

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2319 Disciplinary Docket No. 3
: :
Petitioner : No. 145 DB 2016
: :
v. : Attorney Registration No. 38373
: :
MICHAEL J. HALPRIN, : (Philadelphia)
: :
Respondent :

ORDER

PER CURIAM

AND NOW, this 30th day of March, 2017, 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 J. Halprin is suspended on consent from the Bar of this Commonwealth for a period of one year and one day. He shall comply with all the provisions of Pa.R.D.E. 217.

A True Copy Patricia Nicola
As Of 3/30/2017

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2319 Disciplinary Docket
Petitioner : No. 3
: :
: No. 145 DB 2016
: :
v. : (ODC File Nos. C1-14-349
: & C1-15-193)
: :
: Attorney Reg. No. 38373
MICHAEL J. HALPRIN, :
Respondent : (Philadelphia)

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

Petitioner, Office of Disciplinary Counsel ("ODC"), by Paul J. Killion, Chief Disciplinary Counsel, and by Patricia A. Dugan, Disciplinary Counsel, and Respondent, Michael J. Halprin ("Respondent"), file this Joint Petition in Support of Discipline on Consent Pursuant to Pennsylvania Rule of Disciplinary Enforcement ("Pa.R.D.E.") 215(d), and respectfully represent that:

1. Petitioner, whose principal office is situated at the Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, 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 any attorney admitted to practice law in the Commonwealth of Pennsylvania and to

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

prosecute all disciplinary proceedings brought in accordance with the various provisions of said Rules.

2. Respondent, Michael J. Halprin, was born in May 1958, and was admitted to practice law in the Commonwealth on October 17, 1983.

3. Respondent had a registered office address at 1806 S. Broad Street, Philadelphia, Pennsylvania, 19145. Respondent's most recent office address was 1127 Moore Street, Philadelphia, Pennsylvania, 19148, where he currently resides.

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

SPECIFIC FACTUAL ALLEGATIONS ADMITTED AND RULES OF
PROFESSIONAL CONDUCT AND PENNSYLVANIA RULES OF
DISCIPLINARY ENFORCEMENT VIOLATED

5. Respondent specifically admits to the truth of the factual allegations and conclusions of law contained in paragraphs 6 through 94.

6. On December 2, 2014, Respondent sought and was placed on voluntary inactive status.

7. By Order dated July 9, 2014, effective July 15, 2014, the Honorable Eric L. Frank of the United States Bankruptcy Court for the Eastern District of Pennsylvania suspended and enjoined Respondent from engaging in bankruptcy practice, and related

activities, in the Eastern District of Pennsylvania for a period of three months.

8. By Order dated November 10, 2014, Judge Frank extended Respondent's suspension in Bankruptcy Court through February 1, 2015, resulting in a total six-and-one-half-month suspension.

9. By Pennsylvania Supreme Court Order dated June 5, 2015, Respondent was reciprocally suspended from the practice of law in the Commonwealth for a period of six-and-one-half months, retroactive to December 2, 2014.

10. Respondent never applied for reinstatement under Pa.R.D.E. 218(g) and remains under suspension in the Commonwealth.

The Suzanne Carlin Matter

11. In October of 2010, Respondent filed a Chapter 13 Voluntary Petition in the U.S. Bankruptcy Court in the Eastern District of Pennsylvania, on behalf of Suzanne Carlin, docket no. 10-18820-mdc.

12. Thereafter, Ms. Carlin was unable to afford the payments for the Chapter 13 plan that was already in place.

13. Prior to August 9, 2013, Respondent spoke to Suzanne Carlin regarding a modification to her Chapter 13 plan.

14. On August 9, 2013, Respondent sent an email to Ms. Carlin and asked Ms. Carlin if she still wanted to amend her Chapter 13

plan and Schedules I (income) and J (expenses) and if so, to schedule an appointment with Respondent to discuss the amendments.

15. Subsequently, Respondent scheduled an appointment with Ms. Carlin at his office at 1806 S. Broad Street in Philadelphia for September 4, 2013 at 10:00 a.m.

16. On September 4, 2013, Ms. Carlin sent Respondent an email because Respondent was not at his office at 1806 S. Broad Street when Ms. Carlin attempted to meet with him.

17. On October 7, 2013:

- a. Ms. Carlin sent Respondent an email and requested an appointment for November 15, 2013 or November 18, 2013; and
- b. Respondent sent an email to Ms. Carlin to set an appointment for November 15, 2013 at 10:00 a.m.

