

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2388 Disciplinary Docket No. 3
Petitioner : No. 152 DB 2015
v. : Attorney Registration No. 79423
JAMES E. TONE, : (Montgomery County)
Respondent :

ORDER

PER CURIAM

AND NOW, this 26th day of June, 2017, upon consideration of the Disciplinary Board's Recommendation for Public Censure, the Prothonotary is directed to schedule a public censure in the above-captioned matter. See Disciplinary Board Rule §89.205(e).

A True Copy Patricia Nicola
As Of 6/26/2017

Attest: Patricia Nicola
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 152 DB 2015
Petitioner	:	
	:	
V.	:	Attorney Registration No. 79423
	:	
JAMES E. TONE	:	
Respondent	:	(Montgomery County)

RECOMMENDATION FOR
PUBLIC CENSURE PURSUANT TO
DISCIPLINARY BOARD RULE §89.205(e)

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES
OF THE SUPREME COURT OF PENNSYLVANIA:

This matter commenced with the filing of a Petition for Discipline against Respondent by Office of Disciplinary Counsel on December 1, 2015. The Petition alleged that Respondent engaged in professional misconduct in his representation of two clients. Respondent filed an Answer to Petition for Discipline on January 22, 2016.

A disciplinary hearing was held on March 31, 2016, before a District II Hearing Committee. On July 28, 2016, the Committee filed a Report and recommended that Respondent receive a Public Reprimand.

The Board adjudicated the matter at the meeting on October 13, 2016, and directed that Respondent receive a Public Reprimand with the condition that he refund monies to his client.

On October 18, 2016, the Board Order imposing a Public Reprimand with condition to reimburse a client was mailed to Respondent. On October 19, 2016, the Board mailed a notification letter to Respondent informing him that he owed \$551.50 for

expenses incurred in the investigation and prosecution of the matter. By Notice dated December 8, 2016, Respondent was directed to appear before the Board on January 4, 2017, at 9:30 a.m., at the District I Office in Philadelphia, Pennsylvania, to receive the Public Reprimand. Respondent appeared on that date with a copy of a check to his client and receipt for mailing but no proof that the client had received the check. In addition, Respondent had not paid the costs in the amount of \$551.50. The Public Reprimand was not administered.

By Notice dated February 21, 2017, Respondent was directed to appear before the Board on March 15, 2017, at 10:00 a.m., at the District I Office in Philadelphia, Pennsylvania, to receive the Public Reprimand. On February 27, 2017, a second notice of costs was sent informing Respondent that he owed \$551.50. By notice dated March 15, 2017, the Public Reprimand scheduled for that date was continued until April 5, 2017, due to a snow storm. Respondent was directed to appear on April 5, 2017 at 10:00 a.m. at the District I Office in Philadelphia.

On April 5, 2017, Respondent failed to appear on time for the scheduled 10:00 a.m. Public Reprimand. By the time Respondent appeared at the District I office, approximately forty minutes late, the Board panel had concluded business some fifteen minutes earlier and had left. When Respondent tardily appeared on April 5, 2017, he had not paid his costs. Respondent paid the costs in full on April 18, 2017. By letter of April 20, 2017, Office of Disciplinary Counsel requested that the Public Reprimand be rescheduled.

On May 4, 2017, the Board issued a Rule to Show Cause on Respondent, returnable within thirty days, why his neglect or refusal to appear for a Public Reprimand on April 5, 2017, should not be automatically be converted into a

recommendation to the Supreme Court of Pennsylvania for Public Censure in accordance with Disciplinary Board Rule §89.205(e). Respondent signed for the certified mail on May 17, 2017. Respondent failed to respond to the Rule.

Respondent has not demonstrated good cause as to why he did not timely appear before the Board for the Public Reprimand scheduled for April 5, 2017. Having failed to provide good cause, the Board recommends that Respondent be subjected to a Public Censure by the Supreme Court.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: 
David E. Schwager, Board Chair

Date: June 12, 2017

OFFICE OF DISCIPLINARY COUNSEL :

Petitioner : No. 152 DB 2015
V. : Attorney Registration No. 79423
JAMES E. TONE :
Respondent : (Montgomery County)

TABLE OF CONTENTS

	<u>Tab</u>
Record of Prior Discipline	1
Summary of Docket Entries	2
Disciplinary Board Order dated October 18, 2016	3
Notices to Appear for Reprimand	4
Disciplinary Board Rule to Show Cause	5

