

IN THE SUPREME COURT OF PENNSYLVANIA

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| OFFICE OF DISCIPLINARY COUNSEL, | : | No. 2950 Disciplinary Docket No. 3 |
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| Petitioner | : | |
| | : | |
| v. | : | No. 154 DB 2022 |
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| | : | |
| WILLIAM E. GERICKE, | : | Attorney Registration No. 72391 |
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| | : | |
| Respondent | : | (Montgomery County) |

ORDER

PER CURIAM

AND NOW, this 20th day of March, 2023, 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 William E. Gericke is suspended on consent from the Bar of this Commonwealth for a period of one year. Respondent shall comply with 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 Nicole Traini
As Of 03/20/2023

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

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

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| OFFICE OF DISCIPLINARY COUNSEL,: | No. 154 DB 2022 |
| Petitioner | : |
| v. | : |
| : | Attorney Reg. No. 72391 |
| WILLIAM E. GERICKE, | : |
| Respondent | : |
| | (Montgomery County) |

**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 William E. Gericke, Esquire ("Respondent"), by and through his counsel, Josh J. T. Byrne, 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:

1. Pursuant to Pa.R.D.E. 207, ODC, whose principal office is situated at Office of Chief Disciplinary Counsel, Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, 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

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| FILED 01/13/2023 The Disciplinary Board of the Supreme Court of Pennsylvania |
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disciplinary proceedings brought in accordance with the various provisions of the Enforcement Rules.

2. Respondent was born on March 27, 1961 and was admitted to practice law in the Commonwealth on June 23, 1994. Respondent is on active status and his last registered address is: Dugan, Brinkmann, Maginnis & Pace, 9 Presidential Boulevard, Suite 100, Bala Cynwyd, Pennsylvania, 19004.

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

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

SPECIFIC FACTUAL ALLEGATIONS ADMITTED

5. From May 1997 through August 2021, Respondent was employed at the law firm of Cozen O'Connor ("Cozen").

6. In or about 2018, the Managing Partner at Cozen asked Respondent and another attorney to form the Conflicts Department.

7. In or about 2020, the Managing Partner at Cozen asked Respondent to work in partnership with other attorneys to form a Legal Profession Services Group.

8. As conflicts counsel, Respondent was required to identify possible conflicts of interest between existing firm clients and potential new engagements.

9. As a founder of and conflicts counsel in the Conflicts Department, and as a founder and member of the Legal Profession Services Group at Cozen, Respondent owed a fiduciary duty to firm clients to exercise the highest degree of honesty and good faith in his dealings with firm clients, and in handling information related to firm clients.

10. At all relevant times, the United States Code, 15 U.S.C. § 78j, was in effect. 15 U.S.C. § 78j provides, in pertinent part:

It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange –

[...]

- (b) To use or employ, in connection with the purchase or sale of any security registered on a national securities exchange or any security not so registered, or any security-based swap agreement, any manipulative or deceptive device or contrivance in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

11. At all times relevant hereto, SEC Rule 10b-5, 17 C.F.R. § 240.10b-5, was in effect. 17 CFR § 240.10b-5 provides, in pertinent part:

It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails or of any facility of any national securities exchange,

(a) To employ any device, scheme, or artifice to defraud;

(b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the *circumstances under which they were made*, not misleading, or

(c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person,

in connection with the purchase or sale of any security.

12. At all relevant times, SEC Rule 10b5-1, 17 C.F.R. § 240.10b5-1, was in effect. 17 C.F.R. § 240.10b5-1 provides, in pertinent part:

(a) General. The “manipulative and deceptive devices” prohibited by Section 10(b) of the Act (15 U.S.C. 78j) and § 240.10b-5 thereunder include, among other things, the purchase or sale of a security of any issuer, on the basis of material nonpublic information about that security or issuer, in breach of a duty of trust or confidence that is owed directly, indirectly, or derivatively, to the issuer of that security or the

shareholders of that issuer, or to any other person who is the source of the material nonpublic information.

