

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2915 Disciplinary Docket No. 3
	:	
Petitioner	:	No. 41 DB 2022
	:	
v.	:	Attorney Registration No. 19420
	:	
	:	(Philadelphia)
CHARLES C. SHAINBERG,	:	
	:	
Respondent	:	

ORDER

PER CURIAM

AND NOW, this 13th day of October, 2022, 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 Charles C. Shainberg is suspended on consent from the Bar of this Commonwealth for a period of one year. 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 Nicole Traini
As Of 10/13/2022

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

disciplinary proceedings.

2. Respondent, Charles C. Shainberg, was born in July 1945, and was admitted to practice law in the Commonwealth on October 21, 1974.

3. Respondent lists his attorney registration address as 1713 S. Broad Street, Unit 54650, Philadelphia, PA 19148.

4. Pursuant to Pa.R.D.E. 201(a)(1), Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

II. FACTUAL ADMISSIONS AND VIOLATIONS OF RULES OF PROFESSIONAL CONDUCT

5. Respondent specifically admits to the truth of the factual allegations and conclusions of law contained in paragraphs 6 through 37 herein.

A. Legal Retention

6. Respondent is the managing partner in the law firm of Shainberg Law PC.

7. By letter dated February 27, 2018, from Respondent to LKR, Respondent enclosed a fee agreement between LKR and Shainberg Law PC, and wrote that "It is our hope to bring this matter to a prompt conclusion."

8. Respondent's February 27, 2018 fee agreement provided, in pertinent part:

- a. in ¶ 1, that Respondent would represent LKR in the "matrimonial dispute between" LKR and her spouse;
- b. in ¶ 3.A, that Respondent's hourly rate was \$450;
- c. in ¶ 8, "The Law Firm agrees to provide conscientious, competent, and diligent services"; and
- d. a Statement of Client Rights and Responsibilities in Domestic Relations Matter that stated at Section B. ¶ 6 "Clients shall not take any position in their matter for improper purpose, such as to delay the proceeding or intentionally to increase the cost to other litigations."

9. On or after February 27, 2018, LKR retained Respondent to handle her child support, child custody, and divorce, and matters pending in the Lehigh County Court of Common Pleas.

10. During the outset of Respondent's representation, LKR advised Respondent that:

- a. her estranged husband had engaged in domestic violence against her and her children;
- b. her estranged husband had subjected her and her children to financial and verbal abuse;
- c. she had limited financial means; and
- d. she wanted all of her domestic relations matters to proceed as promptly as possible.

11. From March 2018 until February 2020, when LKR terminated Respondent's representation, Respondent received approximately \$95,000 for the representation.

B. Sexual Contacts With a Client

12. Prior to Respondent's representation of LKR, Respondent had no consensual sexual relationship with LKR.

13. From time to time after Respondent was retained by LKR, Respondent would send text messages and make telephone calls to LKR unrelated to her legal matters and invite LKR to concerts.

14. From time to time after Respondent was retained by LKR, Respondent engaged in a course of harassing conduct against LKR, including:

- a. making sexually explicit comments about LKR's physical appearance, personal attire, attractiveness, and sexual preferences; and
- b. hugging LKR and requesting that LKR kiss him each time she said goodbye.

15. On July 12, 2018, Respondent met with LKR at Respondent's law office about a scheduled child custody proceeding, during which time:

- a. LKR became very upset;
- b. Respondent gave LKR a hug;
- c. Respondent "proceeded to touch [LKR's] breasts, [LKR's] crotch and kissed [LKR]"; and

d. Respondent also touched LKR's backside.

16. Respondent then suggested that Respondent and LKR take a break and get some food.

17. By Respondent's conduct as set forth in ¶ 15, *supra*, Respondent had sexual contact with LKR.

18. Thereafter, Respondent took LKR to a hotel for lunch, during which time Respondent:

a. commented on LKR's physical and sexual attractiveness; and

b. invited LKR to go upstairs to a hotel room.

19. LKR declined Respondent's offer to go upstairs to a hotel room with Respondent.

20. By Respondent's conduct set forth in ¶ 18, *supra*, Respondent attempted to have sexual contacts with LKR.

21. On January 31, 2020, Respondent met with LKR at Respondent's law office for a "free" consultation, during which time:

a. LKR inquired about a bifurcated divorce;

b. Respondent moved his chair next to LKR and leaned his body close to LKR's body;

c. Respondent then made sexually suggestive comments about LKR's appearance and his attraction to her; and

d. LKR got angry about Respondent's harassing conduct and warned Respondent to "stop being like this and saying these things" to her.