Re: Office of Disciplinary Counsel
v. JAMES E. TONE
No. 152 DB 2015
Attorney Registration No. 79423
(Montgomery County)

RECORD OF PRIOR DISCIPLINE

Private Reprimand – Administered February 15, 2013

Administered for violations of RPC 8.1(b), 8.4(c), 8.4(d) and Pa.R.D.E. 203(b)(3). It had been determined that Respondent receive an Informal Admonition in connection with a complaint filed against him. A condition was attached which required Respondent to provide proof to ODC that he had refunded \$1,000 to his clients. Respondent engaged in numerous misrepresentations to Chief Disciplinary Counsel concerning compliance with the condition which resulted in the eventual filing of formal charges against him. Respondent eventually complied with the condition and consented to the imposition of a Private Reprimand.

Opened	Respondent / Petitioner	Counsel for Respondent /Petitioner
09/17/2015	JAMES E. TONE (79423) PO BOX 43 LAFAYETTE HILL PA 194441427 COUNTY: MONTGOMERY (484) 437-4801	

DB NO	Counsel	District	Final Disp	Date Closed	Sup Ct #
152 DB 2015 RM		3			

 Docket Entries

Date	Description	
09/25/2015	ASSIGNMENT TO BOARD PANEL	(HAGGERTY), TREVELISE, KELLY
11/05/2015	DEMAND FOR FORMAL CHARGES BY RESPONDENT NOTICE SENT TO ODC 11/6/2015	
12/01/2015	PETITION FOR DISCIPLINE FILED	
12/10/2015	AFFIDAVIT OF SERVICE OF PETITION FOR DISCIPLINE	
01/22/2016	ANSWER TO PETITION FILED BY RESPONDENT	
02/02/2016	PETITION REFERRED TO HEARING COMMITTEE	ZEMLOCK, MCLEMORE, DATORRE
02/26/2016	PREHEARING CONFERENCE HELD	ZEMLOCK
03/31/2016	HEARING HELD	ZEMLOCK, MCLEMORE, DATORRE
04/18/2016	BRIEF FILED WITH HEARING COMMITTEE BY ODC	
06/01/2016	BRIEF FILED WITH HEARING COMMITTEE BY RESPONDENT	
07/28/2016	HC REPORT FILED	PUBLIC REPRIMAND
08/03/2016	LETTER ADVISING NO BRIEF TO BE FILED BY ODC	
09/01/2016	ASSIGNMENT TO REVIEWING BOARD MEMBER	JOHN P. GOODRICH
09/01/2016	LISTED FOR ADJUDICATION	10/13/2016 - HERSHY

10/13/2016	ADJUDICATED BY THE BOARD	PUBLIC REPRIMAND WITH CONDITION
10/18/2016	PUBLIC REPRIMAND ORDERED WITH CONDITION	
10/19/2016	COSTS ASSESSED BY ORDER	\$551.50
12/08/2016	NOTICE TO APPEAR FOR PUBLIC REPRIMAND	01/04/2017, 9:30 A.M., D1
01/04/2017	REPRIMAND NOT ADMINISTERED	COSTS NOT PAID/NO PROOF OF COMPLIANCE
02/17/2017	NOTICE TO APPEAR FOR PUBLIC REPRIMAND	03/15/2017, 10:00 A.M., D1
03/16/2017	NOTICE TO APPEAR FOR PUBLIC REPRIMAND (CONTINUED – SNOW STORM)	04/05/2017, 10:00 AM, D1
04/05/2017	FAILED TO APPEAR FOR REPRIMAND	
04/21/2017	COSTS PAID BY RESPONDENT	\$551.50
05/04/2017	BOARD RULE TO SHOW CAUSE ISSUED	WHY NOT REFER TO SC FOR PUBLIC CENSURE?

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL : No. 152 DB 2015
Petitioner
v. : Attorney Registration No. 79423
JAMES E. TONE :
Respondent : (Montgomery County)

ORDER

AND NOW, this 18 day of October, 2016, upon consideration of the Report and
Recommendation of the Hearing Committee filed on July 28, 2016; it is