- (b) Definition of “on the basis of.” Subject to the affirmative defenses in paragraph (c) of this section, a purchase or sale of a security of an issuer is “on the basis of” material nonpublic information about that security or issuer if the person making the purchase or sale was aware of the material nonpublic information when the person made the purchase or sale.

13. Insider Trading in violation of 15 U.S.C. § 78j, 17 C.F.R. §§ 240.10b-5 and 240.10b5-1, and 18 U.S.C. § 2 is securities fraud – a criminal act punishable by a term of imprisonment in accordance with the United States Sentencing Guidelines, 18 U.S.C.A. § 2B1.1.

14. At all relevant times, Liberty Property Trust (“LPT”) was a client of Cozen.

15. At all relevant times, Cozen had a Restricted Securities Committee, a list of restricted securities, and a firm policy requiring a firm attorney who wished to purchase securities to notify the Restricted Securities Committee about the potential purchase for the purpose of determining whether the transaction would be prohibited by the list of restricted securities or for other advice of the Restricted Securities Committee.

16. At all relevant times, LPT was on Cozen's list of restricted securities.

17. As a founder of and conflicts counsel in the Conflicts Department, and as a founder and member of the Legal Profession Services Group at Cozen, Respondent knew or should have known:

- a. Cozen had a firm policy requiring firm attorneys to coordinate with the Restricted Securities Committee before purchasing securities; and
- b. LPT was on Cozen's list of restricted securities.

18. Herman Fala, Esquire was a former co-chair of the Real Estate Department at Cozen, and he joined LPT as a Director in 2014. At all relevant times, Respondent knew Mr. Fala and knew Mr. Fala had left Cozen to join LPT.

19. Before Labor Day Weekend in 2019, Respondent heard a story on KYW Radio regarding a new public offering of LPT stock.

20. On or about September 10, 2019, Respondent read an article titled "Liberty Property Discounts New Shares" in *The Philadelphia Inquirer*.

21. On October 7, 2019:

- a. Respondent received a call from Thomas J. Gallagher, Esquire, a partner in Cozen's Tax Department;
- b. Mr. Gallagher requested a conflicts check on a company called Prologis, Inc. ("Prologis");
- c. Mr. Gallagher asked if the conflicts check could be performed without listing Prologis on the daily conflicts report that is distributed to every attorney at Cozen at the end of the day;
- d. Respondent told Mr. Gallagher that Respondent could ask the conflicts analyst to run the conflicts check as a research request and that would mean Prologis would not appear on the daily conflicts report;
- e. Mr. Gallagher told Respondent that Mr. Fala was requesting a tax opinion as part of due diligence Mr. Fala was performing for a possible merger involving LPT; and
- f. Respondent emailed the conflicts analysts' coordinator about running a research check on Prologis.

22. The information that Respondent learned from Mr. Gallagher regarding a potential LPT/Prologis merger was confidential information.

23. The information that Respondent learned from Mr. Gallagher regarding a potential LPT/Prologis merger was material, nonpublic information.

24. Respondent knew or was reckless in not knowing that he obtained this information in confidence and was not permitted to trade on it.

25. On October 8, 2019, Respondent:

- a. sent the conflicts report to Mr. Gallagher; and
- b. bought 1,000 shares of LPT stock at \$51 a share.

26. As of October 8, 2019, no public information had been released about a potential LPT/Prologis merger.

27. Respondent's purchase of 1,000 shares of LPT stock was based in part on confidential information concerning firm client LPT that Respondent received as a result of his employment at Cozen and in his role as conflicts counsel.

28. By purchasing LPT stock while in possession of confidential information regarding the impending merger, Respondent misappropriated material, nonpublic information that he obtained in the course of his

employment as an attorney and breached a duty of trust and confidence he owed to his law firm and to LPT.

29. In October 2019 and at all relevant times, Respondent never communicated with any LPT representative to obtain informed consent for his use of LPT's confidential information to purchase 1,000 shares of LPT stock.

