

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 3009 Disciplinary Docket No. 3
	:	
Petitioner	:	
	:	No. 89 DB 2023
v.	:	
	:	
	:	Attorney Registration No. 91232
MICHAEL JOHN CSONKA,	:	
	:	
Respondent	:	(Franklin)

ORDER

PER CURIAM

AND NOW, this 9th day of November, 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 Michael John Csonka is suspended 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 11/09/2023

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 89 DB 2023
Petitioner :
 :
v. : Attorney Reg. No. 091232
 :
MICHAEL JOHN CSONKA, :
Respondent : (Franklin 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 Marie C. Dooley, Disciplinary Counsel and Michael John Csonka, Esquire (“Respondent”), by and through his counsel, Robert H. Davis, Jr. Esquire and Erik R. Anderson, Esquire, respectfully petition the Disciplinary Board of the Supreme Court of Pennsylvania 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. ODC, whose principal office is situated at Office of Chief Disciplinary Counsel, Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, Pennsylvania 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 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 was born October 29, 1976 and was admitted to practice law in the Commonwealth of Pennsylvania on October 28, 2003. Respondent is on active

FILED
09/20/2023
The Disciplinary Board of the
Supreme Court of Pennsylvania

status his attorney registration number is 91232. Respondent's registered mailing address is 166 South Main Street, Chambersburg, PA 17201.

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

4. Respondent previously received an informal admonition for misconduct in violation of RPC 1.15, in August, 2020. Respondent has no other record of discipline.

SPECIFIC FACTUAL ALLEGATIONS ADMITTED

5. Since his admission to the bar of the Commonwealth of Pennsylvania, in 2003, Respondent has practiced primarily in the United States Bankruptcy Court for the Middle District of Pennsylvania ("Bankruptcy Court").

6. Since 2019, Respondent has been the subject of concern to the Office of the United States Trustee's ("UST") and the Bankruptcy Court for non-compliance with long-established bankruptcy rules and procedures requiring complete, accurate and truthful financial information in filings in multiple bankruptcy cases as required by various sections of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* ("Bankruptcy Code").

7. Respondent's inaccurate, untimely, and unverified filings prompted the UST to investigate Respondent's conduct and file three motions for sanctions against Respondent, causing the UST and the Bankruptcy Court time and resources to review, investigate and impose three sanctions for his errors and material omissions in multiple matters.

FIRST SANCTION

8. On January 13, 2020, the UST filed a motion to review Respondent's professional fees and conduct as debtor's counsel in a consumer bankruptcy proceeding, based on Respondent's failing to timely file complete and accurate bankruptcy schedules and statement of financial affairs, docketed at Case No. 19-03543 (Bankr. M.D.Pa.)("First Sanctions Motion").

9. On February 18, 2020, Respondent and the UST filed a stipulation resolving the First Sanctions Motion, which:

- a. sanctioned Respondent for filing improprieties in the chapter 7 bankruptcy case;
- b. directed disgorgement of his \$1,265 legal fee;
- c. required Respondent to attend ten (10) hours of live in-person continuing legal education hours in ethics within ten (10) months; and
- d. expressly barred Respondent from filing any document in the Bankruptcy Court, which "**failed to comport with the verification requirements**" of the applicable procedural rules. (emphasis added).

10. By Order dated February 19, 2020, the Bankruptcy Court approved the First Sanctions Stipulation ("First Sanctions Order").

SECOND SANCTION

11. In or around early March of 2020, Respondent failed to promptly file his client's chapter 7 petition, schedules and statements prior to his client's marriage (Case

No. 20-02714) (Bankr. M.D.Pa.); the untimely filing resulted in dismissal. Respondent filed a second bankruptcy petition for the client after the marriage, but failed to disclose the client's accurate marital status, causing the client prejudice and harm (Case No. 21-00308) (Bankr. M.D.Pa.).

12. On April 16, 2021, the UST filed a motion ("Second Sanctions Motion") for sanctions and/or civil penalties against Respondent for his failure to conduct a reasonable investigation to ensure that his client's schedules and statement of financial affairs did not contain omissions, inaccuracies or were misleading.

