

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2029 Disciplinary Docket No. 3
Petitioner :
v. : No. 16 DB 2013
DAVID M. SIEGEL, : Attorney Registration No. 79013
Respondent : (Montgomery County)

ORDER

PER CURIAM:

AND NOW, this 30th day of April, 2014, upon consideration of the Report and Recommendations of the Disciplinary Board dated January 13, 2014, it is hereby

ORDERED that David M. Siegel is suspended from the Bar of this Commonwealth for a period of one year and one day 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.

A True Copy Patricia Nicola
As Of 4/30/2014

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 16 DB 2013
Petitioner	:	
v.	:	Attorney Registration No. 79013
DAVID M. SIEGEL	:	
Respondent	:	(Montgomery 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 dated January 23, 2013, Office of Disciplinary Counsel charged David M. Siegel with violations of the Rules of Professional Conduct and Rules of Disciplinary Enforcement. Respondent failed to submit an Answer to Petition.

A disciplinary hearing was held on May 15, 2013, before a District II Hearing Committee comprised of Chair Nicholas J. Caniglia, Esquire, and Members Raymond J. Santarelli, Esquire, and David R. Jacquette, Esquire. Respondent appeared *pro se*.

Petitioner introduced exhibits ODC-1 through ODC-3 and ODC "A". Petitioner presented the testimony of two witnesses. Respondent testified on his own behalf.

Following the submission of a Brief by Petitioner, the Hearing Committee filed a Report on September 5, 2013, concluding that Respondent violated the Rules as contained in the Petition for Discipline, and recommending that he be suspended for a period of one year and one day.

No Briefs on Exception were filed by the parties.

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 601 Commonwealth Avenue, Suite 2700, Harrisburg, Pennsylvania, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, with the power and duty to investigate all matters involving alleged attorney misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania.

2. Respondent is David M. Siegel. He was born in 1970 and was admitted to practice law in the Commonwealth in 1997. He is currently administratively suspended and his address of record is P.O. Box 675, Clifton Heights, PA 19018.

3. Respondent has a history of discipline consisting of an Informal Admonition which was administered on May 3, 2012. Respondent failed to expeditiously

handle his client's litigation matters and violated Rules of Professional Conduct 1.1, 1.3, 1.4(a)(2), 1.4(a)(3), 1.4(a)(4), 1.4(b), 1.5(a) 1.16(d), and 3.2.

4. On or around July 29, 2010, Michael C. Kane went to Respondent's office to discuss the possibility of Respondent representing Mr. Kane and his wife, Natalie, in a consumer bankruptcy case.

5. Respondent agreed to the representation and provided Mr. Kane with a written fee agreement which both men signed on that date.

6. The fee agreement provided for the payment of a "flat fee" of \$2,200.00.

7. Mr. Kane made the required payment.

8. Respondent failed to take any steps on the Kanes' behalf, including filing a bankruptcy petition on their behalf.

9. Respondent failed to respond to Mr. Kane's inquiries concerning the status of the matter.

10. Respondent vacated his office located at 237 Baltimore Pike, Springfield, and failed to provide Mr. Kane with any forwarding address or phone number at which Respondent could be reached.

11. Respondent failed to provide Mr. Kane with notification of Respondent's transfer to administrative suspension, which became effective April 26, 2012, and Respondent's inability to represent the Kanes from that point forward.

12. Respondent failed to return Mr. Kane's fee, which Respondent had not earned.

13. On February 4, 2011, Respondent entered into a written fee agreement with Rose Coffee whereby Respondent agreed, among other things, to

represent Ms. Coffee in connection with a consumer bankruptcy case for a flat fee of \$1,800.00.

14. Ms. Coffee paid the full fee in installment payments between February 4, 2011 and May 3, 2011.

15. Shortly thereafter, Ms. Coffee completed credit counseling at Respondent's request and had the results faxed to Respondent's office.

16. Respondent received the materials via facsimile.

17. In or around September of 2011, at Respondent's request, Ms. Coffee came to his office and completed and signed necessary documents to enable Respondent to file her consumer bankruptcy Chapter 7 case.

