as Plaintiff, and the Clarks Summit Police Department and unknown police officers, as Defendants.

49. Respondent never served the Praecipe for Summons, or the Summons in Civil Action that was issued by the Clerk of Judicial Records on any defendants.

50. The filing of this Praecipe is the only action of record taken by Respondent.

51. Between September 2008 and August 2011, Respondent had infrequent and sporadic contacts with Mr. Keating, notwithstanding Mr. Keating's many attempts to communicate with Respondent. When Respondent did speak to Mr. Keating, Respondent advised Mr. Keating that Respondent had been in touch with defense counsel in an effort to move the case forward.

52. Respondent's claims about contact with defense counsel were false, in that Respondent never made any such contacts.

53. In or about August 2011, Respondent informed Mr. Keating that part of Mr. Keating's file had been lost. At that point, Mr. Keating sought and engaged new counsel.

54. In October 2011, Mr. Keating's new counsel, Craig Kalinoski, Esquire, filed a Praecipe for Summons on behalf of Mr. Keating and against Respondent.

55. By DB-7 Letter of Inquiry dated January 6, 2012, the Office of Disciplinary Counsel requested that Respondent respond and state his position in connection with the allegations of Mr. Keating. This certified letter was received by Respondent on January 9, 2012.

56. This January 6, 2012 letter, as well as a follow-up letter from Disciplinary Counsel dated April 24, 2012, stated that Respondent's failure to respond within 30 days, without due cause, was an independent basis for discipline under Pa.R.D.E. 203(b)(7).

57. Respondent failed to respond, in any manner, to either letter.

58. Respondent appeared at the disciplinary hearing and provided credible testimony on his own behalf.

59. Respondent began treatment with Dr. Mark Saxon, a psychiatrist, in June of 2004. He had previously treated with a neurologist/psychologist in the late 1990s due to issues arising from a marital separation and divorce. Respondent was placed on medication for the previous issues but the medication was discontinued. (N.T. 17, 19)

60. Respondent commenced treatment with Dr. Saxon because he was experiencing some of the same symptoms that had occurred previously. Dr. Saxon

advised him that he would again be put on medication for depression until he achieved a certain level of stability and then the medication would be discontinued. (N.T. 19-20; R-1)

61. Respondent's first visit to Dr. Saxon was 15 days after his prior disciplinary hearing in 2004. Respondent recalls having a conversation with Disciplinary Counsel about reinitiating treatment. (N.T. 50-51, PE-6)

62. Respondent began taking the medication Effexor XR and by December 2004, he noticed some improvement in his symptoms. (N.T. 23, 26, 53)

63. As early as November of 2005, Dr. Saxon began discussing with Respondent the possibility of weaning him off the medication, but Respondent advised Dr. Saxon that he wanted to stay on the medication through December 2006 in order to comply with conditions of his prior discipline involving a one year stayed suspension. (N.T. 26-28) The medication taper began on March 12, 2007.

64. By June of 2007, Respondent discontinued the medication. (N.T. 30-31) He was formally discharged from Dr. Saxon's care in February 2008. (N.T. 55-56)

65. At or around the time of his discharge from Dr. Saxon's care, Respondent began having problems with his second wife which caused him to withdraw from his family and social activities. By April 2010, Respondent had moved out of his house and into his office. (N.T. 31-34)

66. In October 2010, Respondent was the sole plaintiff's counsel in a three week trial involving a case that Respondent described as "extremely contentious." The case involved approximately 10 to 12 experts. The verdict was in favor of Respondent's clients in an amount over four million dollars. From approximately June of 2010 through the end of October 2010, Respondent worked almost exclusively on this case. The case

involved 25 pages of docket entries and generated approximately 19 or 20 banker boxes of paper. (N.T. 35-36, 62-67; PE-7)

67. Respondent returned to Dr. Saxon in January of 2013 at the urging of his counsel, James Mundy, Esquire, and was prescribed Effexor XR. Respondent also saw Dr. Timothy Michals at Attorney Mundy's request. (N.T. 36-38)

68. When asked on direct examination why he neglected the matters at issue, Respondent inferred that it was because he had been taken off of the medication and had a recurrence of his depression. (N.T. 38-45)

69. On cross-examination, Respondent stated that he neglected the Norton matters because there was a very difficult history attached to it. Additionally, Mr. Norton was difficult to communicate with and/or locate, as he had a long term hospitalization after a suicide attempt and moved after his divorce. (N.T. 59-60)

70. On cross-examination, Respondent stated that he neglected the Keating matter as Mr. Keating had been drinking alcohol the day in question and could not recall what happened. Respondent did not believe that Mr. Keating had a case. (N.T. 60-62)

71. Respondent received no treatment for depression between June of 2007 and January of 2013. (N.T. 55-56)

72. From 2006 through 2011, Respondent had over 70 cases on file in Lackawanna County. During this same time frame, he was also attorney of record in cases in Luzerne County, did some federal court litigation and also did other types of work like wills and workers' compensation cases. He did not neglect any of these cases. (N.T. 67-70,78; PE -8)

73. At the disciplinary hearing, Respondent provided the credible testimony of Timothy Michals, M.D.

74. Dr. Michals conducted a forensic psychiatric evaluation of Respondent and saw Respondent on January 16, 2013 and January 29, 2013. (N.T. 84-92, 93-94).