22. Respondent had a concurrent conflict of interest in his representation of LKR in that there was a significant risk that his representation of LKR was materially limited by his personal interest in LKR.

C. Objectives of Representation

25. On January 18, 2018, LKR's prior counsel attended a Domestic Relations conference on LKR's child and spousal support matters before Hearing Officer Richard Betz, during which time LKR's estranged husband submitted the 2016 income tax return for his company.

26. On February 7, 2018, Hearing Officer Betz submitted a recommended Order and Summary Report.

27. On February 26, 2018, Respondent filed Exceptions to the recommended Order.

28. On June 6, 2018, Respondent attended an oral argument on the Exceptions before the Honorable Edward D. Reibman, P.J.

29. By Order dated June 21, 2018, Judge Reibman found that:

- a. the Hearing Officer should have considered LKR's estranged husband's corporate income tax return in determining LKR's estranged husband's wealth, cited Leh.R.C.P. No. 1910.12(d)(3) in support, and remanded the matter to Hearing Officer Betz for further proceedings;

- b. the Hearing Officer incorrectly sustained LKR's estranged husband's objections to LKR testifying about her physical limitations as P.R.E. 803(3) permits a witness to testify about her then-existing physical condition;
- c. no transcript from LKR's divorce case, No. 2015-FC-1376, was submitted to support Respondent's assertion that LKR's estranged-husband "agreed to be totally responsible and solely liable for the mortgage"; and
- d. Respondent's remaining objections were overruled and the Hearing Officer's findings of fact and conclusions of law were sustained.

30. On July 16, 2018, Hearing Officer Betz sent an email to Respondent and counsel for LKR's estranged husband stating that he had received Judge Reibman's Order and that based upon his reading of Judge Reibman's Order, "the upcoming hearing will be limited to testimony regarding [the corporate] tax return previously submitted, and testimony from [LKR] regarding her ... health and physical abilities."

31. Thereafter, Respondent obtained discovery relating to LKR's estranged husband's recent income, including his 2017 and 2018 income.

- a. Respondent then hired an accountant to review the 2017 income and testify accordingly.

32. On September 18, 2019, Respondent attended a domestic relations hearing before Hearing Officer Betz, during which time:

- a. Respondent represented LKR and LKR's estranged husband represented himself;
- b. Hearing Officer Betz explained that pursuant to Judge Reibman's remand Order, the parties would "proceed through the corporate return of Defendant's [estranged husband's] company for 2016" and would permit LKR "to present testimony with regard to her impressions as to her physical capabilities" (N.T. 9/18/2019, p. 3);
- c. Respondent explained that Respondent had LKR's estranged husband's 2017 tax return, was prepared to present evidence regarding the 2017 tax return, and was not prepared to present evidence regarding the 2016 return (*id.* at p. 5);
- d. Hearing Officer Betz reiterated that the hearing would be limited to the 2016 tax return and that "Respondent misrepresented to the Court that [Hearing Officer Betz] did not include the income from the corporation when, in fact, [he] did" (*id.* at p. 6);
- e. Respondent argued that since LKR filed a "2017 petition, and we have actual income from 2017 now," that Respondent should be allowed to use the 2017 tax return (*id.* at p. 7);
- f. Hearing Officer Betz denied Respondent's request to use the 2017 tax return because the policy in Lehigh County is that "where a party is self-employed, you take the prior year's tax return" (*id.*);
- g. Hearing Officer Betz further explained that since the hearing was a "remand back to review a specific Exhibit, and that's what

he was instructed to do," then he would not permit Respondent to present testimony regarding the 2017 tax return;

- h. Respondent requested a continuance so that he could request clarification from Judge Reibman about his remand order, and if Respondent's continuance request would be denied, Respondent requested a 20-minute to half-hour adjournment so that his accountant could review the 2016 tax return (*id.* at p. 8);
- i. LKR's estranged husband objected to Respondent's continuing the matter so that Respondent could request clarification from Judge Reibman about his remand order (*id.* at p. 10);
- j. Hearing Officer Betz denied Respondent's request for a continuance (*id.* at pp. 10-11);
- k. Respondent informed Hearing Officer Betz, "I need a half hour for my accountant to look at the '16 return and then testify" (*id.*); and
- l. Hearing Officer Betz granted Respondent's request and ordered the hearing to "adjourn for half an hour" so that Respondent's accountant could review the 2016 tax return. (*Id.* at pp. 10-11)

33. Respondent's request for an adjournment to prepare his accountant for the 2016 tax returns "was a ploy to gain time to contact Judge Reibman's office." (Answer to Petition for Discipline (PFD Answer, Exh. A, Reply to Pennsylvania Fund for Client Security, p. 2.)