13. To resolve the second sanctions motion, the UST and Respondent executed a stipulation ("Second Sanctions Stipulation") in which Respondent:

- a. conceded he failed to exercise due care to assure his client's bankruptcy filings were true and accurate; and
- b. agreed to:
 1. refund the \$1,265 legal fee; and
 2. pay a \$9,000 civil penalty to the UST's office as an additional sanction for filing deficiencies in other bankruptcy matters.

14. By Order dated July 7, 2021, the Bankruptcy Court:

- a. approved the Second Sanctions Stipulation ("Second Sanctions Order"); appointed Kara Gendron, Esquire, to serve as Respondent's court-appointed mentor for a period of one year; and
- b. required Respondent to:
 1. report his violations to ODC within 15 days; and

2. file a certification of compliance within 10 days thereafter.

15. On July 22, 2021, as required, Respondent sent a letter notifying ODC, *inter alia*, that he

- a. failed to exercise due care to ensure that bankruptcy filings were correct in violation of 11 U.S.C. § 707(b)(4)(C); and
- b. refunded his \$1,265 legal fee to his client.

16. On or about August 18, 2021, Respondent paid the \$9,000 civil penalty to the UST's office.

THIRD SANCTION

17. Following entry of the Second Sanctions Order, in or around summer of 2022, Respondent made additional misrepresentations to the Bankruptcy Court regarding his receipt of advanced court filing fees in at least six bankruptcy cases (collectively, the "Filing Fee Cases").

18. For each of the Filing Fee Cases, at the outset of the attorney-client relationship, Respondent received full payment of **both** his legal fee and the advanced court filing fee.

19. In each of the Filing Fee Cases, Respondent prepared and filed with the Bankruptcy Court an initial Application to Pay the Filing Fee in Installments ("Filing Fee Applications") containing an electronic /s/ signature of Respondent and the respective debtor, falsely attesting that each debtor:

- a. was "**unable**" to pay the court filing fee in one lump sum (emphasis added);

- b. needed to pay the court filing fee in installments; and
- c. would refrain from making any additional payments to counsel until the filing fee was paid in full (emphasis added).

20. Respondent knew the statements in each Filing Fee Application were false and misleading and thus, not grounded in fact as required by 11 U.S.C. § 707, because he had already received his full legal fee and advanced court filing fee in each of the Filing Fee Cases.

21. During the requisite 11 U.S.C. § 341(a) Meeting of Creditors (“341 Meetings”) for each of the Filing Fee Cases, when questioned by the bankruptcy trustee:

- a. each debtor confirmed that s/he had already paid Respondent the entire filing fee at the outset of the engagement; and
- b. Respondent admitted he received payment of the filing fees prior to submission of the respective bankruptcy petitions and Filing Fee Applications.

22. Respondent’s admissions during the relevant 341 Meetings did not cure the false and misleading Filing Fee Applications with the Bankruptcy Court.

23. Respondent’s false filings delayed payment of required filing fees, which unnecessarily delayed the debtors’ chapter 7 discharge.

24. Section 526(a)(2) of the Bankruptcy Code expressly prohibits debtor’s counsel from filing untrue or misleading documents with the Bankruptcy Court.

25. On October 13, 2022, the UST’s office filed six (6) separate Motions for Imposition of Sanctions and Civil Penalties (collectively, “Third Sanctions Motion”) against

Respondent in the multiple bankruptcy cases, expressing concern over Respondent's false and misleading statements in the Filing Fee Cases.

26. To resolve the UST's third sanctions motion on November 17, 2022, UST and Respondent executed a stipulation ("Third Sanctions Stipulation"), in which Respondent:

- a. admitted he "intentionally violated [11 U.S.C. §] 526(a)(2) by filing the false and misleading Fee Applications that "contain[ed] untrue statement[s]";
- b. consented to a two-year suspension of new bankruptcy filing privileges in the Bankruptcy Court (Bankr. M.D. Pa.) effective January 1, 2023 at 12:00 AM through December 31, 2024, subject to certain exceptions;
- c. was permitted to remain counsel in all bankruptcy cases active as of December 31, 2022; and
- d. was precluded from filing any new bankruptcy cases after December 31, 2022 through and including December 31, 2024.