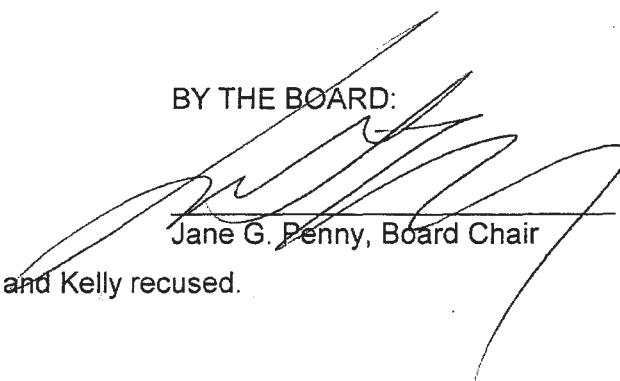
ORDERED that JAMES E. TONE of Montgomery County shall be subjected to a
PUBLIC REPRIMAND WITH CONDITION imposed by the Disciplinary Board of the Supreme
Court of Pennsylvania as provided in Rule 204(a)(5) and (b) of the Pennsylvania Rules of
Disciplinary Enforcement.

Within thirty (30) days from the date of this Order, Respondent shall submit to the
Secretary of the Board and Disciplinary Counsel proof that he has:

1. Paid the Court-ordered costs of \$813.00 to Raquel Childs in the
Childs/Ashford matter.

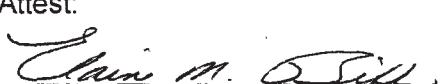
Failure to comply with the above Condition shall be grounds for further action in
accordance with the provisions of Enforcement Rule 208(f)(5). Costs shall be paid by the
Respondent.

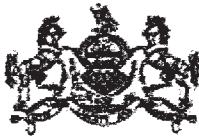
BY THE BOARD:


Jane G. Penny, Board Chair

Board Members Haggerty, Trevelise and Kelly recused.

TRUE COPY FROM RECORD
Attest:


Elaine M. Bixler, Secretary Emerita
The Disciplinary Board of the
Supreme Court of Pennsylvania



THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA
601 Commonwealth Avenue, Suite 5600
PO Box 62625
Harrisburg, PA 17106-2625

NOTICE TO APPEAR FOR PUBLIC REPRIMAND
FOLLOWING FORMAL PROCEEDINGS

Date: December 8, 2016

OFFICE OF DISCIPLINARY COUNSEL	:	No. 152 DB 2015
Petitioner	:	
	:	
V.	:	Attorney Registration No. 79423
	:	
JAMES E. TONE	:	
Respondent	:	(Montgomery County)

To: James E. Tone
PO Box 43
Lafayette Hill, PA 19444-1427

By this notice issued pursuant to Rule 208(d)(2)(ii) of the Pennsylvania Rules of Disciplinary Enforcement and Board Rule § 89.205(c)(1), you are directed to appear before a designated panel of three Members of The Disciplinary Board of the Supreme Court of Pennsylvania on Wednesday, January 4, 2017 at 9:30 a.m. in the Hearing Room of the District I Office of Disciplinary Counsel, Suite 3320, 1601 Market Street, Philadelphia, PA 19103, for the purpose of receiving a public reprimand, which has been determined to be the appropriate discipline in this matter.

Enforcement Rule 203(b)(2) and (c) expressly provides that willful failure to appear before the Board for public reprimand shall be an independent ground for discipline and that the Board is a "tribunal" within the meaning of the Disciplinary Rules (see, e.g. RPC 3.3, 3.4(c) and 3.5). Board Rule § 89.205(e) further provides that failure to appear as directed, without good cause, shall automatically convert the decision of the Board on Public Reprimand into a recommendation to the Supreme Court for Public Censure.

Board Rule 89.205(f) provides that a respondent-attorney who is unwilling to have the matter concluded by public reprimand may demand Supreme Court consideration of the matter. An intention on your part to demand Supreme Court consideration was not submitted to the Office of the Secretary within 30 days after notice of the determination of the Board as provided in Rule 208(d)(2)(iii), Pa.R.D.E. A copy of the Disciplinary Board Order is enclosed.

REGULAR MAIL & CERTIFIED MAIL
RETURN RECEIPT REQUESTED

cc: Paul J. Killion, Chief Disciplinary Counsel

Unusual D Sloan

Office of the Secretary



THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA
601 Commonwealth Avenue, Suite 5600
PO Box 62625
Harrisburg, PA 17106-2625

NOTICE TO APPEAR FOR PUBLIC REPRIMAND
FOLLOWING FORMAL PROCEEDINGS

Date: February 21, 2017

OFFICE OF DISCIPLINARY COUNSEL	:	No. 152 DB 2015
Petitioner	:	
	:	
V.	:	Attorney Registration No. 79423
	:	
JAMES E. TONE	:	
Respondent	:	(Montgomery County)