30. In October 2019 and at all relevant times, Respondent did not have LPT's informed consent for his use of its confidential information to purchase 1,000 shares of LPT stock.

31. On October 27, 2019, Prologis publicly announced a definitive merger agreement with LPT.

32. In or about November 2019, Prologis acquired LPT.

33. On November 19, 2019, Respondent sold his 1,000 shares of LPT stock at \$61 a share and realized a profit of \$10,002.20.

34. By engaging in the conduct as described in Paragraphs 25 and 33 of this Joint Petition for Discipline on Consent ("Joint Petition"), Respondent violated Section 10(b) of the Securities Exchange Act and SEC Rule 10b-5.

35. In November 2019, LPT communicated with Mr. Gallagher

concerning an inquiry by the Financial Industry Regulatory Authority ("FINRA") in connection with the LPT/Prologis merger.

36. By email to Respondent dated November 21, 2019, Mr. Gallagher asked:

Bill: I have to supply certain information to Liberty concerning who knew what and when in connection with a FINRA inquiry about the merger.

To comply, I need your middle name and your home address.

Could you get back to me with that information?

Thanks.

37. By reply to Mr. Gallagher dated November 21, 2019, Respondent provided Mr. Gallaher with his middle name and home address and stated: "Let me know if you need anything else."

38. In January 2020, outside counsel for LPT communicated with Mr. Gallagher concerning the FINRA inquiry. FINRA had identified various individuals and entities during its review of trading in LPT common stock surrounding the October 27, 2019 announcement that LPT had entered into a definitive merger agreement with Prologis. LPT's counsel provided Mr. Gallagher with a List of Individuals and Entities containing the names of the

individuals and entities related to the FINRA inquiry and about which it was seeking additional information.

39. By email to Respondent dated February 10, 2020, Mr. Gallagher wrote:

FINRA is following up on the information request made in connection with the Liberty/Prologis merger. Morgan Lewis is handling this on behalf of Liberty/Prologis. I am trying to respond to Morgan on our behalf.

FINRA asks each of us to review the schedule of individuals/institutions attached to its January 31 letter. If you know none of the individuals/institutions on the list, please send me an email to that effect. If you know one or more individuals/institutions, please see the letter that is attached to this email for the information requested. We will have to disclose any relationships/contacts.

Morgan told me that they need to reply by this Friday.

Call me if you have any questions.

Thanks.

Tom

40. Attached to Mr. Gallagher's February 10, 2020 email was the List of Individuals and Entities for which FINRA needed information about its inquiry concerning the LPT/Prologis merger. Respondent's name was on the List of Individuals and Entities.

41. By reply to Mr. Gallagher dated February 10, 2020, Respondent stated:

Tom – I don't have any past or present relationships with any of the individuals or entities on that list. The extent of my knowledge of LPT's business activities is when you requested we run a confidential conflict check on Prologis in early October 2019. I don't recall any issues coming up with the conflict check that concerned me. I also recall passing on an inquiry from the Conflict Group in late October about 2 new matters Adam Silverman was opening for LPT that were adverse to Prologis and the Conflicts Group inquiring as to whether any waivers had been obtained in connection with the confidential conflict check. My recollection is that I told the Conflicts Group that I didn't think the matter that was the subject of the confidential conflict check had been opened yet. I don't really recall anything else. Please let me know if you need any additional information. Thanks.

Bill

42. Respondent failed to disclose to Mr. Gallagher that:

- a. Respondent's name was on the List of Individuals and Entities about which FINRA needed information for its inquiry concerning the LPT/Prologis merger;
- b. Respondent had purchased shares of LPT stock after he performed the confidential conflicts check relating to the LPT/Prologis merger;
- c. Respondent sold his shares of LPT stock after the merger had become effective; and
- d. Respondent realized a profit of approximately \$10,000.00 as a result of the sale of his shares of LPT stock.