75. Based upon his forensic psychiatric evaluation, it was Dr. Michals' opinion that Respondent had a history of a depressive disorder and has underlying personality traits that contributed to some of his behavior in the instant matter. He agreed with the diagnosis made by Dr. Saxon of major depressive disorder. (N.T. 96-97)

76. When directly questioned regarding whether major depressive disorder would be a cause for Respondent to have neglected the instant legal matter, Dr. Michals stated, "I think based on his history, looking at the records, the results of the psychological testing, I think that his mental disorder, major depressive recurrent in nature, had an impact on his behavior certainly effecting in my opinion his ability to practice law as well as other relationships and other aspects of his life." (N.T. 98)

77. Dr. Michals acknowledged that the final paragraph of the Minnesota Multiphasic Personality Inventory-2 (MMPI-2), a test administered to Respondent as part of the evaluation, indicated, "Respondent harbors many negative work attitudes that could limit his adaptability in the work place. His low morale and lack of interest in work would impair future adjustment to employment, a factor that should be taken into consideration in treatment." (N.T. 107; RE-3)

78. Respondent did not display any evidence of remorse for his misconduct.

III. CONCLUSIONS OF LAW

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

1. RPC 1.1 – A lawyer shall provide competent representation to a client.
2. RPC 1.3 – A lawyer shall act with reasonable diligence and promptness in representing a client.
3. RPC 1.4(a)(1) – A lawyer shall promptly inform the client of any decision or circumstance with respect to which the client’s informed consent, as defined in Rule 1.0(e), is required by these Rules.
4. 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.
5. RPC 1.4(a)(3) – A lawyer shall keep the client reasonably informed about the status of the matter.
6. RPC 1.4(a)(4) – A lawyer shall promptly comply with reasonable requests for information.
7. 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 representation.
8. RPC 8.4(c) - It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.
9. RPC 8.4(d) - It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.
10. Pa.R.D.E. 203(b)(7) - The following shall be grounds for discipline:
Failure by a respondent-attorney without good cause to respond to Disciplinary Counsel’s

request or supplemental request under Disciplinary Board Rules Section 87.7(b) for a statement of the respondent-attorney's position.

11. Respondent failed to demonstrate, by clear and convincing evidence that he suffered from a psychiatric disorder which caused his misconduct. Office of Disciplinary Counsel v. Braun, 553 A.2d 894 (Pa. 1989).

IV. DISCUSSION

This matter is before the Board for consideration of the charges of professional misconduct filed against Respondent in the Petition for Discipline. Respondent having filed no answer, the averments are admitted pursuant to Pa.R.D.E. 208(b)(4). The issue before the Board is the appropriate sanction to be imposed upon Respondent.

The misconduct at the heart of this case is neglect of client matters consisting of lack of communication, diligence and competence, which was apparent in all three matters. In addition, Respondent lied to his client, Mr. Keating, about settlement discussions with opposing counsel. In the Norton matters, Respondent ignored requests for discovery from opposing counsel, ignored the resultant orders from a judge, and ignored orders from a worker's compensation judge. Respondent has asserted that he is entitled to mitigation pursuant to Office of Disciplinary Counsel v. Braun, 553 A.2d 894 (Pa. 1989) and that as a result of this mitigation, the appropriate discipline should be such that he is permitted to continue practicing law.

Respondent bears the burden to establish by clear and convincing evidence that he suffered from a depressive disorder at the time of the misconduct and that the

depressive disorder was a causal factor in his misconduct. Respondent's evidence in this regard consists of medical records of Dr. Mark Saxon, evidence supplied by Dr. Timothy Michals, and Respondent's own testimony. A careful review of the record demonstrates that Respondent has not met his burden.

Respondent was diagnosed with and treated for depression by Dr. Saxon during the time frame June 2004 through 2007, with a discharge summary written in February 2008, which indicated that Respondent was no longer in need of treatment. Respondent was placed on the medication Effexor XR, and by December 2004, Respondent noticed some improvement in his symptoms. A physician-approved tapering off of the medication began in March 2007 and by June 2007, Respondent was advised to use up his prescription and discontinue the medication, which he did. By his own admission, Respondent was "feeling good" between 2006 and 2008, the time of the Norton automobile accident misconduct. (N.T. 27, 30-32, 53) Dr. Saxon's records indicate that Respondent's depression was well-controlled and Respondent was minimally symptomatic and was able to function at a normal level. (RE-1) Dr. Saxon did not see Respondent again until 2013, at which point in time Respondent resumed taking Effexor XR.