18. Thereafter, Respondent failed to take any steps to complete Ms. Coffee's matter, such as filing the Chapter 7 case as promised in the written fee agreement.

19. Ms. Coffee called Respondent in November of 2011 to inquire about the status of her matter.

20. At that time, Respondent told her that his friends' son had been in a fatal automobile accident, and attributed his failure to act to his having been upset about the tragedy.

21. Ms. Coffee called Respondent in or around December of 2011 to inquire about the status of her matter.

22. At that time, Respondent told her that things were "moving along."

23. Ms. Coffee visited Respondent's office on or around January 10, 2012, at which time Respondent told her that he would contact her by Friday, January 13, 2012, with further information.

24. Respondent failed to contact Ms. Coffee as promised.
25. In or around the beginning of February 2012, Ms. Coffee attempted to visit Respondent at his office, and at that time learned that Respondent had moved.
26. Respondent failed to provide Ms. Coffee with written notice of his change of address.
27. Ms. Coffee went to the local police, who managed to contact Respondent.
28. By letter dated March 7, 2012, Respondent wrote to Ms. Coffee and asked her if she still wished him to proceed with her bankruptcy case.
29. Ms. Coffee did not answer Respondent's letter.
30. Respondent failed to take any additional steps thereafter, such as withdrawing from the representation or refunding the unearned fee to Ms. Coffee.
31. Or around August 11, 2011, Charles H. Boris and his stepfather, Charles J. Martin, met with Respondent to discuss a potential Chapter 7 bankruptcy on behalf of Mr. Boris.
32. Mr. Boris presented Respondent with information, including a list of his creditors, and Respondent confirmed that Mr. Boris was a candidate for a Chapter 7 bankruptcy.
33. Respondent quoted a price of \$2,000 to file and complete the bankruptcy and told Mr. Boris the case would take about six months.
34. Respondent also told Mr. Boris not to make any further payments to his creditors.
35. By check dated August 11, 2011, Mr. Martin paid Respondent the \$2,000.00 fee.

36. Respondent deposited the check on August 16, 2011, into Respondent's personal account at Franklin Mint FCO rather than his IOLTA account at United Savings Bank.

37. Respondent failed to provide Mr. Boris with any written fee agreement.

38. Respondent failed to take any steps on Mr. Boris' behalf as promised.

39. Respondent failed to respond to Mr. Boris' inquiries for status updates concerning the matter.

40. Respondent left his office located at 237 Baltimore Pike, Springfield, and failed to provide Mr. Boris with any forwarding address or phone number at which Respondent could be reached.

41. Respondent failed to provide Mr. Boris with notification of Respondent's transfer to administrative suspension effective April 26, 2012, and Respondent's inability to represent Mr. Boris after that date.

42. Respondent failed to return the fee to Mr. Boris or Mr. Martin, which Respondent had not earned.

43. On December 4, 2011, Mrs. Terry J. Dick and her husband met with Respondent at his office located at 237 Baltimore Pike, in Springfield, to discuss their legal matters.

44. The Dicks were interested in filing for bankruptcy and also had a potential case against the Clifton Heights police department.

45. Respondent agreed to represent the Dicks in both matters and sought a retainer/fee of \$1,800, to which the Dicks agreed.

46. On or around January 5, 2012, the Dicks returned to Respondent's office and paid the \$1,800 in cash and supplied Respondent with some documents.

47. Respondent had them sign either a fee agreement or receipt, but Respondent failed to give the Dicks a copy of the document.

48. In January of 2012, the Dicks went to Respondent's office to ask about the status of their matter, and Respondent told them that someone from the "Media Courthouse" would be contacting them.

49. Respondent's statement was both false and misleading, because had Respondent filed a complaint on the Dicks' behalf, as the attorney of record any notification from the Courthouse would be sent to Respondent rather than to the client/plaintiff.

50. No one from any courthouse ever contacted the Dicks.

51. The Dicks returned to the 237 Baltimore Pike office in March of 2012 and learned that Respondent had vacated the office.

52. Respondent failed to provide the Dicks with his new address.

53. When the Dicks attempted to call Respondent, their calls went to Respondent's voice-mail, and the Dicks were unable to get in touch with him.