43. Respondent's February 10, 2020 email knowingly misrepresented the extent of Respondent's knowledge about the LPT/Prologis merger and LPT's business activities at the time Mr. Gallagher requested that Respondent run a confidential conflicts check on Prologis in early October 2019.

44. On July 21, 2021, Respondent received a subpoena from SEC Attorney Sarah L. Allgeier, Esquire.

45. Shortly after Respondent received the subpoena, Cozen placed Respondent on administrative leave.

46. On August 15, 2021, Respondent resigned from Cozen.

47. On August 31, 2021, Respondent attended an interview with Ms. Allgeier and other SEC representatives.

48. At the August 31, 2021 interview, Respondent acknowledged that his purchase of LPT stock in November 2019 had violated the Securities Exchange Act and the SEC Rules.

49. On or about October 28, 2021, Respondent submitted an Offer of Settlement to the SEC.

50. On November 19, 2021, the SEC issued an Administrative Order announcing settled charges against Respondent for improperly trading on confidential information that Respondent learned while employed as conflicts counsel at Cozen.

51. Specifically, the SEC's Order Instituting Public Administrative and Cease-And-Desist Proceedings Pursuant to Sections 4C and 21C of the Securities Exchange Act of 1934 and Rule 102(e) of the Commission's rules of Practice, Making Findings, and Imposing Remedial Sanctions and a

Cease-And-Desist Order in Administrative Proceeding File No. 3-20657
(November 19, 2021) (the “Gericke Administrative Order”) stated that:

- a. “These proceedings arise out of insider trading by Respondent William Gericke, an attorney who purchased stock after he obtained material nonpublic information regarding an impending [sic] merger in connection with running a confidential conflicts check at his law firm. Gericke either knew or was reckless in not knowing that he obtained this information in confidence and he was not permitted to trade on it. By engaging in this conduct, Gericke violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.” See Page 2.
- b. “At all times relevant to these proceedings, Gericke was an attorney at a large international law firm, practicing primarily in the insurance subrogation area. Gericke was also the firm’s conflicts counsel, which required him to identify possible conflicts of interest between existing firm clients and potential new engagements.” See Page 3.

- c. "On or before October 7, 2019, a partner at the law firm asked Gericke, in his capacity of conflicts counsel, to run a 'confidential' conflicts check in which the partner informed Gericke of a potential merger involving the firm's client, LPT, and Prologis. This information was material and nonpublic." *Id.*
- d. "Nevertheless, the next day, and in advance of any public announcement of the merger, Gericke purchased 1,000 shares of LPT stock in his personal brokerage account. Gericke did not inform his law firm of his plans to purchase the stock." *Id.*
- e. "On Sunday, October 27, 2019, Prologis publicly announced the definitive merger agreement with LPT. The following day, LPT's stock price closed at \$57.50, an increase of 13.7% over the closing price the trading day immediately before the announcement. After Gericke learned of the announcement, Gericke sold his entire position in LPT on November 19, 2019, for a profit of \$10,002.20." *Id.*

- f. "By purchasing LPT stock while in possession of confidential information regarding the impending merger, Gericke misappropriated material nonpublic information that he obtained in the course of his employment as an attorney, and breached a duty of trust and confidence he owed to his law firm and LPT." *Id.*
- g. "Based on the foregoing, the Commission finds that Gericke willfully violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder." *Id.*
- h. "Based on the foregoing, the Commission finds that Gericke engaged in conduct within the meaning of Section 4C(a)(3) of the Exchange Act and Rule 102(e)(1)(iii) of the Commission's Rules of Practice." *Id.*
- i. "In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Gericke's Offer." See Page 4.
- j. "Respondent Gericke shall cease and desist from committing or causing any violations and any future

violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.” *Id.*

- k. “Respondent Gericke is denied the privilege of appearing or practicing before the Commission as an attorney.” *Id.*
- l. “Respondent Gericke shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of \$20,004.40 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Action Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.” *Id.*
- m. “Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages

by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset")." See Page 5.