The misconduct in the Norton workers' compensation matter and the Keating matter occurred during the time frame that Respondent was discharged from Dr. Saxon's care in February 2008 and when Respondent returned to Dr. Saxon in January 2013. Respondent was not under any active psychiatric care. While Respondent claims that his depression impeded his ability to function and caused the misconduct in the two matters, the evidence of record shows that during that time frame, Respondent handled numerous other matters in various courts as well as numerous non-record matters, none of which were hampered by his depression. Among the matters he appropriately handled during

this time frame was complex litigation involving extensive discovery, numerous experts, and a three week jury trial held in 2010, all of which Respondent handled on his own. His efforts resulted in a judgment in excess of \$4 million for his clients. Respondent's claim of depression is difficult to reconcile with the facts of his very competent legal work on other matters. Of note in this discussion is Respondent's testimony on cross-examination as to why he neglected the Norton and Keating matters. He indicated that they were difficult cases because they involved difficult clients with whom it was challenging to maintain communication. (N.T. 59-62) Respondent himself has provided an alternate explanation as to why he neglected the matters.

Additional testimony was provided by Dr. Timothy Michals, who conducted a forensic psychiatric evaluation of Respondent in January 2013. We find that this testimony is equally unpersuasive as to a causal link between Respondent's alleged depression and his misconduct.

Expert testimony "must unequivocally link the attorney's disorder with the attorney's misconduct; the expert testimony must be credible and persuasive..." Office of Disciplinary Counsel v. Popeck, 66 DB 96 (1997). When specifically asked on direct examination whether the major depressive disorder would be a cause for Respondent's misconduct at issue, Dr. Michals responded, "I think that based on his history, looking at the records, the results of the psychology testing, I think that his mental disorder, major depressive disorder recurrent in nature, had an impact on his behavior certainly affecting in my opinion his ability to practice law as well as other relationships and other aspects of his life." (N.T. 98) Similarly, Dr. Michals stated in his report that it is his opinion that Respondent's depressive disorder, "...has caused a change in [Respondent's] behavior related to the claims of professional misconduct that he is currently facing." (RE-2, p. 7)

This testimony is vague and imprecise as to a causal connection and does not meet the stringent standard of Braun.

Given the foregoing facts and applicable law, the Board concludes that Respondent has not met the standard under Braun and is not entitled to mitigation.

Having disposed of the Braun issue, we turn to the appropriate level of discipline. Such discipline must balance a "concern for public welfare with a respect for the substantial interest that an attorney has in continuing his professional involvement in the practice of law." Office of Disciplinary Counsel v. Lewis, 426 A.2d 1138 (Pa. 1981)

The current proceeding marks the fourth time that Respondent has been involved with the disciplinary system. A review of his history reveals that in 1999, Respondent received an informal admonition and in 2001 he received a private reprimand as a result of neglect and failure to communicate with a client. These were private disciplines and permitted Respondent to continue practicing law, which he did. However, these past involvements with the system were not beneficial in deterring Respondent, and in 2005, he received a stayed suspension for one year with multiple conditions including a practice monitor and a mental health monitor for misconduct that again involved neglect and failure to communicate with a client. Notably, this sanction permitted Respondent to continue practicing law.

It is clear that Respondent's history of progressive private discipline has not had the desired effect of encouraging Respondent to cease his misconduct. Respondent is once again involved in the disciplinary system for the very same type of misconduct. Considering the Board's paramount duty to protect the public, it would be incredibly remiss and irresponsible for the Board to permit Respondent to continue practicing law. The next

logical, incremental step in Respondent's path of progressive discipline is a suspension of his professional license.

Following a very thoughtful discussion of this matter, the Hearing Committee recommended a suspension for 18 months. Support for this sanction is found in prior disciplinary cases. In re Anonymous (Charles E. Siegler, Jr.) No. 142 DB 1999, 60 Pa. D. & C. 4th 422 (2001); Office of Disciplinary Counsel v. John Kasaback, No. 137 DB 2011 (2013). This sanction accounts for Respondent's extensive history of discipline for similar misconduct while recognizing that the specific underlying events of the instant matter, standing alone might not warrant a suspension. Respondent must be removed from the practice of law for a long enough period of time to make an impression upon him, as it is clear that the prior private discipline has not motivated Respondent to remedy the underlying problems leading to his client neglect.

For the above reasons, the Board recommends that Respondent be suspended for a period of 18 months.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Nicholas H. Fick, be Suspended from the practice of law for a period of 18 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: Lawrence M. Kelly
Lawrence M. Kelly, Board Member

Date: November 4, 2013

Board Members McLemore and Cali abstained.