

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2283 Disciplinary Docket No. 3
	:	
Petitioner	:	No. 51 DB 2016
	:	
v.	:	Attorney Registration No. 61773
	:	
EMANUELE J. DESTEFANO,	:	(Monroe County)
	:	
Respondent	:	
	:	

ORDER

PER CURIAM

AND NOW, this 29th day of July, 2016, 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 Respondent Emanuele J. DeStefano is suspended on consent from the Bar of this Commonwealth for a period of three months. The suspension is stayed in its entirety, and he is placed on probation for a period of one year, subject to the following conditions:

1. Respondent shall not engage in conduct that violates any federal, state, or local statute or ordinance that provides for a possible sentence of imprisonment;
2. Respondent shall report any charges due to such violations to the Office of Disciplinary Counsel within 20 days of charging;
3. Respondent shall not engage in conduct that violates the Pennsylvania Rules of Professional Conduct or the Pennsylvania Rules of Disciplinary Enforcement; and

4. Respondent shall not engage in conduct that violates the corresponding New York Rules of Professional Conduct or Rules of Professional Conduct in any other jurisdiction wherein he maintains or obtains a law license.

Justice Mundy did not participate in the consideration or decision of this matter.

A True Copy Patricia Nicola
As Of 7/29/2016

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

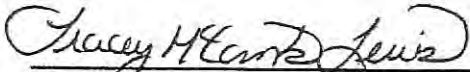
OFFICE OF DISCIPLINARY COUNSEL : No. 51 DB 2016
Petitioner :
v. : Attorney Registration No.61773
EMANUELE J. DESTEFANO :
Respondent : (Monroe County)

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 Tracey McCants Lewis, Douglas W. Leonard and David E. Schwager has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on April 14, 2016.

The Panel approves the Petition consenting to a three month suspension to be stayed in its entirety and a one year period probation subject to the conditions set forth in the Joint Petition and recommends to the Supreme Court of Pennsylvania that the attached Joint 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.


Tracey McCants Lewis, Panel Chair
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date: 7/6/2016

2. Respondent, Emanuele J. DeStefano was born on May 4, 1946, was admitted to practice law in Pennsylvania on July 12, 1991, has a registered public address of 114 Arbutus Drive, Tobyhanna, Monroe County, Pennsylvania, 18466, and is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent is not represented by counsel.

4. In connection with ODC files C3-15-640 and C3-15-702, Respondent received a Request for Statement of Respondent's Position (Form DB-7) dated September 21, 2015.

5. By letter dated October 5, 2015, Respondent submitted his timely response to the DB-7.

SPECIFIC FACTUAL ADMISSIONS AND
RULES OF PROFESSIONAL CONDUCT VIOLATED

6. On July 15, 2015, effective after thirty days, the Supreme Court of Pennsylvania entered an Order administratively suspending Respondent from the practice of law for failing to comply with the Pennsylvania Rules for Continuing Legal Education (CLE).

7. On the same date, Respondent was notified by the Attorney Registrar, Suzanne E. Price, that his administrative suspension would become effective on August 14, 2015.

8. On August 14, 2015, the July 15, 2015, Order became effective, and Respondent was administratively suspended from the practice of law in Pennsylvania.

9. On August 17, 2015, while on administrative suspension, Respondent filed a brief on behalf of a client with the Carbon County Prothonotary.

10. Respondent copied opposing counsel on his correspondence.
11. In this filing, Respondent held himself out as being licensed to practice law in Pennsylvania.
12. On August 28, 2015, the CLE Board notified Ms. Price that Respondent had complied with his CLE requirements.
13. On the same date, Ms. Price notified Respondent of the CLE Board's certification, and notified him of the procedure he was to follow in order to be reinstated to the practice of law.
14. On September 8, 2015, Respondent filed his statement of compliance, along with the corresponding notices, with Attorney Registration.
15. On the same date Respondent was reinstated to the practice of law in Pennsylvania.

DISCIPLINARY RULE VIOLATIONS

16. Respondent admits to violating the following Rules of Professional Conduct and Rules of Disciplinary Enforcement in this matter:
 - a. 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; and
 - b. RPC 5.5(b): 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.

SPECIFIC JOINT RECOMMENDATIONS FOR DISCIPLINE

17. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent is a three-month Suspension, stayed in its entirety, pending the successful completion of a one-year probation period. This probationary period will

be subject to the following conditions:

- a. during this probationary period, Respondent shall not engage in conduct that is in violation of any federal, state, or local statute or ordinance that provides for a possible sentence of imprisonment;
- b. during this probationary period, Respondent shall report to the Office of Disciplinary Counsel his being charged with violations of any federal, state, or local statute or ordinance that provides for a possible sentence of imprisonment within 20 days of his being charged;
- c. During this probationary period, Respondent shall not engage in conduct that is in violation of the Pennsylvania Rules of Professional Conduct or the Pennsylvania Rules of Disciplinary Enforcement; and
- d. During this probationary period, Respondent shall not engage in conduct that is in violation of the corresponding New York Rules of Professional Conduct, or Rules of Professional Conduct in any other state wherein he obtains or maintains his law license.