52. By letter dated December 3, 2021, Respondent's counsel for purposes of Administrative Proceeding File No. 3-20657, Richard A. Levan, Esquire, provided the SEC with Check No. 1063 dated December 3, 2021 in the amount of \$20,004.40 to be drawn on the Levan Legal LLC IOLTA.

53. Check No. 1063 represented payment in full of Respondent's civil money penalties as ordered in the Gericke Administrative Order.

54. By Respondent's conduct as alleged in Paragraphs 5 through 53 of this Joint Petition, Respondent:

- a. Engaged in insider trading in violation of 15 U.S.C. § 78j and 17 C.F.R. §§ 240.10b-5 and 240.10b5-1;
- b. Breached his fiduciary duty to LPT as a client of Cozen;
- c. Used confidential information relating to Cozen's representation of LPT to the disadvantage of LPT and its shareholders without LPT's informed consent;
- d. Knowingly made a false statement of material fact to a third person; and

- e. Engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation.

SPECIFIC RULES OF PROFESSIONAL CONDUCT VIOLATED

55. Respondent violated the following Rules of Professional Conduct:

- A. RPC 1.4(a)(1), which states that 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;
- B. RPC 1.8(b), which states that a lawyer shall not use information relating to representation of a client to the disadvantage of the client unless the client gives informed consent, except as permitted or required by these Rules;
- C. RPC 4.1(a), which states that, in the course of representing a client, a lawyer shall not knowingly make a false statement of material fact or law to a third person; and
- D. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

SPECIFIC RECOMMENDATION FOR DISCIPLINE

56. ODC and Respondent jointly recommend that an appropriate discipline for Respondent's admitted misconduct is a one-year suspension from the practice of law.

57. Respondent consents to that discipline being imposed upon him by the Supreme Court of Pennsylvania. Respondent's affidavit required by Pa.R.D.E. 215 stating, *inter alia*, his consent to the recommended discipline is attached as Exhibit A.

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

- a. Respondent cooperated with the SEC;
- b. Respondent has expressed remorse and acceptance of responsibility by admitting to violating the Rules of Professional Conduct, understanding he should be disciplined, and consenting to a one-year suspension of his law license; and
- c. Respondent has no record of discipline in over twenty-eight (28) years as a member of the Bar of the Commonwealth of Pennsylvania.

59. There is no formulistic approach or *per se* discipline for attorney misconduct. *ODC v. Lucarini*, 472 A.2d 186 (Pa. 1983). The Supreme Court of Pennsylvania has explained that discipline is not intended as punishment, but rather to protect the public from unfit attorneys. *ODC v. Keller*, 506 A.2d 872 (Pa. 1986). The discipline to be imposed must be determined on a totality of the facts of each individual matter. *Lucarini*, 472 A.2d at 190.

60. The level of appropriate discipline for an attorney who has settled with the SEC alleged securities fraud charges for civil monetary penalties appears to be an issue of first impression in Pennsylvania.

61. Regarding authority within Pennsylvania, *ODC v. Sudfeld*, No. 50 DB 2016 (S. Ct. Order 6/22/2020) is instructive. In *ODC v. Sudfeld*, the Court suspended Mr. Sudfeld for four years on consent for, *inter alia*, criminal convictions for insider trading and making false statements to authorities. Mr. Sudfeld was indicted, pled not guilty to four counts of securities fraud, and was convicted of all four counts at the conclusion of a jury trial. Mr. Sudfeld received a six-month term of imprisonment, followed by three years of federal supervision. Mr. Sudfeld paid monetary penalties as part of the judgment of conviction. Mr. Sudfeld's Pennsylvania law license was temporarily suspended pending the outcome of his criminal matter and a

recommendation for final discipline. In a Joint Petition for Discipline on Consent, Mr. Sudfeld admitted his conduct violated RPC 8.4(b), RPC 8.4(c), and Pa.R.D.E. 203(b)(1). Respondent's misconduct is distinguishable from Mr. Sudfeld's in two important ways: (a) Respondent's misconduct did not result in a criminal conviction and related sentence; and (2) Respondent cooperated with and did not make false statements to the SEC.

