

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2757 Disciplinary Docket No. 3
: :
Petitioner : No. 134 DB 2020
: :
v. : Attorney Registration No. 318069
: :
RYAN D. BREEN, : (Allegheny County)
: :
Respondent :

ORDER

PER CURIAM

AND NOW, this 9th day of November, 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 Ryan D. Breen is suspended on consent from the Bar of this Commonwealth for a period of one year and one day. Respondent shall comply with all the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board. See Pa.R.D.E. 208(g).

A True Copy Patricia Nicola
As Of 11/09/2020


Attest:
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. Disciplinary Docket
Petitioner, : No.
: **134**
: No. DB 2020
v. :
: Board File No. C4-19-158
:
: (Court of Common Pleas of
: Allegheny County Case
: No: CP-02-CR-0004177-2019)
:
RYAN D. BREEN, : Attorney Registration No. 318069
:
: (Allegheny County)

JOINT PETITION IN SUPPORT OF DISCIPLINE
ON CONSENT UNDER RULE 215(d), Pa.R.D.E.

Petitioner, Office of Disciplinary Counsel, by Thomas J. Farrell, Chief Disciplinary Counsel, and Samuel F. Napoli, Disciplinary Counsel, and Respondent Ryan D. Breen, Esquire, file this Joint Petition in Support of Discipline on Consent Under Rule 215(d), Pa.R.D.E. and respectfully represent as follows:

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

FILED
09/03/2020
**The Disciplinary Board of the
Supreme Court of Pennsylvania**

“Pa.R.D.E.”), 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, Ryan D. Breen, was born in 1987. He was admitted to practice law in the Commonwealth of Pennsylvania on May 19, 2014.

3. Respondent’s attorney registration mailing address is 1000 McKnight Park Drive, Suite 1002-B, Pittsburgh, Pennsylvania 15237.

4. Respondent is presently on active status.

5. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

SPECIFIC FACTUAL ALLEGATIONS ADMITTED

#C4-19-158 (ODC Matter)

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

7. On June 7, 2017, Respondent was driving his personal vehicle, a Subaru WRX, at the Pittsburgh International Racing Complex (PIRC), located at 201 Penndale Ext., Wampum, Pennsylvania 16157.

8. Respondent was registered to drive in an event called "Track Night of America" at the PIRC racetrack that evening.

9. While driving during the event, Respondent collided into a guardrail on the racetrack.

10. On June 8, 2017, the day following the racetrack accident, the Respondent reported to his insurance company, Erie Insurance, that he was driving the same vehicle involved in the accident at the racetrack, to his girlfriend's house with a pizza when he struck a guardrail on Overbrook Road in Valencia, PA in order to avoid striking a deer.

11. Respondent's representation to Erie Insurance was false.

12. Pursuant to Respondent's false statement that the damage to his car was caused when he struck a guardrail to avoid striking a deer, Erie Insurance paid Respondent \$21,299.00 for the damage to his car which was actually sustained in the accident at the racetrack.

13. A subsequent investigation by Erie Insurance revealed the true circumstances of the cause of the damage to Respondent's car.

14. After the investigation, Erie contacted the Allegheny County Police Department and referred the matter to their detectives.

15. An investigation by Allegheny County Police confirmed the actual circumstances of the cause of the damage to Respondent's car, and that Respondent had made a false report to Erie Insurance in that regard.

16. On September 25, 2018, a criminal complaint was filed against Respondent, charging him with Insurance Fraud, in violation of 18 Pa. CSA § 4117(a)(2). The matter was captioned *Commonwealth of Pennsylvania v. Ryan David Breen*, and filed at Docket No. MJ-05236-CR-0000125-2018, in Magisterial District Court No. 05-2-36 for Allegheny County.

17. Erie Insurance sold Respondent's car for \$8,453.93. The actual loss to Erie Insurance was \$12,845.07.

18. On May 8, 2019, the Allegheny County District Attorney's Office filed a criminal Information in the Court of Common Pleas of Allegheny County, which matter was docketed at No. CP-02-CR-0004177-2019, in which Respondent was charged with the same count listed in the criminal complaint.

19. On July 2, 2020, Respondent was accepted into the Accelerated Rehabilitative Disposition Program (ARD), subject to the following conditions: (a) probation for 24 months; (b) payment of full restitution to Erie Insurance; (c) payment of a \$5,000.00 civil penalty to the Insurance Fraud Prevention

Trust Fund; (d) agreement of no early termination of ARD; (e) serve 50 hours of community service; and, (f) Respondent's agreement to a suspension from the practice of law for a period requiring formal reinstatement proceedings.

20. Respondent has paid \$8,811.82 in restitution, fees, and court costs, and still owes \$12,160 in such restitution, fees, and court costs.

Specific Rules of Professional Conduct Violated

21. Rule of Professional Conduct 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.

22. Rule of Professional Conduct 8.4(c), which provides that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

Specific Joint Recommendation for Discipline

23. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a suspension of one year and one day.

24. Petitioner is not bound by the conditions of Respondent's acceptance into the ARD program. Petitioner has exercised its independent judgment and believes that a suspension of one year and one day is the appropriate discipline under the circumstances.

25. Respondent hereby consents to the discipline being imposed upon him.

26. Attached to this Petition is Respondent's executed Affidavit required by Rule 215(d), Pa.R.D.E., stating that he consents to the recommended discipline and includes the mandatory acknowledgements contained in Rule 215(d)(i)-(iv), Pa.R.D.E.