54. Respondent failed to communicate with the Dicks about the status of their matters.

55. Respondent failed to pursue the Dicks' legal matters despite having been paid to do so.

56. Respondent failed to refund the unearned legal fees to the Dicks.

57. By letter dated June 3, 2011, the Pennsylvania Continuing Legal Education Board ("CLE Board") sent Respondent a Preliminary Annual CLE Report, which indicated that he had not yet complied with the CLE requirements due by August 31, 2011.

58. The CLE Board attached a course attendance record reflecting that Respondent needed 10.5 total CLE hours by August 31, 2011, in order to remain in compliance.

59. Respondent received the CLE Board's letter.

60. Respondent failed to take the necessary CLE credits to meet the compliance deadline.

61. By letter dated October 21, 2011, the CLE Board wrote to Respondent again and informed him, among other things, that:

a. He was non-compliant with his CLE requirements due August 31, 2011;

b. Due to his non-compliance, a \$100 late fee had been assessed; and

c. Failure to complete the CLE requirements and pay any outstanding late fees within 60 days from the date of the notice would result in the assessment of a second \$100 late fee and Respondent's name being included on a non-compliant report to the Supreme Court of Pennsylvania.

62. Respondent received that letter.

63. Respondent failed to take any action to comply with his CLE requirements.

64. By letter dated January 25, 2012, the CLE Board wrote to Respondent a third time and, among other things, informed him that

a. A second \$100 late fee has been assessed for continued non-compliance;

b. Failure to complete his CLE requirements and pay the outstanding late fees by 4:00 p.m. on February 24, 2012, would result in his name being included on a non-compliant report to the Supreme Court of Pennsylvania; and

c. Upon receipt of the report, the Supreme Court would issue an Order to administratively suspend his license to practice law in the Commonwealth of Pennsylvania and a third \$100 late fee would be assessed.

65. Respondent received that letter.

66. Respondent failed to take any action to comply with his CLE requirements.

67. By letter dated March 27, 2012, sent certified mail, return receipt requested, to Respondent's address of record, 237 Baltimore Pike, Springfield PA 19064, Suzanne Price, Attorney Registrar, wrote to Respondent and informed him that due to his non-compliance with the CLE requirements, he would be administratively suspended.

68. Ms. Price enclosed a copy of the Order of the Supreme Court of Pennsylvania dated March 27, 2012, and explained that Respondent's suspension would be effective April 26, 2012.

69. Respondent failed to collect the certified mail, and as a result, Ms. Price resent the letter and attachments to Respondent by first class mail on May 8, 2012.

70. By letter dated May 8, 2012, Petitioner wrote to Respondent at P.O. Box 675, Clifton Heights, PA 19018, a new address Respondent had recently supplied to Petitioner, by certified mail, return receipt requested, and enclosed a copy of Ms. Price's

letter as well as the Court Order, and asked Respondent to telephone Petitioner's attorney, Ramona Mariani, immediately upon receipt of the letter.

71. Respondent failed to collect his certified mail and the letter was returned to Petitioner as unclaimed.

72. Respondent failed to comply with the Court's Order of March 27, 2012.

73. Respondent failed to perform the following:

a. Failed to notify, by registered or certified mail, return receipt requested, all clients involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of the administrative suspension and consequent inability to act as an attorney after the effective date of the administrative suspension;

b. Failed to file with the Disciplinary Board a verified statement showing that the provisions of the order and the rules had been fully complied with, and listing all other state, federal and administrative jurisdictions to which Respondent was admitted to practice;

c. Engaged in law-related activities in the Commonwealth without the supervision of a member in good standing of the bar of this Commonwealth; and

d. Performed law-related services for clients who in the past were represented by the Respondent.

74. Respondent remained counsel of record in at least four active cases filed in Federal Bankruptcy Court after the effective date of the Court's Order, April 26, 2012.

75. Respondent represented James F. Charlier in a bankruptcy petition filed on May 2, 2012 in U.S. Bankruptcy Court Eastern District of Pennsylvania and, among other things, Respondent filed a voluntary Chapter 7 Petition; filed an Amended Voluntary Petition on May 4, 2012, and filed various Amended Schedules on June 21, 2012.