62. The Supreme Court of Pennsylvania recently reinstated Mr. Sudfeld to the practice of law after a reinstatement hearing, with a dissent by Justices Baer and Brobson.

63. In another criminal conviction matter, the respondent received a one-year suspension, retroactive to his temporary suspension, after a disciplinary hearing to determine the appropriate measure of discipline. See *ODC v. Obod*, No. 37 DB 2001 (S. Ct. Order 1/31/2003). In *ODC v. Obod*, Mr. Obod pled guilty to the crime of false statements under 18 U.S.C. § 1001 and was sentenced to, *inter alia*, probation for a period of eighteen (18) months. By virtue of his legal representation of American Travelers Corporation ("Travelers"), Mr. Obod learned that Consecro, Inc. ("Consecro") was negotiating to purchase Transport Holdings, Inc. ("Transport"). Mr. Obod purchased 500 shares of Transport stock before the public announcement

that Transport was to be acquired by Consec. Mr. Obod later sold the Transport stock for a profit. When the Securities and Exchange Commission (SEC) questioned Mr. Obod concerning his transactions, Mr. Obod gave a materially false statement by failing to disclose the fact that a Travelers representative provided information to Mr. Obod about ongoing negotiations for the acquisition of Transport. Mr. Obod subsequently retained counsel who contacted the SEC to rectify the situation. Thereafter, the SEC and Mr. Obod entered into a consent decree. Mr. Obod also entered into an agreement with the law firm at which he was a partner wherein he resigned from the partnership and sent letters to all of his clients informing them that he had resigned and was no longer engaged in the practice of law. Before this resignation, Mr. Obod had practiced business and corporate law for over forty (40) years and he had no prior record of discipline in Pennsylvania. Mr. Obod's conduct violated RPC 8.4(b), RPC 8.4(c), and Pa.R.D.E. 203(b)(1). Respondent's misconduct differs from Mr. Obod's because Respondent cooperated with the SEC. Respondent has not been charged with and did not plead guilty to a crime.

64. Critically, Respondent, Mr. Sudfeld, and Mr. Obod all were seasoned law firm partners who improperly used material, nonpublic information for personal stock trades to realize a profit.

65. Regarding authority from other jurisdictions, discipline for attorneys who engage in misconduct similar to Respondent's misconduct ranges from a one-year suspension to "indefinite suspension" during which the respondent is prohibited from petitioning for reinstatement for a period of at least five (5) years. See, e.g., *In the Matter of Donald John Pochopien*, (Illinois, January 19, 2011) (one-year suspension); *Chadwick v. State Bar of California*, 776 P.2d 240 (California, 1989) (one-year suspension); *Cincinnati Bar Ass'n v. Wiest*, 72 N.E.3d 621 (Cincinnati, 2016) (two-year suspension with second year stayed on conditions); *Kentucky Bar Ass'n v. Wiest*, 514 S.W.3d 530 (Kentucky, 2017) (reciprocal discipline of two-year suspension with second year stayed on conditions); *In the Matter of Mitchell S. Drucker*, 109 A.D.3d 292 (New York, 2013) (three-year suspension); *In re Disciplinary Action Against Todd Allen Duckson*, 868 N.W.2d 686 (Minnesota, 2015) (indefinite suspension with no right to petition for reinstatement for five years).

66. Two of the above-referenced cases from other jurisdictions are noteworthy. After the SEC filed an insider trading action in federal district court, Mr. Pochopien agreed to settle the charges without admitting or denying the allegations in the complaint, accepting penalties similar to those outlined in the Gericke Administrative Order. See *In the Matter of Donald John Pochopien*, (Illinois, January 19, 2011). Mr. Wiest entered into an SEC Administrative Order for civil money penalties imposed for insider trading that is nearly identical to the Gericke Administrative Order. See *Cincinnati Bar Ass'n v. Wiest*, 72 N.E.3d 621 (Cincinnati, 2016). Importantly, just as in Respondent's SEC matter, neither Mr. Pochopien nor Mr. Wiest admitted or denied the charges against them, but the SEC found both respondents had engaged in securities fraud.