27. On December 21, 2022, at a hearing before the Honorable Henry Van Eck on the Third Sanctions Motion, Judge Van Eck:

- a. expressed serious concern regarding Respondent's pattern of misconduct;
- b. chastised Respondent for his failure to provide candor to the Bankruptcy Court; and

- c. signed an Order approving the Third Sanctions Stipulation as drafted.

ODC'S INVESTIGATION AND LETTERS OF INQUIRY

28. On December 29, 2021, ODC issued a DB-7 Request for Statement of Respondent's Position addressing Respondent's misconduct relating to the First and Second Sanctions.

29. On February 4, 2022, Respondent submitted to ODC his Statement of Position.

30. By letter dated February 16, 2023, ODC requested that Respondent provide a DB-7A Statement of Position regarding the Third Sanction.

31. On April 3, 2023, Respondent submitted his DB-7A Statement of Position, and generally denied the allegations.

32. On June 26, 2023, ODC filed its Petition for Discipline charging Respondent with delays, errors, and omissions in multiple bankruptcy filings.

33. On August 7, 2023, Respondent submitted a counseled answer to the Petition for Discipline.

SPECIFIC RULES OF PROFESSIONAL CONDUCT VIOLATED

34. Respondent's misconduct violated the following Rule of Professional Conduct:

- A. RPC 1.1 – "A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation;"

- B. RPC 1.3 – “A lawyer shall act with reasonable diligence and promptness in representing a client;”
- C. RPC 3.3(a)(1) – “A lawyer shall not knowingly: . . . make a false statement of material fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;”
- D. RPC 8.4(c) – “It is professional misconduct for a lawyer to: . . . engage in conduct involving dishonesty, fraud, deceit or misrepresentation;” and
- E. RPC 8.4(d) – “It is professional misconduct for a lawyer to: . . . engage in conduct that is prejudicial to the administration of justice.

SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

35. Petitioner and Respondent jointly recommend the appropriate discipline for Respondent’s admitted misconduct is a one-year suspension.

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

37. In support of the Joint Recommendation, it is respectfully submitted that the following mitigating circumstances are present:

- a. Respondent admits engaging in misconduct and violating the charged Rules of Professional Conduct;
- b. Respondent cooperated with the UST’s investigations and agreed to sanctions on three occasions for his violations of the Bankruptcy Code;

- c. Respondent has cooperated with Petitioner in connection with this Petition, as evidenced by Respondent's admissions herein and his consent to receiving a one-year suspension; and
- d. Respondent expresses remorse for his misconduct and understands he should be disciplined, as evidenced by his consent to a one-year suspension.

38. In aggravation, Respondent received an informal admonition in August of 2020 for failing to properly safeguard and refund a client's unused bankruptcy filing fee. One of Respondent's clients suffered financial harm as a result of Respondent's misconduct. In addition to incurring additional legal fees due to case conversion from a chapter 7 to chapter 13 the client lost the opportunity for prompt chapter 7 discharge.

Relevant Disciplinary Authority

39. The parties agree that Respondent's misconduct is serious and warrants a one-year suspension.

40. Similar false certifications to the Court in bankruptcy filings have resulted in public discipline ranging from a public reprimand to a one-year and one-day suspension. In *ODC v. Kevin Tanribilir*, 108 DB 2019 (D.Bd. Order 07/09/2019), Tanribilir received a public reprimand for falsely certifying, under penalty of perjury, that three separate clients signed and verified their bankruptcy petition, statement of financial affairs, and schedules. At an evidentiary hearing Tanribilir acknowledged on the record that the clients did not execute the documents and he affixed their /s/ electronic signature without express

authorization. The Bankruptcy Court deemed Tanribilir's actions tantamount to forgery, stating:

This Opinion highlights my central concern that Tanribilir falsely certified documents as verified or sworn to by the Debtors when they were not. This is a clear violation of Federal Rule of Bankruptcy Procedure 1008 and the Pennsylvania Rule of Conduct 3.3 . . . Without that simple step, there can be no assurance that the factual allegations contained within those documents are true and correct. A debtor's lawyer cannot endorse those documents for the debtor.