76. Respondent represented Howard and Lisa George in a bankruptcy filed on March 29, 2012 in U.S. Bankruptcy Court Eastern District of Pennsylvania, discharged on July 9, 2012.

77. Respondent represented Gerald Lee Grantland in a bankruptcy filed on July 18, 2011, in U.S. Bankruptcy Court Eastern District of Pennsylvania, discharged on June 11, 2012.

78. Respondent represented James F. Sweeney in a bankruptcy filed on January 1, 2012, in U.S. Bankruptcy Court in the Eastern District of Pennsylvania.

79. In connection with Mr. Sweeney's bankruptcy case, Respondent collected a total of \$2,200 in fees intended to pay for Respondent's handling of the entire bankruptcy matter.

80. Rather than completing Mr. Sweeney's case, Respondent abandoned it, leaving Mr. Sweeney with no effective means in which to communicate with Respondent.

81. On April 24, 2012, Mr. Sweeney's new attorney, Scott F. Waterman, filed a motion in bankruptcy court seeking a disgorgement of the fees paid, explaining, among other things, that:

a. Respondent had made a number of errors in drafting Mr. Sweeney's petition and schedules;

b. Respondent failed to provide Mr. Sweeney with copies of the petition and schedules;

c. Respondent failed to make the amendments to the schedules sought by the Trustee in bankruptcy, despite acknowledging to Mr. Sweeney via email that Mr. Sweeney had provided Respondent with all necessary information to do so;

d. Respondent failed to file the Debtor's Certificate of Debtor Education completed on February 5, 2012; and

e. Mr. Sweeney was unable to communicate with Respondent about his case as his phone calls went unanswered, Respondent's phone mailbox was full, Respondent failed to respond to emails, and it appeared that Respondent's office was closed.

82. Petitioner sent Respondent a Request for Statement of Respondent's Position (DB-7 letter) in each of the above five complaints.

83. Service of the DB-7 letters was made in each case by either certified mail or hand delivery.

84. Respondent failed to respond and answer the allegations made in any of the five complaints.

85. Respondent appeared at the disciplinary hearing and testified on his own behalf. He presented no exhibits or any other witnesses.

86. Respondent acknowledged all of the misconduct at issue, but stated that he did not act intentionally. (N.T. 14, 15)

87. In August of 2010, Respondent's four-year old son was diagnosed with an inoperable brain tumor as a result of a condition called pontine glioma. (N.T. 35)

88. Respondent's son died on December 5, 2010. (N.T. 37)

89. Respondent's law partner, who was soon to be his brother-in-law, was in the process of getting married and did not assist Respondent with firm matters. (N.T. 36)

90. Upon Respondent's return to the office, no office staff remained. (N.T. 37)

91. Over the next two years, Respondent sporadically went to the office but did very little work. He did not open his mail, take care of his clients, or take care of himself. He did not take or return phone calls. (N.T. 38 - 39, 43)

92. Respondent is still opening and sorting through stacks of mail. (N.T. 38-39)

93. Respondent contacted Lawyers Concerned for Lawyers, but believed the organization's focus to be more on addiction issues as opposed to depression, for which Respondent now recognizes he needs some assistance. (N.T. 40)

94. Respondent has not started counseling with a professional, but is looking into doing so. (N.T. 43)

95. Respondent was credible in his testimony that the severe emotional strain caused by his son's death affected his ability to adequately practice law.

96. Respondent is aware that some of his former clients have filed claims with the Lawyers Fund for Client Security, and he does not intend to contest those claims.

III. CONCLUSIONS OF LAW

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)(3) - A lawyer shall keep the client reasonably informed about the status of the matter.

4. RPC 1.4(a)(4) - A lawyer shall promptly comply with reasonable requests for information.

5. RPC 1.5(a) - A lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee.

6. RPC 1.15(e) - Except as stated in this Rule or otherwise permitted by law or by agreement with the client or third person, a lawyer shall promptly deliver to the client or third person any property, including but not limited to Rule 1.15 Funds, that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding the property.