67. Respondent agrees that *Cincinnati Bar Ass'n v. Wiest* is the most recent case from another jurisdiction with facts similar to the instant matter. Mr. Wiest received a two-year suspension with the second year stayed on conditions. Respondent is not on criminal probation; therefore, ODC and Respondent do not have a compelling reason to request a stayed suspension. A one-year suspension on consent is necessary and appropriate to put Pennsylvania attorneys on notice that insider trading is

fraudulent, impermissible activity – regardless of whether the misconduct results in a criminal conviction or a civil money penalty.


WHEREFORE, Petitioner and Respondent respectfully request that, pursuant to Pennsylvania Rules of Disciplinary Enforcement 215(e), 215(g) and 215(i), 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 one-year suspension on consent.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL
THOMAS J. FARRELL,
Attorney Registration No. 20955,
Chief Disciplinary Counsel

January 13, 2023

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

01/10/2023
DATE


William E. Gericke
Respondent
Attorney Registration Number 72391

7

January 12, 2023

DATE

Josh J. T. Byrne, Esquire
Counsel for Respondent
Attorney Registration Number 85474

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.

January 13, 2023

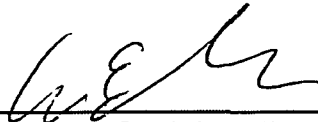
DATE



Elizabeth A. Livingston, Esquire
Disciplinary Counsel
Attorney Registration Number 208126

01/10/2023

DATE



William E. Gericke, Esquire
Respondent
Attorney Registration Number 72391

January 12, 2023

DATE



Josh T. Byrne, Esquire
Counsel for Respondent
Attorney Registration Number 85474

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| Respondent | : | (Montgomery 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 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 First Class and E-Mail, as follows:

William E. Gericke
c/o Josh J.T Byrne, Esquire
Marshall Dennehey Warner
2000 Market Street, Suite 2300
Philadelphia, PA 19103
JTByrne@mdwccg.com

Dated: January 13, 2023



Elizabeth A. Livingston,
Disciplinary Counsel
Attorney Registration No. 208126
Office of Disciplinary Counsel
820 Adams Avenue, Suite 170
Trooper, PA 19403
(610) 650- 8210

EXHIBIT A

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

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| | : | Attorney Reg. No. 72391 |
| WILLIAM E. GERICKE, | : | |
| Respondent | : | (Montgomery County) |

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

COMMONWEALTH OF PENNSYLVANIA:
COUNTY OF MONTGOMERY:

WILLIAM E. GERICKE, being duly sworn according to law, deposes and hereby submits this affidavit consenting to the recommendation of a one-year suspension from the practice of law in Pennsylvania 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 June 23, 1994.
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 into 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) ("Joint Petition") 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.

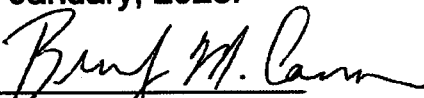
7. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant proceeding. He has retained, consulted and acted upon the advice of Josh J.T. Byrne, Esquire, in connection with his decision to execute the Joint Petition.

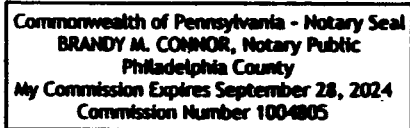
It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S.A. §4904 (relating to unsworn falsification to authorities).

Signed this 12th day of January, 2023.


William E. Gericke

Sworn to and subscribed
before me this 12th day
of January, 2023.


Notary Public



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: Office of Disciplinary Counsel

A handwritten signature in black ink, appearing to read "Elizabeth A. Livingston", written over a horizontal line.

Signature: _____

Dated: January 13, 2023

Name: Elizabeth A. Livingston, Esq.

Attorney No. (if applicable): 208126