18. On or about November 15, 2013, Respondent cancelled the appointment with Ms. Carlin and rescheduled for November 19, 2013.

19. On November 19, 2013, Ms. Carlin went to Respondent's home for the scheduled appointment and gave Respondent \$800.00 in cash to file a modification of her current bankruptcy plan.

20. Respondent gave Ms. Carlin a Receipt but the Receipt did not set forth the basis or rate of the fee for the service to be provided as required by RPC 1.5(b).

21. On March 19, 2014, Ms. Carlin sent Respondent an email and stated, *inter alia*, that:

- a. it had been "5 or 6 months" since she met with Respondent;
- b. she had not heard anything regarding her modification; and
- c. she wondered what was going on with her case.

22. On March 20, 2014, Respondent sent an email to Ms. Carlin and requested that Ms. Carlin let Respondent know the specific changes she wanted to achieve by modifying the plan.

23. On March 21, 2014, Ms. Carlin sent Respondent an email and advised Respondent that her bankruptcy payments were supposed to increase to \$550.00 per month in November of 2013 and that she could not afford to pay the increased amount due to several factors which she mentioned in the email.

24. Respondent failed to respond to Ms. Carlin's email of March 21, 2014.

25. On April 11, 2014, Ms. Carlin sent Respondent an email and inquired as to whether Respondent had done anything in regards to filing for a modification and indicated that she was still only sending \$100.00 a month to the trustee to show good faith.

26. Respondent failed to respond to Ms. Carlin's email of April 11, 2014.

27. On April 25, 2014, Ms. Carlin sent Respondent an email wherein she stated that she had not heard anything from Respondent and asked:

- a. whether Respondent had received her last email;
- b. whether Respondent would be submitting an answer to the Bankruptcy court or filing a modification on her behalf; and
- c. Respondent to let her know what was going on.

28. Respondent failed to respond to Ms. Carlin's email of April 25, 2014.

29. On April 28, 2014, Ms. Carlin sent Respondent an email to advise Respondent that:

- a. she was extremely concerned that Respondent had not emailed or called her back regarding her case;
- b. the Bankruptcy Court needed an answer to the Motion to Dismiss by May 5, 2014;
- c. the hearing was scheduled for May 22, 2014 at 9:30 a.m.;
- d. she felt Respondent was ignoring her;
- e. she felt that she would be forced to handle the matter by herself; and
- f. Respondent needed to contact her as soon as possible.

30. On April 29, 2014, Ms. Carlin sent Respondent an email stating that:

- a. she was shocked that Respondent was ignoring her and leaving her to fend for herself;
- b. she had given Respondent \$800.00 for a modification of her plan;
- c. she found out that Respondent had never filed for a modification on her behalf;
- d. she wanted to know if Respondent planned on helping her;
- e. she wanted to know if Respondent was going to refund her \$800.00; and
- f. she wanted Respondent to let her know what his position was.

31. Respondent did not respond to Ms. Carlin's emails of April 28, 2014 and April 29, 2014.

32. On or about May 20, 2014, Ms. Carlin sent Respondent a certified letter, return receipt requested to:

- a. formally terminate Respondent's representation;
- b. demand that Respondent refund the \$800.00 she had paid;
- c. advise Respondent that he had not filed a modification to her bankruptcy plan;

- d. advise Respondent that she had received a notice from the trustee that he was filing a Motion to Dismiss her case;
- e. advise Respondent that she had called and emailed him several times before and after receiving the notice from the trustee;
- f. advise Respondent that she would be representing herself in court on May 22, 2014; and
- g. request that Respondent reply to her letter within 10 business days to inform her of Respondent's intentions regarding her \$800.00.

33. Respondent failed to attend Ms. Carlin's hearing on May 22, 2014 even though Respondent received Ms. Carlin's certified letter on May 27, 2014.

34. Respondent failed to respond to Ms. Carlin's certified letter of May 20, 2014.

35. Respondent failed to file a motion to withdraw his appearance in Ms. Carlin's case.

36. Respondent failed to provide Ms. Carlin with a refund of any unearned fees.

37. As stated in paragraphs 7 and 8, *supra*, Respondent was suspended in Bankruptcy Court on July 9, 2014, effective July 15, 2014. As part of the discipline in the bankruptcy matter, the

court ordered that Respondent disgorge some or all fees and costs paid by eight clients, one of whom was Ms. Carlin.

- a. The Bankruptcy Court ordered that over the next twelve months, Respondent disgorge \$400.00 in fees paid to Ms. Carlin.