To: James E. Tone
PO Box 43
Lafayette Hill, PA 19444-1427

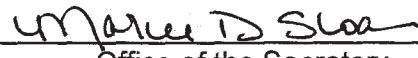
By this notice issued pursuant to Rule 208(d)(2)(ii) of the Pennsylvania Rules of Disciplinary Enforcement and Board Rule § 89.205(c)(1), you are directed to appear before a designated panel of three Members of The Disciplinary Board of the Supreme Court of Pennsylvania on Wednesday, March 15, 2017 at 10:00 a.m. in the Hearing Room of the District Office of Disciplinary Counsel, Suite 3320, 1601 Market Street, Philadelphia, PA 19103, for the purpose of receiving a public reprimand, which has been determined to be the appropriate discipline in this matter.

Enforcement Rule 203(b)(2) and (c) expressly provides that willful failure to appear before the Board for public reprimand shall be an independent ground for discipline and that the Board is a "tribunal" within the meaning of the Disciplinary Rules (see, e.g. RPC 3.3, 3.4(c) and 3.5). Board Rule § 89.205(e) further provides that failure to appear as directed, without good cause, shall automatically convert the decision of the Board on Public Reprimand into a recommendation to the Supreme Court for Public Censure.

Board Rule 89.205(f) provides that a respondent-attorney who is unwilling to have the matter concluded by public reprimand may demand Supreme Court consideration of the matter. An intention on your part to demand Supreme Court consideration was not submitted to the Office of the Secretary within 30 days after notice of the determination of the Board as provided in Rule 208(d)(2)(iii), Pa.R.D.E. A copy of the Disciplinary Board Order is enclosed.

REGULAR MAIL & CERTIFIED MAIL
RETURN RECEIPT REQUESTED

cc: Paul J. Killion, Chief Disciplinary Counsel


Michael D. Sloan
Office of the Secretary

7396 9008 9111 6865 5271

TO: JAMES E. TONE
PO BOX 43
LAFAYETTE HILL, PA 19444-1427

SENDER:



2. Article Number

REFERENCE: 152 DB 2015 - Notice to Appear

PS Form 3800, January 2005

Postage	0.46
Certified Fee	3.35
Return Receipt Fee	2.75
Restricted Delivery	0.00
Total Postage & Fees	6.56

Receipt for
Certified Mail™

POSTMARK OR DATE
No Insurance Coverage Provided
Do Not Use for International Mail

COMPLETE THIS SECTION ON DELIVERY	
A. Received by (Please Print Clearly)	B. Date of Delivery
Aug 16	31/01/17
C. Signature	
D. Is delivery address different from item 1? If YES, enter delivery address below:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

3. Service Type CERTIFIED MAIL™
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes
1. Article Addressed to:
JAMES E. TONE PO BOX 43 LAFAYETTE HILL, PA 19444-1427

Reference Information

152 DB 2015 - Notice to Appear



THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA
601 Commonwealth Avenue, Suite 5600
PO Box 62625
Harrisburg, PA 17106-2625

NOTICE TO APPEAR FOR PUBLIC REPRIMAND
FOLLOWING FORMAL PROCEEDINGS

Date: March 15, 2017

OFFICE OF DISCIPLINARY COUNSEL : No. 152 DB 2015
Petitioner

v. : Attorney Registration No. 79423

JAMES E. TONE : (Montgomery County)
Respondent

To: James E. Tone
PO Box 43
Lafayette Hill, PA 19444-1427

By this notice issued pursuant to Rule 208(d)(2)(ii) of the Pennsylvania Rules of Disciplinary Enforcement and Board Rule § 89.205(c)(1), you are directed to appear before a designated panel of three Members of The Disciplinary Board of the Supreme Court of Pennsylvania on Wednesday, April 5, 2017 at 10:00 a.m. in the Hearing Room of the District I Office of Disciplinary Counsel, Suite 3320, 1601 Market Street, Philadelphia, PA 19103, for the purpose of receiving a public reprimand, which has been determined to be the appropriate discipline in this matter.

Enforcement Rule 203(b)(2) and (c) expressly provides that willful failure to appear before the Board for public reprimand shall be an independent ground for discipline and that the Board is a "tribunal" within the meaning of the Disciplinary Rules (see, e.g. RPC 3.3, 3.4(c) and 3.5). Board Rule § 89.205(e) further provides that failure to appear as directed, without good cause, shall automatically convert the decision of the Board on Public Reprimand into a recommendation to the Supreme Court for Public Censure.