18. Respondent hereby consents to the 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).

19. In support of Petitioner and Respondent's Joint Recommendation, it is respectfully submitted that there are several mitigating circumstances:

- a. Respondent has no record of prior discipline;
- b. no deceit was intended, as evidenced by the fact that:
 - i. Respondent copied opposing counsel on the filing;
 - ii. Respondent's client was a licensed attorney in Pennsylvania, and could have filed the document in question pro se; and
 - iii. at all times material to this Joint Petition, Respondent maintained good standing with the New York State Bar;
- c. Respondent's act of unauthorized practice occurred only once during his administrative suspension;
- d. Respondent has admitted engaging in misconduct and violating the charged Rules of Professional Conduct; and
- e. Respondent is remorseful for and embarrassed by his conduct and understands he should be disciplined, as evidenced by his consent to receiving a three-month Suspension, stayed in its entirety, pending the successful completion of a one-year probation period.

20. The unauthorized practice of law is considered by the Pennsylvania Supreme Court to be a serious violation of the Rules of Professional Conduct. See ODC v. Bohmueller, 53 DB 2011 (Bd. Rpt. 2014), at 27 (citing ODC v. DiGiovanni, 36 DB 2009 (Pa. 2009); ODC v. Goldin-Didinsky, 87 DB 2003 (Pa. 2004)).

21. Discipline can vary from private discipline to a one-year and one-day

suspension. See ODC v. Taylor, 253 DB 2010 (six-month suspension on consent); ODC v. Gordon, 197 DB 2009 (one-year suspension, stayed in its entirety for one year; dissent recommended three-month suspension); ODC v. Rodgers, 126 DB 2009 (one-year suspension on consent).

22. The parties respectfully submit that a three-month Suspension, stayed in its entirety, pending the successful completion of a one-year probation period, given the facts of the instant matter, is consistent with the above cited disciplinary authority.

WHEREFORE, Petitioner and Respondent respectfully request that:

Pursuant to Pa.R.D.E. 215, a three-member panel of the Disciplinary Board review and approve the above Joint Petition in Support of Discipline on Consent and file its recommendation with the Supreme Court of Pennsylvania in which it is recommended that the Disciplinary Board of the Supreme Court of Pennsylvania enter an Order Suspending Respondent for Three Months, stayed in its entirety, pending the successful completion of a one-year probation period, for the conduct set forth herein.

Respectfully submitted,

Date: 4/8/16

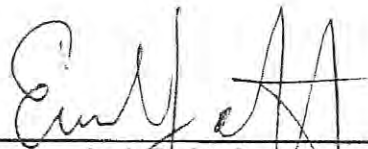
By: Anthony Czuchnicki

Anthony A. Czuchnicki
Disciplinary Counsel
Attorney Registration No. 312620
601 Commonwealth Avenue, Suite 5800
P.O. Box 62675
Harrisburg, PA 17106-2675
Telephone (717) 772-8572

Date:

4/19/16

By:



Emanuele J. DeStefano
Respondent
Attorney Registration No. 61773
114 Arbutus Drive
Tobyhanna, PA 18466
Telephone (570) 972-5232

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,
Petitioner,

v.

EMANUELE J. DESTEFANO,
Respondent

No. DB 2016

Attorney Reg. No. 61773

(Monroe County)

VERIFICATION

The statements made 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, information, and belief. This statement is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 4/8/16

By: Anthony Czuchnicki

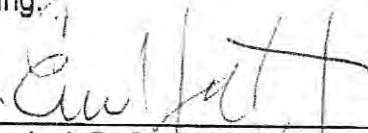
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Harrisburg, PA 17106-2675
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Date: 4/14/16

By: Emanuele J. DeStefano

Emanuele J. DeStefano
Respondent
Attorney Registration No. 61773
114 Arbutus Drive
Tobyhanna, PA 18466
Telephone (570) 972-5232

5. I acknowledge that I am fully aware of my right to consult and employ counsel to represent me in the instant proceeding.

By: 
Emanuele J. DeStefano
Respondent
Attorney Registration No. 61773
114 Arbutus Drive
Tobyhanna, PA 18466
Telephone (570) 972-5232

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,
Petitioner,

v.

EMANUELE J. DESTEFANO,
Respondent

No. DB 2016

Attorney Reg. No. 61773

(Monroe County)

CERTIFICATE OF SERVICE

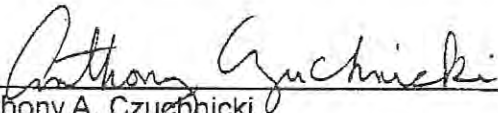
I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of Pa.R.A.P. 121.

Electronic Mail, return receipt requested, as follows:

Emanuele J. DeStefano
114 Arbutus Drive
Tobyhanna, PA 18466
mannydestefano@hotmail.com

Date: 4/8/2016

By:


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