

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1858 Disciplinary Docket No. 3
Petitioner :
v. : No. 71 DB 2012
ADAM MARC YANOFF, : Attorney Registration No. 209565
Respondent : (Out Of State)

ORDER

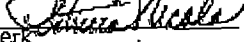
PER CURIAM:

AND NOW, this 4th day of October, 2012, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated July 11, 2012, the Joint Petition in Support of Discipline on Consent is hereby granted pursuant to Rule 215(g), Pa.R.D.E., and it is

ORDERED that Adam Marc Yanoff be subjected to public censure by the Supreme Court.

Mr. Justice McCaffery dissents.

A True Copy Patricia Nicola
As Of 10/4/2012

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

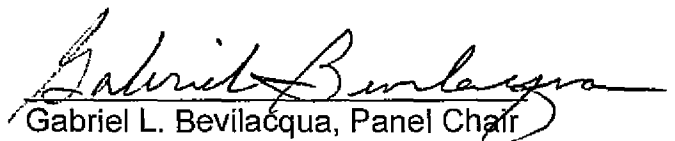
OFFICE OF DISCIPLINARY COUNSEL	:	No. 71 DB 2012
Petitioner	:	
	:	
v.	:	Attorney Registration No. 209565
	:	
ADAM MARC YANOFF	:	
Respondent	:	(Out of State)

RECOMMENDATION OF THREE-MEMBER PANEL
OF THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

The Three-Member Panel of the Disciplinary Board of the Supreme Court of Pennsylvania, consisting of Board Members Gabriel L. Bevilacqua, Carl D. Buchholz, III, and Stewart L. Cohen, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on April 30, 2012.

The Panel approves the Joint Petition consenting to a Public Censure and recommends to the Supreme Court of Pennsylvania that the attached Petition be Granted.

The Panel further recommends that any necessary expenses incurred in the investigation and prosecution of this matter shall be paid by the respondent-attorney as a condition to the grant of the Petition.


Gabriel L. Bevilacqua, Panel Chair
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date: July 11, 2012

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 7/ DB 2012
Petitioner	:	
	:	
v.	:	
	:	Attorney Reg. No. 209565
ADAM MARC YANOFF	:	
Respondent	:	(Out of State)

**JOINT PETITION IN SUPPORT
OF DISCIPLINE ON CONSENT
PURSUANT TO Pa.R.D.E. 215(d)**

Petitioner, the Office of Disciplinary Counsel by Paul J. Killion, Chief Disciplinary Counsel, and Harold E. Ciampoli, Jr., Disciplinary Counsel, and Respondent, Adam Marc Yanoff (hereinafter, "Respondent"), by and through his counsel, James C. Schwartzman, Esquire, file this Joint Petition In Support of Discipline on Consent under Pennsylvania Rule of Disciplinary Enforcement ("Pa.R.D.E.") 215(d), and respectfully represent:

1. Petitioner, whose principal office is situated at Pennsylvania Judicial Center, 601 Commonwealth Ave., Suite 2700, P.O. Box 62485, Harrisburg, PA 17106 is invested, pursuant to Pa.R.D.E. 207, with the power and duty to investigate all matters involving alleged misconduct of an attorney admitted to

FILED

APR 30 2012

Office of the Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Enforcement Rules.

2. Respondent, Adam Marc Yanoff, was born on February 24, 1979, and was admitted to practice law in the Commonwealth on November 6, 2008. His Attorney Registration No. is 209565.

3. Respondent's registered office address is Cipriane & Werner PC 155 Gaither Drive, Suite B, Mt. Laurel, NJ 08053.

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

SPECIFIC FACTUAL ALLEGATIONS ADMITTED

5. On November 29, 2008, at approximately 4 p.m., Respondent was seated in a car in a driveway on Delancey Street near 41st Street in Philadelphia, Pennsylvania.

6. A police officer observed Respondent empty a white powdery substance onto a magazine, and use a straw to snort the substance.

7. Respondent was arrested and later found to be carrying a blue ziplock packet containing 1.079 grams of cocaine and a small plastic bag containing .79 grams of marijuana.

8. Respondent's conduct as described in paragraphs 5-7, *supra*, constituted a criminal act that reflected adversely on

his honesty, trustworthiness, or fitness as a lawyer in other respects.

9. At the time Respondent was arrested, he had been recently hired and was employed as an Assistant District Attorney in Philadelphia.

10. Following his arrest, the District Attorney's office suspended Respondent without pay.

11. On November 30, 2008, Respondent was arraigned before a Philadelphia Municipal Court Judge and charged with possession of a controlled substance (cocaine) and possession of a small amount of marijuana, in violation of 35 P.S. § 780-113 (16) and (31), respectively.

