

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 1340 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 184 DB 2007
v.	:	
	:	Attorney Registration No. 34239
THOMAS JAMES BONAVIDA,	:	
Respondent	:	(Warren County)

ORDER

PER CURIAM:

AND NOW, this 27th day of January, 2009, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated October 3, 2008, the Joint Petition in Support of Discipline on Consent is hereby granted pursuant to Rule 215(g), Pa.R.D.E., and it is

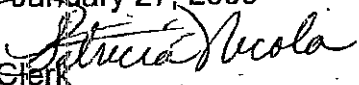
ORDERED that Thomas James Bonavita is suspended on consent from the Bar of this Commonwealth for a period of two years, the suspension is stayed in its entirety and he is placed on probation for a period of two years, subject to the following conditions:

1. Respondent shall abstain from using alcohol or any other mind-altering chemical;
2. Respondent shall regularly attend Alcoholics Anonymous meetings on a weekly basis;
3. Respondent shall obtain a sponsor in Alcoholics Anonymous and maintain weekly contact with that sponsor;

4. Respondent shall abide by the terms and conditions of Judge Morgan's Sentencing Order dated December 14, 2007, as to Criminal Action No. 2007-106;
5. A sobriety monitor shall be appointed to monitor Respondent in accordance with Disciplinary Board Rule §89.293(c);
6. Respondent shall furnish his sobriety monitor with his Alcoholics Anonymous sponsor's name, address and telephone number;
7. Respondent shall establish his weekly attendance at Alcoholics Anonymous meetings by providing written verification to the Board on a Board-approved form;
8. Respondent shall undergo any counseling, out-patient or in-patient treatment, prescribed by a physician or alcohol counselor;
9. Respondent shall file with the Secretary of the Board quarterly written reports;
10. With the sobriety monitor, Respondent shall:
 - a) meet at least twice a month;
 - b) maintain weekly telephone contact;
 - c) provide the necessary properly executed written authorizations to verify his compliance with the required substance abuse treatment; and
 - d) cooperate fully.
11. The appointed sobriety monitor shall:
 - a) monitor Respondent's compliance with the terms and conditions of the order imposing probation;
 - b) assist Respondent in arranging any necessary professional or substance abuse treatment;
 - c) meet with Respondent at least twice a month and maintain weekly telephone contact with Respondent;

- d) maintain direct monthly contact with the Alcoholics Anonymous chapter attended by the Respondent;
- e) file with the Secretary of the Board quarterly written reports; and
- f) immediately report to the Secretary of the Board any violations by the Respondent of the terms and conditions of the probation.

IT IS FURTHER ORDERED that the stayed suspension and two-year period of probation shall take effect upon the issuance of an Order of this Court granting Respondent's reinstatement to the practice of law at No. 973 Disciplinary Docket No. 3.

A True Copy Patricia Nicola
As of: January 27, 2009
Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

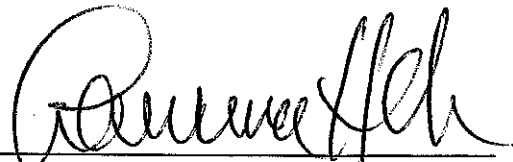
OFFICE OF DISCIPLINARY COUNSEL : No. 1340 Disciplinary Docket No. 3
Petitioner :
 : No. 184 DB 2007
v. :
 : Attorney Registration No. 34239
THOMAS JAMES BONAVIDA :
Respondent : (Warren County)

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 Laurence H. Brown, Stewart L. Cohen and David A. Nasatir, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on September 8, 2008.

The Panel approves the Petition consenting to a two year suspension to be stayed in its entirety and two years 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.



Laurence H. Brown, Panel Chair
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date: 10/3/08

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1340 Disciplinary Docket
: No. 3 – Supreme Court
Petitioner :
: No. 184 DB 2007 - Disciplinary
v. : Board
:
THOMAS JAMES BONAVIDA, : Attorney Registration No. 34239
:
Respondent : (Warren County)

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

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION
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(412) 565-3173

and

Craig E. Simpson, Esquire
Counsel for Respondent
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Pittsburgh, PA 15221
(412) 731-3100

FILED

SEP 08 2008

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

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1340 Disciplinary Docket
: No. 3 – Supreme Court
Petitioner :
: No. 184 DB 2007 - Disciplinary
v. : Board
: .
THOMAS JAMES BONAVIDA, : Attorney Registration No. 34239
: .
Respondent : (Warren County)

