

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2270 Disciplinary Docket No. 3
: :
Petitioner : No. 98 DB 2015
: :
v. : Attorney Registration No. 45751
: :
LEK DOMNI, : (Philadelphia)
: :
Respondent :

ORDER

PER CURIAM

AND NOW, this 27th day of June, 2016, upon consideration of the Report and Recommendations of the Disciplinary Board, Lek Domni 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 Pa. R.D.E. 217. Respondent shall pay costs to the Disciplinary Board pursuant to Pa.R.D.E. 208(g).

A True Copy Patricia Nicola
As Of 6/27/2016

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 98 DB 2015
Petitioner	:	
	:	
v.	:	Attorney Registration No. 45751
	:	
LEK DOMNI	:	
Respondent	:	(Philadelphia)

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 filed on June 8, 2015, Office of Disciplinary Counsel charged Lek Domni with violations of the Rules of Professional Conduct and Rules of Disciplinary Enforcement arising out of allegations that Respondent abandoned his clients and his law practice. Respondent failed to respond to the Petition for Discipline.

Respondent failed to appear at the prehearing conference held on September 9, 2015, and failed to appear at the disciplinary hearing held on October 9,

2015, before a District I Hearing Committee comprised of Chair Maribeth W. Boyle, Esquire and Members Gregory J. Wartman, Esquire and Meredith A. Mack, Esquire.

Following the submission of a brief by Petitioner, the Hearing Committee filed a Report on January 15, 2016, 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 held on April 21, 2016.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner, Office of Disciplinary Counsel 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 the 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 Rules.

2. Respondent is Lek Domni. He was born in 1958 and was admitted to the practice of law in the Commonwealth of Pennsylvania in 1986. His most recent attorney registration address is 1500 JFK Blvd., Suite 200, Philadelphia PA 19102. Respondent is subject to the jurisdiction of the Disciplinary Board of the Supreme Court.

3. Respondent has no record of prior discipline.

4. By Order dated September 18, 2013, effective October 18, 2013, the Supreme Court of Pennsylvania placed Respondent on administrative suspension for his failure to comply with Rule 219, Pa.R.D.E. regarding annual registration of attorneys. ODC-3, Exhibit A.

5. The Attorney Registrar notified Respondent of his administrative suspension by sending a letter to his office and home addresses by certified mail and, because the certified mailings were returned to the sender, by first class mail. ODC-3, ¶¶ 5-10.

6. The first class mailings were not returned. ODC-3, ¶11.

7. Respondent failed to file a statement of compliance within 10 days after the effective date of the administrative suspension order, as required by Rule 217(e), Pa.R.D.E. ODC-3, ¶12.

8. At the time Respondent was placed on administrative suspension, he was attorney of record in eight matters in the Court of Common Pleas of Philadelphia and one matter in the Philadelphia Orphans' Court. ODC-3, ¶13.

9. Respondent failed to withdraw promptly from the matters, as required by Rule 217(b), Pa.R.D.E. ODC-3, ¶14.

10. Respondent failed to advise the court, opposing counsel and his clients that he had been placed on administrative suspension and was ineligible to practice law in the Commonwealth. ODC-3, ¶15.

11. After Respondent was placed on administrative suspension, Dennis Pomo, Esquire of the law firm of Pasquarella, Kunnel & Pomo, P.C. in Philadelphia,

made efforts to locate and contact Respondent, as Mr. Pomo had referred several cases to Respondent. ODC-3, ¶16.

12. In February 2014, Respondent sent an email to Mr. Pomo stating that he was “ok” and that he was in New York taking care of his parents, both of whom had health problems. ODC-3, ¶17.

13. Respondent informed Mr. Pomo that he would contact him to “discuss all the problems” Respondent had created, and he apologized to Mr. Pomo. ODC-3; ¶17.

14. Thereafter, Mr. Pomo attempted to contact Respondent by email and text, but Respondent never responded. ODC-3, ¶¶18 – 25.

15. As a result, and because Mr. Pomo was not able to obtain the transfer of Respondent’s files, Mr. Pomo had to reconstruct Respondent’s files, enter his appearance and prepare cases that Respondent had agreed to accept and litigate. ODC-3, ¶28.

16. On November 15, 2013, 28 days after the effective date of his administrative suspension, Respondent engaged in the unauthorized practice of law by filing a praecipe to issue a writ of summons on behalf of a client. ODC-3, ¶33.

17. From December 2013 through approximately May 2015, Respondent failed to appear at court conferences and respond to various filings, resulting in the dismissal of matters, deferral of matters, and in some cases, Mr. Pomo entering his appearance on behalf of Respondent’s clients. ODC-3; ¶¶29-32, 34-38, 39–43, 44–49, 50–54, 55–61, 62–70.

18. On three occasions in March and April 2014, Petitioner telephoned Respondent on his cell phone and left messages requesting that Respondent return the calls. ODC-3, ¶26.