12. Respondent resigned his position as an Assistant District Attorney on December 8, 2008.

13. On December 21, 2009, Respondent entered a nolo contendere plea to possession of a controlled substance (cocaine) and possession of a small amount of marijuana, in violation of 35 P.S. § 780-113 (16) and (31), respectively.

14. Respondent was placed on reporting probation for a maximum term of 12 months to be supervised by the Adult Philadelphia Probation Department, subject to the condition of drug testing and screening.

15. Respondent successfully completed the terms of his

probation on December 29, 2010, and the criminal charges against Respondent were discharged and dismissed without adjudication of guilt.

SPECIFIC RULE OF PROFESSIONAL CONDUCT VIOLATED

Respondent violated the following Rule of Professional Conduct:

RPC 8.4(b), which states 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.

SPECIFIC RECOMMENDATION FOR DISCIPLINE

16. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a public censure.

17. Respondent hereby consents to that discipline being imposed upon him by the Supreme Court of Pennsylvania. Attached to this Petition and marked Exhibit "A" is Respondent's executed Affidavit required by Rule Pa.R.D.E. 215(d), stating that he consents to the recommended discipline and including the mandatory acknowledgements contained in Rule 215(d)(1) through (4), Pa.R.D.E.

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

- a) Respondent showed remorse by pleading nolo contendere to his crimes;
- b) Respondent has paid the full amount of costs that was imposed upon him by the Court as a result of his plea;
- c) Respondent has admitted engaging in misconduct and violating the charged Rule of Professional Conduct;
- d) Respondent is remorseful for his misconduct and understands he should be disciplined, as is evidenced by his cooperation with Petitioner and his consent to receiving a public censure;
- e) Respondent has no prior criminal history; and
- f) Respondent has no prior disciplinary history.

19. A public censure is appropriate in light of the specific facts of this case and is within the range of discipline imposed in similar Pennsylvania cases involving attorneys charged with the possession of cocaine. Discipline imposed in such cases ranges from a private reprimand to a five-year suspension. See, e.g., *In re Anonymous No. 42 DB 87*, 5 Pa.

D. & C. 4th 613 (1987) (attorney who testified as a government witness that he had purchased cocaine from various criminal defendants and was never charged with a crime, was prosecuted in disciplinary proceedings based upon his trial admissions and received a private reprimand); *In re Anonymous No. 27 DB 90 (W. Gustave McGeorge)*, 17 Pa. D. & C. 4th 12 (1991) (attorney received a public censure in connection with his nolo contendere plea to possession of cocaine for which he successfully completed a one-year probation without verdict program); *Office of Disciplinary Counsel v. John Harold McKeon*, No. 23 DB 2005 & 122 DB 2005 (S.Ct. Order 1/05/2006) (Joint Petition in Support of Discipline on Consent for a suspension of three months followed by a two-year probation with a sobriety monitor granted where attorney was convicted of separate incidents of driving under the influence and possession of cocaine); and *In re Anonymous No. 62 DB 85 (Robert D. Berryman)*, 49 Pa. D. & C.3d 504 (1987) (attorney was suspended for five years in connection with his plea of guilty to five separate charges of possession of cocaine for which he was ordered to undergo imprisonment of 12 months to four years).

20. Petitioner and Respondent submit that a public censure is a fair and appropriate resolution based upon the specific facts of this case and analysis of prior cases. The parties

agree that public discipline is warranted because an aggravating factor is that Respondent's misconduct occurred at a time he was working as an assistant district attorney. Moreover, as a relatively new attorney, Respondent cannot point to years of an unblemished record as an attorney. However, militating against suspension, in addition to the mitigating factors listed in paragraph 18 are the following factors: Subsequent to his resignation as an assistant district attorney, Respondent has been productively employed as an attorney in a law firm; Respondent successfully completed the conditions of his probation and his criminal offenses were discharged and dismissed without adjudication of guilt; and Respondent obtained treatment for his drug use and in the opinion of his Psychologist is not in danger of a relapse.