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

Petitioner, Office of Disciplinary Counsel, by Paul J. Killion, Chief Disciplinary Counsel, and Mark G. Weitzman, Disciplinary Counsel, and Respondent, Thomas James Bonavita, by Craig E. Simpson, Esquire, file this Joint Petition In Support Of Discipline On Consent Under Rule 215(d), Pennsylvania Rules of Disciplinary Enforcement (Pa.R.D.E.) and respectfully represent that:

1. Petitioner, whose principal office is located at Suite 1400, 200 North Third Street, Harrisburg, Pennsylvania 17101, is invested, pursuant to Rule 207, Pa.R.D.E., 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, Thomas James Bonavita, was born in 1957. He was admitted to practice law in the Commonwealth of Pennsylvania on October 27, 1981. His attorney registration address is 406 4th Avenue, Warren, PA, 16365. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent is currently suspended from the practice of law. Pursuant to an Order of the Supreme Court, dated December 16, 2005, Respondent was suspended for a period of three years, retroactive to December 17, 2004.

(a) Respondent had been convicted of the crime of Indecent Assault, in violation of 18 Pa.C.S.A. §3126(1), in McKean County, Pennsylvania.

(b) After a Petition for Discipline was filed against Respondent based upon that conviction and a disciplinary hearing was held, the Hearing Committee issued its report and recommended to the Disciplinary Board that Respondent be suspended for thirty-six (36) months, retroactive to December 17, 2004, the date the Supreme Court had entered an Order placing Respondent on temporary suspension, pursuant to Rule 214(d)(2), Pa.R.D.E., based upon that conviction.

(c) Shortly after the Hearing Committee issued its Report, Petitioner and Respondent submitted to the Secretary of the Disciplinary

Board a Joint Petition In Support Of Discipline On Consent Under Rule 215(d), Pa.R.D.E., and a Three-Member Panel of the Disciplinary Board approved the Petition consenting to a thirty-six (36) month suspension retroactive to December 17, 2004 and recommended to the Supreme Court that the Joint Petition be granted.

(d) The Supreme Court granted the Joint Petition and issued the December 16, 2005 Order.

4. By letter dated December 20, 2007, Chief Disciplinary Counsel provided the Supreme Court Prothonotary with certified copies of court documents as to Respondent having been convicted in Warren County, Pennsylvania concerning two separate criminal informations, and requested that since Respondent was currently suspended from the practice of law, the Supreme Court enter an Order referring the entire matter to the Disciplinary Board for institution of formal proceedings.

5. The Supreme Court of Pennsylvania then issued an Order, dated March 26, 2008, that Respondent having been convicted in the Court of Common Pleas of the 37th Judicial District, Warren County Branch, of the crimes of driving under the influence of alcohol or a controlled substance, general impairment, careless driving, driving under the influence of alcohol or a controlled substance, highest rate of alcohol, and driving while under suspension, the matter was referred to the Disciplinary Board pursuant to Rules 214(f)(1) and (g), Pa.R.D.E.

6. Based upon that Order, Petitioner filed a two-charge Petition for Discipline against Respondent with the Secretary of the Disciplinary Board on April 25, 2008 regarding Respondent's two convictions in Warren County, Pennsylvania.

SPECIFIC FACTUAL ADMISSIONS AND
RULES OF PROFESSIONAL CONDUCT VIOLATED

7. Respondent stipulates that the following factual allegations contained in the Petition for Discipline are true and correct.

Charge I

8. On October 21, 2005, at about 9:46 p.m., Officer Eric A. Robbins, of the City of Warren Police Department, while driving a fully-marked patrol car in the City of Warren, stopped a Nissan truck operated by Respondent after Officer Robbins observed the truck swerving within its lane until it had to swerve to avoid hitting a parked car.

9. Officer Robbins smelled the odor of an alcoholic beverage coming from Respondent and noticed that Respondent's speech was slurred and his eyes were bloodshot. Respondent was the sole occupant of the truck.

10. Officer Robbins asked Respondent to exit the vehicle so he could conduct a sobriety test upon Respondent.

11. Officer Robbins observed that Respondent had a difficult time

exiting the vehicle and once he stood on the roadway, he almost fell and had to hold on to the side of the truck to keep his balance.

12. Officer Robbins determined that a sobriety test might endanger Respondent due to him falling and injuring himself. He then placed Respondent under arrest as he believed that Respondent was under the influence of alcohol to such a degree that he was incapable of safe driving.

13. Respondent was then transported to the Warren General Hospital for chemical testing of his blood. Once at the hospital, Respondent refused on several occasions to submit to chemical testing of his blood.