27. In support of Petitioner's and Respondent's joint recommendation, it is submitted that the following mitigating circumstances are present:

- (a) Respondent has no prior record of discipline;
- (b) Respondent admits to engaging in misconduct and violating the charged Rules of Professional Conduct;
- (c) Respondent's cooperation with Petitioner;
- (d) Respondent's acceptance of his responsibility for his actions;
- (e) Respondent's recognition that committing insurance fraud

has and will continue to affect his practice of law;

- (f) Respondent is humiliated, embarrassed and devastated by the potential loss of his license, and the impact it has had on him, his family, and his reputation in the community; and,
- (g) Respondent's misconduct did not involve any of his clients or his law practice.

Precedent establishes that a suspension has been imposed for misconduct arising from insurance fraud. In *Office of Disciplinary Counsel v. Melvin Carter*, No. 37 DB 1999 (2001), Mr. Carter received a one year and one day suspension for criminal conduct of insurance fraud and false reporting. Mr. Carter's car, which was uninsured at the time, was towed and impounded. He then obtained insurance for his car and, after the effective date of his insurance policy, falsely reported that his car was stolen. For his criminal conduct, Mr. Carter was accepted into the ARD program, subject to 18 months' probation and 150 hours of community service.

Additionally, similar discipline was imposed in *Office of Disciplinary Counsel v. Kelly S. Ballentine*, No. 142 DB 2013. Ms. Kelly Ballentine was a Magisterial District Judge in Lancaster County, Pennsylvania. Ms. Ballentine was cited by the Lancaster city police for parking violations. She then

improperly accessed the records of the citations against her, and caused the citations to be dismissed. She was ultimately charged with Tampering with Public Records and Obstructing Administration of Law. Ms. Ballentine pled guilty to three misdemeanor counts of tampering. She was suspended from her judicial duties from February of 2012 through May of 2013, and placed on probation by the Court of Judicial Discipline until December 31, 2014. The Supreme Court suspended her license to practice law for one year.

It is submitted that case law supports the joint recommendation that a suspension of one year and one day is appropriate discipline for Respondent's misconduct. Because of the length of his suspension, Respondent will be required to prove, in formal reinstatement proceedings, his fitness to resume the practice of law. This addresses the seriousness of the misconduct, protects the public, meets the goals of the disciplinary system, and should deter Respondent from the commission of future misconduct.

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 the Joint Petition in Support of Discipline on Consent and file a recommendation with the Supreme Court of Pennsylvania that Respondent be

suspended for one year and one day.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

THOMAS J. FARRELL
CHIEF DISCIPLINARY COUNSEL

8-31-2020
Date

By: Samuel F. Napoli / gm-7
Samuel F. Napoli
Disciplinary Counsel, District IV
Attorney Registration No. 35303

8-26-2020
Date

Ryan D. Breen
Ryan D. Breen, Esquire
Respondent
Attorney Registration No. 318069

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

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: Attorney Registration No. 318069
: (Allegheny County)

RYAN D. BREEN,

VERIFICATION

The statements contained in the foregoing Joint Petition In Support Of Discipline On Consent Under Rule 215(d), Pa.R.D.E. 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. §4904, relating to unsworn falsification to authorities.

8-31-2020
Date

Samuel F. Napoli / j.m.g.
Samuel F. Napoli
Disciplinary Counsel

8-24-2020
Date

Ryan D. Breen
Ryan D. Breen, Esquire
Respondent

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: Attorney Registration No. 318069

: (Allegheny County)

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

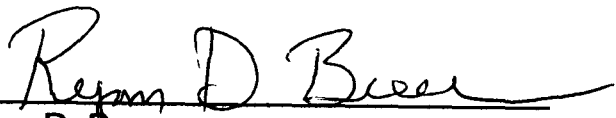
Respondent, Ryan D. Breen, hereby states that he consents to a suspension of one year and one day, as jointly recommended by Petitioner, Office of Disciplinary Counsel, and Respondent, in the Joint Petition In Support Of Discipline On Consent, and further states that:

1. 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 the consent; and, he has consulted with counsel in connection with the decision to consent to the imposition of discipline;

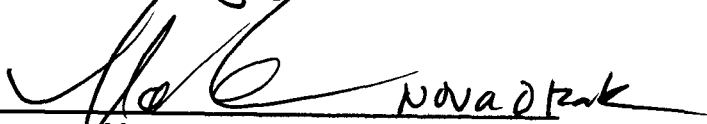
2. He is aware that there is a pending proceeding involving allegations that he has been guilty of misconduct as set forth in the Joint Petition;

3. He acknowledges that the material facts set forth in the Joint Petition are true; and,

4. He consents because he knows that if the matter pending against him is prosecuted, he could not successfully defend against the charges.


Ryan D. Breen
Respondent

Sworn to and subscribed
before me this 26th
day of AUGUST, 2020.


Notary Public

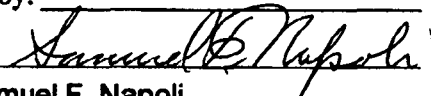
Commonwealth of Pennsylvania
County of Allegheny

Commonwealth of Pennsylvania - Notary Seal
Nova Olzak, Notary Public
Allegheny County
My commission expires October 29, 2022
Commission number 1342039
Member, Pennsylvania Association of Notaries

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Samuel F. Napoli

Signature: 

Name: Samuel F. Napoli

Attorney No. (if applicable): 35303