34. Respondent knew he did not need a half hour adjournment to prepare his accountant because the "expert

already understood and was prepared as to [LKR's estranged husband's] 2016 tax information, in addition to the other years." (*Id.* at 3)

35. Prior to the support hearing, Respondent did not:

- a. clarify the parameters of the remand order in the year that lapsed between Judge Reibman's Order and the remand hearing; or
- b. file a petition to ensure that Respondent could present more current income information at the time of the remand hearing.

36. At the outset of the representation, LKR informed Respondent that she had limited financial resources and wanted a prompt divorce.

37. In Respondent's handling of LKR domestic relations matter, Respondent failed to abide by LKR's decisions concerning the objectives of the representation.

By his conduct as set forth in paragraphs 6 through 37 above, Respondent has violated the following Rules:

- a. RPC 1.2(a), which states that subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to

waive jury trial and whether the client will testify;

- b. RPC 1.7(a)(2), which states that except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if: . . . (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer;
- c. RPC 1.8(j), which states that a lawyer shall not have sexual relations with a client unless a consensual relationship existed between them when the client-lawyer relationship commenced; and
- d. RPC 8.4(a), which states that it is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another.

III. JOINT RECOMMENDATION FOR DISCIPLINE

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

39. Respondent hereby consents to the discipline being imposed by the Supreme Court of Pennsylvania. Attached to this Petition is Respondent's executed Affidavit required by Pa.R.D.E. 215(d), which states that he consents to the recommended discipline and the mandatory

acknowledgements contained in Pa.R.D.E. 215(d)(1) through (4).

40. Petitioner and Respondent respectfully submit that there is the following aggravating factor:

- a. LKR was a vulnerable client, who was in an abusive marriage, had limited financial resources, and depended on Respondent for representation in her contentious domestic relations matters.

41. Petitioner and Respondent respectfully submit that there are the following mitigating factors:

- a. by virtue of Respondent's entering into the Joint Petition for Discipline on Consent, Respondent has recognized his wrongdoing;
- b. by Respondent's agreement to enter into the Discipline on Consent, Respondent has spared LKR the embarrassment and stress of testifying at a public hearing and will permit LKR to have her identity remain anonymous; and
- c. Respondent has practiced law for 47 years and has no record of discipline.

42. Generally, attorneys who make inappropriate remarks and engage in offensive touching of a client receive a Public Reprimand. See, e.g, *Office of Disciplinary Counsel v. Joshua M. Briskin*, No. 93 DB 2019 (5/16/2019 Order) (Briskin received a Public Reprimand for making sexually charged statements to his client via text message, email, and in person, and attempting to kiss his client on five occasions); and *Office of Disciplinary Counsel v. Thomas Joseph Dancison*, No. 20 DB

2022 (Order 2/25/2022) (on consent) (Dancison received a Public Reprimand for his misdemeanor conviction in Tennessee for placing his hand on the knee of his former client, using profane and provocative language, and hugging her).

43. Attorneys receive greater discipline, however, when their offensive touching involves having nonconsensual sexual contacts with a client. See, e.g., *Office of Disciplinary Counsel v. David Harold Knight*, No. 37 DB 2013 (S.Ct. Order 7/17/2013) (on consent) (Supreme Court imposed a one-year suspension on Knight, who on at least three occasions exchanged his legal services for oral sex with a client that was experiencing financial hardship; Knight's agreement to enter into a Discipline on Consent to "spare Ms. Doe the embarrassment of having to testify in a public proceeding" and "agreement to keep her identity anonymous" "militat[ed] strongly against a more severe sanction") (Consent Petition, p. 5); and *Office of Disciplinary Counsel v. Edwin L. London*, Nos. 119 & 171 DB 2014, (D.Bd. Rpt., p. 32, 8/25/2015) (S.Ct. Order 10/22/2015) (Supreme Court disbarred London for having unwanted sexual relations with four clients in his law office; "significant aggravating factors," including "singl[ing] out vulnerable clients who needed his services" supported London's disbarment).