19. Respondent failed to return those calls. ODC-3, ¶27.

20. On June 8, 2015, Petitioner filed a Petition for Discipline charging Respondent with professional misconduct in violation of the Rules of Professional Conduct.

21. On June 23, 2015, Respondent was personally served with the Petition by an investigator of the New York Grievance Committee at Respondent's last known residence address located at 2 Lourae Drive, Massapequa Park, NY 11762. (ODC-4) Respondent failed to notify the Attorney Registration Office of his address change.

22. Respondent failed to answer the Petition for Discipline.

23. Respondent received notices of the prehearing conference and the disciplinary hearing. ODC-2.

24. Respondent failed to appear at the September 9, 2015 prehearing conference.

25. Respondent failed to appear at the October 9, 2015 disciplinary hearing.

26. By Order dated May 9, 2014, Respondent was reciprocally suspended from the practice of law in the United States District Court for the Eastern District of Pennsylvania until further order of the Court. ODC-1.

III. CONCLUSIONS OF LAW

By his conduct as set forth above, Respondent violated the following Rules of Professional Conduct and Rules of Disciplinary Enforcement:

1. RPC 1.3 – A lawyer shall act with reasonable diligence and promptness in representing a client.

2. RPC 1.4(b) – A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

3. RPC 1.16(a)(1) – A lawyer shall not represent a client or where representation has commenced, shall withdraw from the representation of a client if the representation will result in violation of the rules of professional conduct or other law.

4. RPC 1.16(d) – Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests.

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

6. RPC 4.1(a) – 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.

7. 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.

8. RPC 7.1 – A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services.

9. RPC 8.4(c) - It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

10. RPC 8.4(d) – It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

11. Pa.R.D.E. 203(b)(3) – Willful violation of any other provision of the Enforcement Rules shall be grounds for discipline.

12. Pa.R.D.E. 217(b) – A formerly admitted attorney shall promptly notify all clients who are involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party of the administrative suspension and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the administrative suspension.

13. Pa.R.D.E. 217(c)(1) and (2) – A formerly admitted attorney shall promptly notify of the administrative suspension all persons or their agents or guardians to whom a fiduciary duty is or may be owed at any time after the administrative suspension, and shall promptly notify all other persons with whom the formerly admitted attorney may at any time expect to have professional contacts.

14. Pa.R.D.E. 217(e) - Within ten days after the effective date of the administrative suspension, the formerly admitted attorney shall file with the Board a verified statement

15. Pa.R.D.E. 217(j)(1), (2), (4)(iv) – These subsections refer to law-related activities permitted to be conducted by a formerly admitted attorney.

16. Pa.R.D.E. 219(d)(3) – Failure to notify the Attorney Registration Office in writing of any change in the information within 30 days after such change.

17. Pa.R.D.E. 203(b)(7) – Failure by a respondent-attorney without good cause to respond to Disciplinary Counsel’s request or supplement request for a statement of the respondent-attorney’s position, shall be grounds for discipline.

18. As a result of Respondent's failure to answer the Petition for Discipline, all factual allegations in the Petition are admitted. Rule 208(b)(3), Pa.R.D.E.

IV. DISCUSSION

Disciplinary proceedings against Respondent were instituted by the filing of a Petition for Discipline on June 8, 2015. The Petition charged Respondent with violating multiple Rules of Professional Conduct and Rules of Disciplinary Enforcement arising out of his conduct following his administrative suspension from the practice of law in the Commonwealth of Pennsylvania effective October 18, 2013. Although Respondent was personally served with the Petition for Discipline, he failed to file an answer.

Petitioner must establish by a preponderance of clear and satisfactory evidence, that Respondent's actions constitute professional misconduct. *Office of Disciplinary Counsel v. Grigsby*, 425 A.2d 730, 732 (Pa. 1981). The facts of this matter are not in dispute, as Respondent failed to answer the Petition, attend the hearing or otherwise respond to the allegations against him.

Respondent was placed on administrative suspension effective October 18, 2013, for his failure to comply with Rule 219, Pa.R.D.E. regarding attorney registration. Thereafter, Respondent ignored his obligations as a formerly admitted attorney. He failed to withdraw from matters in which he was the attorney of record in the Court of Common Pleas of Philadelphia County and the Philadelphia Orphans' Court. He also failed to advise the court, opposing counsel and his clients that he had been placed on administrative suspension and was ineligible to practice law. He failed

to file a statement of compliance within ten days of the effective date of the administrative suspension order that he had complied with the Rules. Approximately 28 days after the effective date of Respondent's administrative suspension, he filed a praecipe to issue a writ of summons on behalf of his client, in violation of rules prohibiting him from practicing law while administratively suspended.