38. By his conduct as alleged in paragraphs 11 through 37 above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.1, which states that 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 1.2(a), which states, in part, that 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;
- c. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing

- a client;
- d. RPC 1.4(a)(2), which states that a lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished;
 - e. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;
 - f. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information;
 - g. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;
 - h. RPC 1.5(b), which states that when the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, in writing, before or within a reasonable time after commencing the representation; and
 - i. RPC 1.16(d), which states that upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's

interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

The Toni M. Tamburrino Matter

39. On July 12, 2012, Toni M. Tamburrino ("Mrs. Tamburrino") contacted Respondent by telephone regarding the bankruptcy process for her daughter, Toni M. Sands ("Ms. Sands"), at which time:

- a. Respondent quoted Mrs. Tamburrino a fee of approximately \$2,000.00;
- b. Respondent advised Mrs. Tamburrino that she could make installment payments;
- c. Respondent advised Mrs. Tamburrino to drop off a \$500.00 deposit at his office on Moore Street; and
- d. Mrs. Tamburrino went to Respondent's office and gave Respondent a check, #649, in the amount of \$500.00 on behalf of Ms. Sands.

40. On July 30, 2012, Respondent deposited check #649 into his PNC account.

41. Respondent had not regularly represented Ms. Sands and failed to provide her with a written fee agreement.

42. On or about March 14, 2013, Mrs. Tamburrino sent Respondent a check, #666, in the amount of \$1,000.00 on behalf of Ms. Sands.

43. On March 17, 2013, Respondent deposited check #666 into his PNC account.

44. On or about June 13, 2013, Mrs. Tamburrino sent Respondent a check, #671, in the amount of \$490.00 on behalf of Ms. Sands.

45. Respondent received but did not promptly negotiate check #671.

46. On June 20, 2013, Mrs. Tamburrino sent Respondent an email to advise Respondent that she had sent him a final check for \$490.00 for Ms. Sands' Chapter 7 bankruptcy and attached a Sprint bill that Ms. Sands wanted to be included in her bankruptcy plan.

47. On June 24, 2013, Mrs. Tamburrino sent Respondent an email advising Respondent that the check in the amount of \$490.00 still had not cleared her account.

48. On June 24, 2013, Respondent sent a reply email to Mrs. Tamburrino to:

- a. thank her for alerting Respondent to the payment;
- b. advise her that Respondent must have lost the check;
- c. request that she issue Respondent a replacement check;
- d. instruct her to deduct any bank fee that she incurs by stopping payment of the original check; and
- e. apologize for inconveniencing her.

49. On June 24, 2013, Mrs. Tamburrino sent Respondent a reply email to advise Respondent that she would be stopping by his office on Tuesday or Wednesday with another check.

50. On June 27, 2013, Mrs. Tamburrino hand-delivered a check, #672, to Respondent in the amount of \$480.00 as requested.

51. Thereafter, Respondent located the original check, #671.

52. On July 3, 2013, Mrs. Tamburrino sent Respondent an email advising Respondent that he still had not cashed her check in the amount of \$490.00.

53. On July 9, 2013, Mrs. Tamburrino sent Respondent an email advising Respondent that he still had not cashed her check in the amount of \$490.00.

54. On July 15, 2013, Respondent deposited Mrs. Tamburrino's check, #671, into his PNC account.

55. On August 15, 2013, Mrs. Tamburrino:

- a. sent Respondent an email inquiring as to when Respondent would start her daughter's bankruptcy; and
- b. sent Respondent an email providing her daughter's email address.

56. Respondent failed to respond to Ms. Tamburrino's emails.

57. In January of 2014:

- a. Mrs. Tamburrino and Ms. Sands met with Respondent at his home to discuss what steps were next in the bankruptcy process; and
- b. Respondent advised Ms. Sands to take a consumer credit counseling course on line and to notify Respondent when it was completed.

58. Subsequently, Ms. Sands notified Respondent that she had completed the consumer credit counseling course and Respondent requested that she provide him with pay stubs from Walmart.

59. On April 22, 2014, Mrs. Tamburrino sent Respondent an email and attached Ms. Sands' pay stubs from Walmart.

60. On May 6, 2014, Mrs. Tamburrino sent Respondent an email in which she:

- a. stated that her daughter had asked her to "send [Respondent] a note to see if there is anything

else that she needs to get [the bankruptcy] started"; and

b. provided her phone numbers.