44. Respondent had or attempted to have sexual contacts with LKR when Respondent touched LKR's breasts, backside, and crotch. *C.f. Office of Disciplinary Counsel v. Methuselah Z.O. Bradley, IV*, No. 74 DB 2019, (D.Bd. Rpt. 6/16/2020) (S.Ct. Order 8/10/2020) (Supreme Court suspended Bradley for one year following his conviction for harassment, which included Bradley's unwanted grabbing of the buttocks of another attorney and kissing the attorney). In addition, Respondent's pattern of comments to LKR about her physical appearance and sexual attractiveness, as well as Respondent's invitations to LKR to attend concerts with him, clearly reveal Respondent had a personal conflict of interest in continuing to represent LKR.

45. Respondent's indecent touching of LKR's crotch, backside, and breast and repeated kissing of LKR is more offensive than both Briskin's attempted kissing of his client and Dancison's placing his hand on the knee of his former client. Thus, Respondent's conduct warrants Respondent's receipt of public discipline greater than a Public Reprimand.

46. Respondent should receive a term of suspension for his misconduct. Yet the totality of Respondent's conduct and strong mitigation does not warrant a term of suspension that would require Respondent to undergo a

reinstatement hearing. Consistent with analogous precedent (*Knight, supra*, and *Bradley, supra*), Respondent's receipt of a suspension of one year would be appropriate herein. Indeed, a suspension of one year may serve to deter other attorneys who would be inclined to abuse their power over vulnerable clients.

47. Accordingly, Petitioner and Respondent agree that Respondent should receive a suspension of one year.

WHEREFORE, Petitioner and Respondent respectfully request that:

- a. Pursuant to Pa.R.D.E. 215(e) and 215(g), the three-member panel of the Disciplinary Board review and approve the Joint Petition in Support of Discipline on Consent and recommend to the Pennsylvania Supreme Court that the Court enter an Order suspending Respondent from the practice of law for one year; and
- b. Pursuant to Pa.R.D.E. 215(i), the three-member panel of the Disciplinary Board enter an Order for Respondent to pay the necessary expenses incurred in the investigation and prosecution of this matter, and that under Pa.R.D.E. 208(g)(1), all expenses be paid by Respondent within 30 days after notice transmitted to the Respondent of taxed expenses.

Respectfully and jointly
submitted,

OFFICE OF DISCIPLINARY COUNSEL

Thomas J. Farrell
CHIEF DISCIPLINARY COUNSEL

8/22/2022
Date

By Harriet R. Brumberg
Harriet R. Brumberg
Disciplinary Counsel

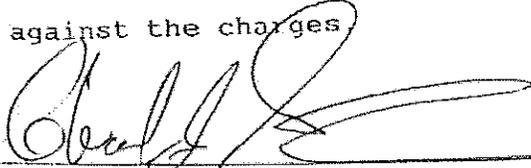
8/24/22
Date

By Charles C. Shainberg
Charles C. Shainberg
Respondent

8/24/22
Date

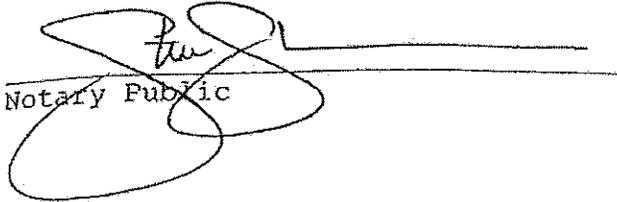
By Samuel C. Stretton
Samuel C. Stretton
Counsel for Respondent

4. He consents because he knows that if the charges continue to be prosecuted in the pending proceeding, he could not successfully defend against the charges.



Charles C. Shainberg
Respondent

Sworn to and subscribed
before me this 24th
day of August, 2022.



Notary Public

STEVEN E GALMAN
NOTARY PUBLIC
STATE OF NEW JERSEY
MY COMMISSION EXPIRES JUNE 20, 2026

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

Signature: Harriet R. Brumberg

Name: Harriet R. Brumberg, Disciplinary Counsel

Attorney No. (if applicable): 31032