7. RPC 1.16(d) - Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

8. RPC 3.2 - A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

9. RPC 5.5(a) - A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

10. RPC 5.5(b)(1) - A lawyer who is not admitted to practice in this jurisdiction shall not establish an office or other systematic and continuous presence in this jurisdiction for the practice of law.

11. RPC 5.5(b)(2) - A lawyer who is not admitted to practice in this jurisdiction shall not hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

12. Pa.R.D.E. 203(b)(7) - Failure by a respondent-attorney without good cause to respond to Disciplinary Counsel's request or supplemental request under Disciplinary Board Rules for a statement of respondent attorney's position, shall be grounds for discipline.

13. Pa.R.D.E. 217(b) - A formerly admitted attorney shall promptly notify, or cause to be notified, by registered or certified mail, return receipt requested, all clients who are involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of the disbarment, suspension, administrative suspension or transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status.

14. Pa.R.D.E. 217(e) - Within ten days after the effective date of the administrative suspension the formerly admitted attorney must file with the Board a verified statement showing that the provisions of the order and the rules have been fully complied with; and listing all other state, federal, and administrative jurisdictions to which the attorney was admitted to practice.

15. Pa.R.D.E. 217(j) - A formerly admitted attorney may not engage in any law-related activities in the Commonwealth unless conducted under the supervision of a member in good standing of the bar of this Commonwealth.

16. A formerly admitted attorney may not perform any law-related services for a client who in the past was represented by the formerly admitted attorney.

IV. DISCUSSION

This matter is before the Board on a Petition for Discipline alleging that Respondent abandoned his clients and practice, failed to refund unearned fees, and continued to practice law while administratively suspended. Respondent failed to respond to the Petition or appear at the pre-hearing conference on this matter. He appeared at the hearing and admitted all of the allegations contained in the Petition and admitted his misconduct.

Respondent took fees from the four complainants for the purpose of filing their personal bankruptcy cases. He failed to perform the work for which he had been paid, and failed to return the unearned fees. His behavior with respect to these clients violated the Rules of Professional Conduct. Respondent is aware that his former clients have filed claims with the Lawyers Fund for Client Security, and he does not oppose these efforts.

Respondent was administratively suspended on March 27, 2012 for failure to comply with Continuing Legal Education requirements. He failed to notify his clients and the court in writing of his administrative suspension, and remained counsel of record in several bankruptcy cases. Although Respondent testified that he stopped regularly opening his mail after December of 2010, he did become aware of his inability to practice law, yet still did not take the proper steps to notify interested parties.

Respondent's personal struggles have impacted his ability to practice law. The illness and subsequent death of his four-year old son in a short period of time was clearly devastating and rendered him unable to function in a competent manner. Respondent described himself as "shut down." He was unable to face things at his office,

did not answer or return telephone calls, did not open mail, and eventually reached a point where he was not doing anything related to the practice of law. He understands that his actions led to his involvement in the instant proceedings. Despite the tragic circumstance of his son's death, Respondent does not seek to escape blame for his misconduct.

As to his current state of mind, Respondent admits that he may still be in a depressive state and he is trying to address this. Although he is not currently treating with a professional, he is looking into such treatment.

Upon review of prior case law addressing similar offenses, it is apparent that a suspension of one year and one day is warranted, and is a fair and appropriate resolution. In the cases of Office of Disciplinary Counsel v. Ann Adele Ruben, 6 DB 2011 (2011) and Office of Disciplinary Counsel v. Michael J. Burke, 1 DB 2009 (2009), the Court imposed suspensions of one year and one day in similar circumstances. Likewise, the respondent in Office of Disciplinary Counsel v. Ann-Marie McDonald Pahides, 171 DB 2009 (2010) received a one year and one day suspension when she engaged in incompetence, neglect and failure to refund unearned fees, but had mitigating factors of health and personal problems.

Respondent engaged in serious misconduct. While the mitigating circumstances help explain Respondent's misconduct, it is clear that he may not have fully recovered from the effects of his personal tragedy. A license suspension of one year and one day will require Respondent to petition for reinstatement, and thus ensure that he is fit and competent to return to the practice of law.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, David M. Siegel, be Suspended from the practice of law for a period of one year and one day.

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: 
Douglas W. Leonard, Board Member

Date: January 13, 2014