61. Respondent failed to file a Chapter 7 bankruptcy petition on behalf of Ms. Sands.

62. As stated in paragraph 7, *supra*, by Order dated July 9, 2014, effective July 15, 2014, Respondent was suspended from the practice of law before the United States Bankruptcy Court for the Eastern District of Pennsylvania for a period of three months.

63. Respondent failed to notify Ms. Sands or Mrs. Tamburrino that he was suspended in Bankruptcy Court and could no longer represent Ms. Sands.

64. On August 19, 2014, Mrs. Tamburrino sent Respondent an email:

- a. advising Respondent that her daughter's bankruptcy matter has been sitting for a long time;
- b. requesting that Respondent do what he could to "set it in motion"; and
- c. providing Ms. Sands' phone number and email address.

65. By Order dated November 10, 2014, Judge Frank extended Respondent's suspension in Bankruptcy Court through February 1, 2015.

66. Respondent failed to notify Ms. Sands or Mrs. Tamburrino that he continued to be suspended in Bankruptcy Court and could no longer represent Ms. Sands.

67. Having not heard from Respondent, Ms. Sands retained a new bankruptcy attorney to file a bankruptcy petition on her behalf.

68. On February 26, 2015, Katherine Schreiber, Esquire, filed a Chapter 7 Bankruptcy Petition in the United States Bankruptcy Court in the Eastern District of Pennsylvania, on behalf of Ms. Sands, bankruptcy petition no. 15-11307.

69. On or about March 31, 2015, Mrs. Tamburrino sent Respondent a certified letter, return receipt requested and stated:

- a. "I have tried on numerous occasions to contact you concerning your representation of my daughter in [a Chapter 7 bankruptcy] proceeding";
- b. "You have made no attempt to respond to my telephone calls and the messages left";
- c. "In July, 2012 I contacted you to discuss your representation for my daughter, Toni Marie Sands";
- d. "You informed me that the cost would be around \$2000 and instructed me to drop off a deposit of \$500.00 at your office on Broad and Moore Streets. It was

established at that time that I would make installment payments”;

- e. “In March of 2013 I gave you \$1000; then in June of 2013 I was instructed to [] pay \$490”;
- f. “Finally, in January 2014 we met up with you at your home”;
- g. “You informed [me] of what step[s] would take place”;
- h. “Then you instructed my daughter to take a class on line [sic] and to inform you when it was completed”;
- i. “As of this date we have not received any evidence of service rendered to justify the monies we paid totaling \$1,990.00”; and
- j. “This letter is to serve as a formal request that you make a refund to me in the amount of \$1,990 within ten (10) days of your receipt of this letter.”

70. On April 10, 2015, Respondent signed for and received Mrs. Tamburrino’s certified letter dated March 31, 2015.

71. Respondent failed to respond to Mrs. Tamburrino’s certified letter of March 31, 2015.

72. Respondent failed to provide Mrs. Tamburrino with a refund of any unearned fees.

73. By his conduct as alleged in paragraphs 39 through 72 above, Respondent violated the following Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement:

- a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;
- b. RPC 1.4(a)(2), which states that a lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- c. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;
- d. RPC 1.4(b), which states that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;
- e. RPC 1.5(b), which states that when the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, in writing, before or within a reasonable time after commencing the representation; and

f. RPC 1.16(d), which states that upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

Violation of Pa.R.D.E. 203(b) (7)

74. By DB-7 Request for Statement of Respondent's Position ("DB-7 letter") dated December 9, 2014 and August 4, 2015, Respondent was notified of the allegations in the *Suzanne Carlin* matter and in the *Toni M. Tamburrino* matter.

75. Respondent received the DB-7 letters.

76. Respondent did not provide a response to the DB-7 letters.

77. Respondent's failure to respond to the DB-7 letter is an independent ground for discipline under Pa.R.D.E. 203(b) (7).

78. By his conduct as alleged in paragraphs 74 through 77 above, Respondent violated the following Pennsylvania Rule of Disciplinary Enforcement:

- a. Pa.R.D.E. 203(b)(7), which states that failure by a respondent-attorney without good cause to respond to Disciplinary Counsel's request or supplemental request under Disciplinary Board Rules, § 87.7(b) for a statement of the respondent-attorney's position, shall be grounds for discipline.

Failure to Comply with Pa.R.D.E. 217

79. Paragraph 9, *supra*, is re-alleged and incorporated as if fully set forth herein.

80. On May 26, 2015, Respondent changed his office and mailing addresses to 1127 Moore Street, Philadelphia, Pennsylvania 19106, which is also his residence.