From approximately November 2013 through May 2015, Respondent failed to appear at court conferences and respond to various filings, resulting in the dismissal of matters, deferral of matters, and in some cases, a colleague having to enter his appearance on behalf of Respondent's clients. Office of Disciplinary Counsel attempted to contact Respondent concerning these matters on various occasions, without success.

Respondent abandoned his law practice, left the Commonwealth, vacated his law office without informing the Attorney Registration Office of his new address, failed to inform his clients that he had abandoned his practice and that he had been placed on administrative suspension, and failed to act with the appropriate reasonableness, diligence, promptness, candor and care for his clients' interests that is required by the Rules of Professional Conduct and Rules of Disciplinary Enforcement.

Respondent was personally served with the Petition for Discipline by an investigator of the New York Grievance Committee. Thereafter, he failed to answer the Petition, failed to attend the prehearing conference and the disciplinary hearing and failed to file any responsive briefs to the Hearing Committee Report. The record is clear that Respondent received notice of the details of each step of his disciplinary proceeding.

Having concluded that Respondent violated the Rules, this matter is ripe for the determination of discipline. Petitioner seeks a suspension of one year and one day and the Hearing Committee has put forth that recommendation in its Report. After considering the nature and gravity of the misconduct as well as the presence of aggravating or mitigating factors, *Office of Disciplinary Counsel v. Gwendolyn Harmon*, 72 Pa. D. & C. 4th 115 (2004), we recommend that Respondent be suspended from the practice of law for a period of one year and one day.

Respondent's actions constitute serious misconduct. While there is no *per se* discipline in Pennsylvania, prior similar cases are instructive and are suggestive of a one year and one day suspension when, as here, an attorney who has engaged in neglect and who has failed to participate in disciplinary proceedings would likely pose a danger to the public if he continued to practice law. *Office of Disciplinary Counsel v. Lucarini*, 472 A.2d 186, 189-91 (Pa. 1983).

Respondent does not have a record of prior discipline, which is a mitigating factor. However, his demonstrated neglect of his clients, his law practice and his responsibilities to the disciplinary system outweigh his clean record and necessitate a suspension.

The Board and the Supreme Court have considered on many occasions the question of an attorney's neglect and abandonment of practice followed by a failure to appear at the disciplinary hearing or otherwise participate in the disciplinary process. Although the sanctions have depended on the aggravating or mitigating factors, these attorneys have been required to go through a reinstatement process to prove fitness to practice law.

In *Office of Disciplinary Counsel v. Amy B. Burd*, 985 D.D. 3 (Pa. 2005), Burd was found to have engaged in continued client neglect in two instances. She failed to file briefs and take action in the matters and failed to communicate with her client. She failed to disclose to the court her inactive status for failure to pay her annual attorney fee, and she represented the Commonwealth in a jury trial on the day after her inactive status was effective. Burd had a record of prior discipline. The Board recommended that Burd be suspended for one year and one day and the Supreme Court imposed that sanction.

The respondent in *Office of Disciplinary Counsel v. Kenton R. O'Neil*, 980 D.D. 3 (Pa. 2004) failed to appear for an informal admonition in one matter and neglected a client and failed to return an unearned fee in a second matter. O'Neil failed to answer the Petition and failed to appear at the disciplinary hearing. He had no prior professional discipline in Pennsylvania. O'Neil was suspended for one year and one day.

Similarly, the respondent in *Office of Disciplinary Counsel v. Anne Michelle Campbell*, 1610 D.D. 3 (Pa. 2010) failed to appear for an informal admonition in one matter and neglected a client in a second matter. She failed to file an answer and failed to appear at the disciplinary hearing. Although she had no prior discipline, she was suspended for one year and one day.

Finally, in *Office of Disciplinary Counsel v. Carol Chandler*, 1732 D.D. 3 (Pa. 2011), Chandler engaged in neglect and lack of communication in regard to client matters. She failed to turn over files in regard to her representation of clients in New Jersey and gave the impression that she was licensed in New Jersey, when in fact she was not admitted in that jurisdiction. As in the above-cited cases, Chandler failed to file

an answer to petition, failed to appear at the disciplinary hearing and had no record of discipline. The Board recommended and the Court imposed a suspension of one year and one day.

The primary purpose of the disciplinary system in Pennsylvania is to protect the public from unfit attorneys and to preserve public confidence in the legal system. *Office of Disciplinary Counsel v. Stern*, 526 A.2d 1180 (Pa. 1987). Respondent engaged in misconduct and failed to explain or show responsibility for his actions, evidencing his lack of concern for his professional obligations and his lack of interest in practicing law. Should Respondent desire to practice law in the future, he must appear before the Board and demonstrate his fitness to do so.

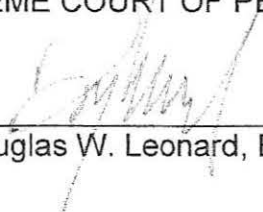
V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Lek Domni, 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: May 3, 2016

Board Member Cordisco did not participate in the adjudication.