WHEREFORE, Petitioner and Respondent respectfully request that, pursuant to Pennsylvania Rules of Disciplinary Enforcement 215(e) and 215(g), 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 receive a public censure, and that Respondent be ordered to pay all necessary expenses

incurred in the investigation and prosecution of this matter as a condition to the grant of the Petition.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL
PAUL J. KILLION
Attorney Reg. No. 20955
Chief Disciplinary Counsel

Date:

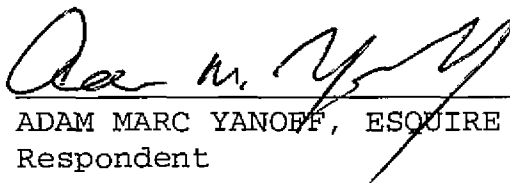
4/11/12



HAROLD E. CIAMPOLI, JR.
Disciplinary Counsel
Attorney Reg. No. 51159
820 Adams Avenue, Suite 170
Trooper, PA 19403
(610) 650-8210

Date:

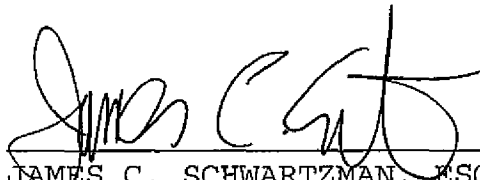
4-17-12



ADAM MARC YANOFF, ESQUIRE
Respondent

Date:

4/25/12



JAMES C. SCHWARTZMAN, ESQUIRE
Attorney for Respondent
Attorney Reg. No. 16199
Stephens & Lee PC
1818 Market Street, 29th Floor
Philadelphia, PA 19103

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.

4/27/12

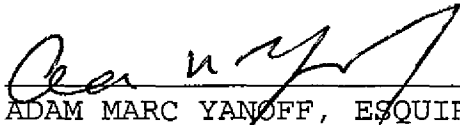
Date



HAROLD E. CIAMPOLI, JR.
Disciplinary Counsel

4-17-12

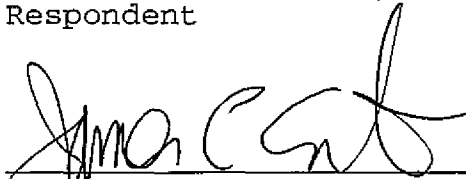
Date



ADAM MARC YANOFF, ESQUIRE
Respondent

4/25/12

Date



JAMES C. SCHWARTZMAN, ESQUIRE
Attorney for Respondent
Stevens & Lee, P.C.
1818 Market Street, 29th Floor
Philadelphia, PA 19103

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. DB 2012
Petitioner :
 :
v. :
 : Attorney Reg. No. 209565
ADAM MARC YANOFF :
Respondent : (Out of State)

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

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF MONTGOMERY

ADAM MARC YANOFF, being duly sworn according to law, deposes and hereby submits this affidavit consenting to the recommendation of a public censure in conformity with Pa.R.D.E. 215(d) and further states as follows:

1. He is an attorney admitted in the Commonwealth of Pennsylvania, having been admitted to the bar on or about November 6, 2008.
2. He desires to submit a Joint Petition in Support of Discipline on Consent pursuant to Pa.R.D.E. 215(d).
3. Her 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 are presently pending investigations into allegations that he has been guilty of

misconduct as set forth in the Joint Petition in Support of Discipline on Consent of which this affidavit is attached hereto.

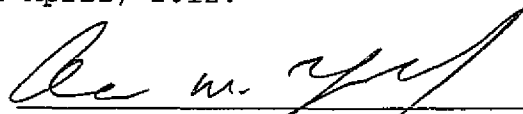
5. He acknowledges that the material facts set forth in the Joint Petition are true.

6. He submits the within 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.

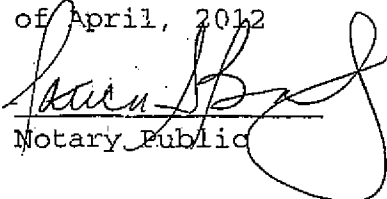
7. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant proceeding. He has retained, consulted and acted upon the advice of counsel, James C. Schwartzman, Esquire, in connection with his decision to execute the within Joint Petition.

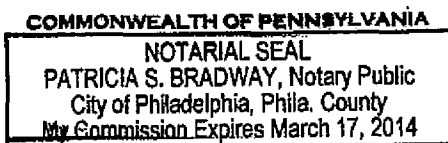
It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S.A. §4904 (relating to unsworn falsification to authorities).

Signed this *20th* day of April, 2012.


ADAM MARC YANOFF, ESQUIRE
Respondent

Sworn to and subscribed
before me this *20th* day
of April, 2012


Notary Public



BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. DB 2012
Petitioner :
v. :
: Attorney Reg. No. 209565
ADAM MARC YANOFF, :
Respondent : (Out of State)


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 204 Pa. Code §89.22 (relating to service by a participant).

First Class and Overnight Mail, as follows:

Dated:

4/27/12


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