41. Like Tanribilir, Respondent similarly failed to verify that his client viewed all of the information in the various documents. Unlike Respondent however, Tanribilir had no history of prior discipline.

42. Similarly, in *ODC v. Ann Miller*, 20 DB 2019 (D.Bd. Order 04/17/2019), Miller received a public reprimand for failing to disclose substantial assets in her personal bankruptcy and engaging in frivolous litigation related to the filing. Miller's errors and omissions are similar to Respondent's; however, unlike Respondent, Miller had no history of prior discipline.

43. In matters involving multiple instances of neglect and delay, a one year and one day suspension has been imposed. See, e.g. *ODC v. Yurchyk*, No. 107 DB 2020 (D. Bd. Rpt. 10/22/2021) (S. Ct. Order 12/27/2021) (one-year and one-day suspension for, *inter alia*, failing to diligently pursue three client matters); *ODC v. Caroff*, 42 DB 2019 (D. Bd. Rpt. 02/25/20)(S. Ct. Order 06/05/20)(one-year and one-day suspension for, *inter alia*, delays and failures a short time, aggravated by a previous Informal Admonition for "notably similar misconduct). Like *Caroff*, Respondent's continued misconduct despite warnings and sanctions warrants a suspension.

RECOMMENDATION:

44. Respondent's misrepresentations, omissions and related misconduct before the Bankruptcy Court necessitated investigation by the Bankruptcy Court into Respondent's misconduct on three separate occasions over a three-year period, draining resources of that Court. Respondent's failure to change his behavior to conform to the expectations of a Bankruptcy practitioner raises serious concern for his continued practice and warrants a period of suspension to enable Respondent to reflect on his conduct. Respondent's cooperation and agreement to this period of suspension mitigates against more serious discipline at this time.

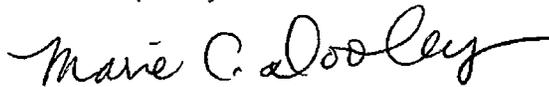
45. As set forth above, discipline for misconduct similar to Respondent's appears to range from a public reprimand to a one-year and one-day suspension. Respondent's history of discipline and pattern and practice of delays and failures support a period of suspension. Importantly, the parties agree and acknowledge that, the Bankruptcy Court, while acknowledging there must be a consequence for Respondent's conduct, has allowed Respondent to continue handling a number of current client cases to completion suggesting there is no concern with Respondent's general fitness to practice. The parties jointly recommend that a one-year suspension on consent is appropriate discipline and that a longer period of discipline, which would require Respondent to apply for Reinstatement and prove his overall fitness, is not warranted under the circumstances of this case.

WHEREFORE, Petitioner and Respondent respectfully request, pursuant to Pennsylvania Rules of Disciplinary Enforcement 215(e) and 215(g), that a three-member

panel of the Disciplinary Board review and approve the Joint Petition in Support of Discipline on Consent and file a recommendation with the Supreme Court of Pennsylvania that Respondent receive a suspension of one year.

Respectfully submitted,
OFFICE OF DISCIPLINARY COUNSEL

Thomas J. Farrell,
Chief Disciplinary Counsel



09-20-23
DATE

MARIE C. DOOLEY, ESQUIRE
Disciplinary Counsel
Attorney Registration Number 203681
Office of Disciplinary Counsel
820 Adams Avenue, Suite 170
Trooper, PA 19403

DATE

ROBERT H. DAVIS, JR., ESQUIRE
Attorney Registration Number 46322
Respondent's Counsel

DATE

MICHAEL JOHN CSONKA, ESQUIRE
Attorney Registration Number 91232
Respondent

VERIFICATION

The statements contained in the foregoing *Joint Petition In Support of Discipline on Consent Discipline* 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.