81. By certified letter, return receipt requested, dated June 5, 2015, and mailed to Respondent's residence address on Moore Street, Elaine M. Bixler, Secretary of the Disciplinary Board:

- a. notified Respondent that by Order dated June 5, 2015, he was suspended from the practice of law for a period of six-and-one-half months, retroactive to December 2, 2014;
- b. notified Respondent that he had to comply with the provisions of Pa.R.D.E. 217; and
- c. enclosed a copy of the Order, Rule 217 and other Forms, including a Form DB-25, Statement of

Compliance.

82. Respondent never signed for the certified letter, which was returned to Ms. Bixler.

83. By letter sent via U.S. regular mail to the Moore Street address and dated August 17, 2015, Elaine Bixler notified Respondent that she had not received his verified statement required by Pa.R.D.E 217 and enclosed a copy of her previous letter dated June 5, 2015.

84. That letter was returned to Ms. Bixler on September 12, 2015, marked "Undeliverable."

85. Respondent failed to notify his clients of his suspension.

86. Respondent failed to file a Form DB-25, Statement of Compliance.

87. By his conduct as alleged in paragraphs 79 through 86 above, Respondent violated the following Pennsylvania Rules of Disciplinary Enforcement:

- a. Pa.R.D.E. 203(b)(3), which states that wilful violation of any other provision of the Enforcement Rules, shall be grounds for discipline;
- b. Pa.R.D.E. 217(a) [superseded 2-28-15], which states that a formerly admitted attorney shall promptly notify, or cause to be notified, by registered or

certified mail, return receipt requested, all clients being represented in pending matters, other than litigation or administrative proceedings, of the disbarment, suspension, administrative suspension or transfer to inactive status and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status and shall advise said clients to seek legal advice elsewhere;

c. Pa.R.D.E. 217(b) [superseded 2-28-15], which states that a formerly admitted attorney shall promptly notify, or cause to be notified, by registered or certified mail, return receipt requested, all clients who are involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of the disbarment, suspension, administrative suspension or transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive

status. The notice to be given to the client shall advise the prompt substitution of another attorney or attorneys in place of the formerly admitted attorney. In the event the client does not obtain substitute counsel before the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status, it shall be the responsibility of the formerly admitted attorney to move in the court or agency in which the proceeding is pending for leave to withdraw. The notice to be given to the attorney or attorneys for an adverse party shall state the place of residence of the client of the formerly admitted attorney;

- d. Pa.R.D.E. 217(c)(2) [superseded 2-28-15], which states that a formerly admitted attorney shall promptly notify, or cause to be notified, of the disbarment, suspension, administrative suspension or transfer to inactive status, by registered or certified mail, return receipt requested: all other persons with whom the formerly admitted attorney may at any time expect to have professional contacts under circumstances where there is a reasonable probability that they may

infer that he or she continues as an attorney in good standing. The responsibility of the formerly admitted attorney to provide the notice required by this subdivision shall continue for as long as the formerly admitted attorney is disbarred, suspended, administratively suspended or on inactive status; and

- e. Pa.R.D.E. 217(e) [superseded 2-28-15], which states that within ten days after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status order, the formerly admitted attorney shall file with the Board a verified statement showing: (1) that the provisions of the order and these rules have been fully complied with; and (2) all other state, federal and administrative jurisdictions to which such person is admitted to practice. Such statement shall also set forth the residence or other address of the formerly admitted attorney where communications to such person may thereafter be directed.

SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

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

89. 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), which states that he consents to the recommended discipline and includes the mandatory acknowledgements contained in Pa.R.D.E. 215(d)(1) through (4).

90. In Pennsylvania, there is no *per se* discipline for a particular type of misconduct, but instead each case is reviewed individually as established in the case of *Office of Disciplinary Counsel v. Lucarini*, 417 A.2d 186 (Pa. 1983).

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

- a. Respondent has admitted engaging in misconduct and violating all of the charged Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement, and understands he should be

disciplined, as is evidenced by his consent to receiving a one-year-and-one-day suspension.

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

- a. Respondent failed to refund any disgorged fees to Ms. Carlin or any unearned fees to Mrs. Tamburrino, who made installment payments on behalf of her daughter, Ms. Sands;
- b. Respondent failed to comply with Pa.R.D.E. 217; and
- c. Respondent failed to answer the DB-7 letters.

93. Respondent is not employed and does not have the ability to make restitution to Ms. Carlin, Mrs. Tamburrino, or any of his bankruptcy clients.