Board Rule 89.205(f) provides that a respondent-attorney who is unwilling to have the matter concluded by public reprimand may demand Supreme Court consideration of the matter. An intention on your part to demand Supreme Court consideration was not submitted to the Office of the Secretary within 30 days after notice of the determination of the Board as provided in Rule 208(d)(2)(iii), Pa.R.D.E. A copy of the Disciplinary Board Order is enclosed.

REGULAR MAIL & CERTIFIED MAIL
RETURN RECEIPT REQUESTED

cc: Paul J. Killion, Chief Disciplinary Counsel

Marie D. Sloan

Office of the Secretary

**DISCIPLINARY BOARD
EXECUTIVE OFFICE**



PENNSYLVANIA JUDICIAL CENTER
601 COMMONWEALTH AVENUE, SUITE 5600
PO BOX 62625
HARRISBURG, PA 17106-2625

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL®

U.S. POSTAGE > PITNEY BOWES



ZIP 17001 \$ 006.56⁰
02 1W
0001400007 MAR 16 2017



9414 7266 9904 2068 1249 83

RETURN RECEIPT REQUESTED

James E. Tone
PO Box 43
Lafayette Hill, PA

RECEIVED

1st NOTICE 4/16/17
2nd NOTICE 4/16/17
RETURNED 4/16/17

176 DE 0004/21/17
RETURN TO SENDER
INCLAIMED
UNABLE TO FORWARD

UNCC 176-62625
17106-2625

9414 7266 9904 2068 1249 83

TO: James E. Tone
PO Box 43
Lafayette Hill, PA 19444-1427

SENDER:

REFERENCE: APPEAR NOTICE -152 DB 2015

PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	0.46
	Certified Fee	3.35
	Return Receipt Fee	2.75
	Restricted Delivery	0.00
	Total Postage & Fees	6.56

USPS®

POSTMARK OR DATE

**Receipt for
Certified Mail®**

No Insurance Coverage Provided
Do Not Use for International Mail

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL : No. 152 DB 2015
Petitioner :
V. :
Attorney Registration No. 79423
JAMES E. TONE :
Respondent : (Montgomery County)

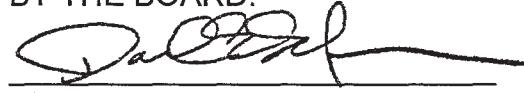
ORDER AND RULE TO SHOW CAUSE

AND NOW, this 4th day of May, 2017, a Rule is hereby issued upon Respondent, James E. Tone, to show cause why his neglect or refusal to appear for a Public Reprimand on April 5, 2017, should not be automatically converted into a recommendation to the Supreme Court for Public Censure in accordance with Disciplinary Board Rule 89.205(e).

Respondent is further directed to show cause why his failure to provide proof of compliance with the condition attached to the Order of this Board dated October 18, 2016 should not be grounds for reconsideration of the matter and prosecution of additional formal charges against the Respondent.

The Rule to show cause is returnable within thirty (30) days from service of notice of this Order.

BY THE BOARD:


Chair

TRUE COPY FROM RECORD
Attest:

Marceé D. Sloan
Marceé D. Sloan, Prothonotary
The Disciplinary Board of the
Supreme Court of Pennsylvania

7196 9008 9111 6865 5288

TO: JAMES E. TONE

PO BOX 43

LAFAYETTE HILL, PA 19444-1427

SENDER:

REFERENCE: 152 DB 2015 - Notice to Appellee

PLSC

Postage	0.46
Certified Fee	3.35
RETURN SERVICE	2.75
Postage	0.00
Total Postage & Fees	6.56

PS Form 3800, January 2005

Receipt for
Certified Mail™

Do Not Use for International Mail

No Insurance Coverage Provided

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)	B. Date of Delivery
	
<input type="checkbox"/> Signature	<input type="checkbox"/> Agent
<input type="checkbox"/> Restricted Delivery	<input type="checkbox"/> Addressee
C. Is delivery address the same as above?	
<input type="checkbox"/> Yes	
<input type="checkbox"/> No	
D. If YES, enter delivery address below:	
MAY 17 2017	



7196 9008 9111 6865 5288

3. Service Type CERTIFIED MAIL™

4. Restricted Delivery? (Extra Fee) Yes

1. Article Addressed to:

JAMES E. TONE
PO BOX 43
LAFAYETTE HILL, PA 19444-1427

152 DB 2015

255C
255C