09-20-23

DATE



MARIE C. DOOLEY, ESQUIRE
Attorney Registration Number 203681
Disciplinary Counsel

DATE

ROBERT H. DAVIS, JR., ESQUIRE
Attorney Registration Number 46322
Respondent's Counsel

DATE

MICHAEL JOHN CSONKA, ESQUIRE
Attorney Registration Number 91232
Respondent

VERIFICATION

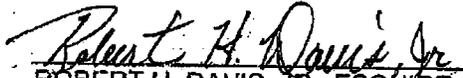
The statements contained in the foregoing *Joint Petition In Support of Discipline on Consent Discipline* are true and correct to the best of my knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.

DATE

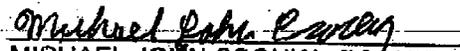
MARIE C. DOOLEY, ESQUIRE
Attorney Registration Number 203681
Disciplinary Counsel

DATE

9/18/2023


ROBERT H. DAVIS, JR., ESQUIRE
Attorney Registration Number 46322
Respondent's Counsel

DATE


MICHAEL JOHN CSONKA, ESQUIRE
Attorney Registration Number 91232
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 89 DB 2023
Petitioner :
v. : Attorney Reg. No. 091232
MICHAEL JOHN CSONKA, :
Respondent : (Franklin County)

CERTIFICATE OF SERVICE

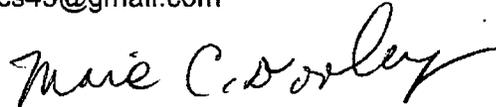
I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 204 Pa. Code §89.22 (relating to service by a participant).

First Class, Overnight Mail and Email, as follows:

Erik R. Anderson, Esquire
McNees Wallace & Nurick LLC
100 Pine Street
Harrisburg, PA 17101
EAnderson@mcneeslaw.com

Robert H. Davis, Jr., Esquire Law
Office of Robert H. Davis, Jr.
4900 Janelle Drive,
Harrisburg PA 17112
bobsethics45@gmail.com

Dated: 09-20-23



MARIE C. DOOLEY, ESQUIRE
Disciplinary Counsel
Attorney Registration Number 203681
Office of Disciplinary Counsel
820 Adams Avenue, Suite 170
Trooper, PA 19403

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, Petitioner	:	No. 89 DB 2023
	:	
v.	:	Attorney Reg. No. 091232
	:	
MICHAEL JOHN CSONKA, Respondent	:	(Franklin County)

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

COMMONWEALTH OF PENNSYLVANIA:

COUNTY OF FRANKLIN:

MICHAEL JOHN CSONKA, ESQUIRE, being duly sworn according to law, deposes and hereby submits this affidavit consenting to a one-year suspension in conformity with Pa.R.D.E. 215(d) and further states as follows:

1. I am an attorney admitted in the Commonwealth of Pennsylvania, having been admitted to the bar on or about .
2. I desire to submit a Joint Petition in Support of Discipline on Consent pursuant to Pa.R.D.E. 215(d).
3. My consent is freely and voluntarily rendered; I am not being subjected to coercion or duress; I am fully aware of the implications of submitting this affidavit.
4. I am aware that there is presently pending a proceeding involving allegations I have 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) to which this affidavit is attached.
5. I acknowledge that the material facts set forth in the Joint Petition are true.

6. I consent because I know that if charges continued to be prosecuted in the pending proceeding, I could not successfully defend against them.

7. I am aware of my right to consult and employ counsel to represent me in the instant proceeding. I have retained, consulted or acted upon the advice of counsel in connection with my decision to execute the Joint Petition.

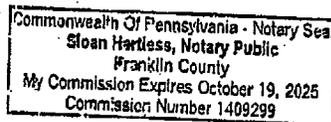
It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S.A. §4904 (relating to unsworn falsification to authorities).

Signed this 18 day of September 2023.

Michael John Csonka
MICHAEL JOHN CSONKA, ESQUIRE
Attorney Registration Number 91232
Respondent

Sworn to and subscribed
before me this 18th day
of September 2023.

S. Hill
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
Signature: Marie C. Dooley
Name: Marie C. Dooley
Attorney No. (if applicable): 203681