94. Respondent understands that if and when he applies for reinstatement, ODC will make inquiries as to whether Respondent refunded any disgorged fees or returned any unearned fees.

95. A one-year-and-one-day suspension is consistent with the type of discipline imposed on attorneys who engage in, *inter alia*, two matters of neglect, fail to refund unearned fees, and fail to respond to inquiries from disciplinary authorities.

In *Office of Disciplinary Counsel v. Mark David Johns*, No. 95 DB 2013, (Pa. Dec. 30, 2014), Respondent Johns ("Johns") received

fees from two clients, failed to perform any work, and ignored communications from each client. Both clients had difficulty receiving refunds. In aggravation, Johns received an informal admonition in 2010 for his failure to further his client's divorce and equitable distribution matters and for his failure to communicate with his client. Johns received a private reprimand in 2012 for his failure to respond to opposing counsel's requests for discovery in a divorce matter and for his failure to comply with requests from successor counsel to withdraw in the matter. Johns' representation of one of his clients occurred during his prior disciplinary action that resulted in the private reprimand. Johns was suspended for one year and one day.

In Office of Disciplinary Counsel v. Joseph J. Brielmann, No. 115 DB 2014 (Pa. May 20, 2015), Respondent Brielmann ("Brielmann") entered into a Joint Petition in Support of Discipline on Consent for a one-year-and-one-day suspension involving two matters. In one matter, Brielmann received a \$1,500.00 retainer and agreed to represent his client in civil court. Brielmann failed to put the retainer in his trust account, failed to return his client's phone calls, failed to enter his appearance in his client's court case, failed to appear for arbitration, and failed to notify his client of the non-suit that was awarded in favor of the opposing party.

In the second matter, Brielmann agreed to represent a client in a racial discrimination case. His client paid him \$2,000.00; however, Brielmann never put the money into his attorney trust account nor did he provide a fee agreement. Brielmann subsequently filed a complaint on behalf of his client; however, he failed to return his client's phone calls and those he received from the Pennsylvania Human Relations Commission ("PHRC") regarding the case. As a result, the PHRC was forced to deal directly with Brielmann's client. Unbeknownst to the client, Brielmann had moved to Florida. He failed to notify his client of his administrative suspension and his consequent inability to represent him, failed to withdraw his appearance, and failed to return the file and any unearned fees.

As aggravating factors, Brielmann failed to answer the combined DB-7 letter and the petition for discipline. In addition, he failed to comply with Pa.R.D.E. 217. In mitigation, Brielmann ultimately provided refunds to both clients, admitted his wrongdoing, and had no prior history of discipline.

In *Office of Disciplinary Counsel v. Paula M. Lappe*, No. 38 DB 2004, (Pa. May 11, 2005), Respondent Lappe ("Lappe") in two client matters, accepted a retainer, performed little or no work, was transferred to inactive status for failing to fulfill her continuing legal education requirements, failed to notify her

clients of her inability to represent them, failed to answer the petition for discipline, failed to appear for the disciplinary hearing, and had no prior history of discipline. Lappe received a two-year suspension. An important distinguishing factor is that Lappe did not appear for the disciplinary hearing or participate in the disciplinary process thereafter.

WHEREFORE, Petitioner and Respondent respectfully request that

- a. pursuant to Pa.R.D.E. 215(e) and 215(g)(2), the 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 be suspended for a period of one year and one day; 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 these matters as a condition to the grant of the Joint Petition, and that all expenses be paid by Respondent.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

Paul J. Killion
Chief Disciplinary Counsel

1/31/17
Date

By: Patricia A. Dugan
Patricia A. Dugan, Esquire
Disciplinary Counsel
Attorney Regis. No. 87147
1601 Market Street
Suite 3320
Philadelphia, PA 19103

1/16/17
Date

By: MJH
Michael J. Halprin
Respondent
Attorney Regis. No. 38373

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2319 Disciplinary Docket
Petitioner : No. 3
: :
: No. 145 DB 2016
: :
v. : (ODC File Nos. C1-14-349
: & C1-15-193)
: :
: Attorney Reg. No. 38373
MICHAEL J. HALPRIN, :
Respondent : (Philadelphia)

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.

1/11/17

Date

MJH

Michael J. Halprin
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2319 Disciplinary Docket
Petitioner : No. 3
: :
: No. 145 DB 2016
: :
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: & C1-15-193)
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January 31, 2017
Date

Patricia A. Dugan
Patricia A. Dugan
Disciplinary Counsel