14. On March 7, 2005, a Criminal Information was filed in the Court of Common Pleas of Warren County, at Criminal Action No. 2006-66, relating to the above, which charged Respondent with:

(a) Count 1, 75 Pa.C.S.A. §3802(a)(1), Driving Under Influence Of Alcohol Or Controlled Substance, General Impairment (for driving after imbibing a sufficient amount of alcohol such that he was rendered incapable of safely driving);

(b) Count 2, 75 Pa.C.S.A. §3802(a)(1), Driving Under Influence Of Alcohol Or Controlled Substance, General Impairment (for driving after imbibing a sufficient amount of alcohol such that he was rendered incapable of safely driving and refusing to provide a sample of his breath or blood for chemical testing); and,

(c) Count 3, 75 Pa.C.S.A. §3714, Careless Driving (for driving in careless disregard for the safety of persons or property while driving under the influence of alcohol).

15. On September 26, 2006, after a non-jury trial, Judge Maureen D. Skerda found Respondent guilty of all three counts.

16. Respondent's conviction of 75 Pa.C.S.A. §3802(a)(1), as to Count 1, was his first offense and, pursuant to 75 Pa.C.S.A. §3803(a)(1), is punishable by a term of imprisonment of not more than six months.

17. Respondent's conviction of 75 Pa.C.S.A. §3802(a)(1), as to Count 2, was his first offense and, pursuant to 75 Pa.C.S.A. §3803(b)(2), is an ungraded misdemeanor punishable by a term of imprisonment of not more than six months.

18. Respondent's conviction of 75 Pa.C.S.A. §3714, as to Count 3, is a summary offense punishable by a term of imprisonment of not more than ninety (90) days, pursuant to 18 Pa.C.S.A. §1105.

19. As to Criminal Action Number 2006-66, on October 27, 2006, sentence was imposed by Judge Maureen A. Skerda.

20. As to Counts 1 and 2, Respondent was sentenced to:

(a) Commitment to the Warren County Jail for a minimum period of seventy-two (72) hours to a maximum period of six (6) months;

(b) Pay the cost of prosecution, pay a fine of \$1,000, pay a surcharge of \$50, pay additional costs under Act 198 of 2002 of \$100, and pay an administrative fee to the Warren County Probation Department of \$250;

(c) Attend and successfully complete, at his cost and expense, the Alcohol Highway Safety School Program of Warren County or any other similar program approved by the Probation Department and cooperate completely with teachers and other personnel of the school;

(d) Undergo a drug and alcohol evaluation and complete any counseling, therapy, training, and/or treatment that is recommended as a result of such evaluation, at his cost and expense;

(e) Have his operator's license suspended for a period of one (1) year;

(f) Attend the Warren County Victim Impact Panel or any other similar program approved by the Probation Department at his cost and expense; and,

(g) Complete fifteen (15) hours of community service.

21. As to Count 3, Respondent was sentenced to pay a fine of \$25 and a surcharge of \$30.

22. Judge Skerda's Order directed that, pursuant to Local Rule 1405, Respondent abide by all rules and conditions of probation/parole and also directed that this sentence be deferred pending appeal.

23. Respondent filed a timely notice of appeal with the Superior Court and on August 7, 2007, the Superior Court affirmed Respondent's convictions.

24. Respondent's above-described conduct violated Rule of Professional Conduct 8.4(b), which states "It is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects."

Charge II

25. On March 6, 2007, a Criminal Information was filed in the Court of Common Pleas of Warren County, at Criminal Action No. 2007-106, as to conduct that occurred on January 24, 2007, which charged Respondent with:

(a) Count 1, 75 Pa.C.S.A. §3802(a)(1), Driving Under The Influence Of Alcohol Or Controlled Substance, General Impairment (for driving after imbibing a sufficient amount of alcohol such that he was rendered incapable of safely driving);

(b) Count 2, 75 Pa.C.S.A. §3802(c), Driving Under The Influence Of Alcohol Or Controlled Substance, Highest Rate Of Alcohol,

(for driving after imbibing a sufficient amount of alcohol such that the alcohol concentration in his blood or breath was .23 percent);

(c) Count 3, 75 Pa.C.S.A. §1543(b)(1)(1.1)(i), Driving While Under Suspension (for driving when his operator's license was suspended and having an amount of alcohol by weight in his blood that is equal to or greater than .02 percent at the time of testing); and,

(d) Count 4, 75 Pa.C.S.A. §3809(a), Restriction On Alcoholic Beverages (for having an open sixteen (16) ounce can of beer in the vehicle while he was in the vehicle on a highway).

26. On September 7, 2007, Respondent entered a plea of guilty to Counts 1, 2, and 3 and the Court accepted the plea. Count 4 was then nolle prossed.

27. Respondent's conviction of 75 Pa.C.S.A. §3802(a)(1), as to Count 1, was his second offense and, pursuant to 75 Pa.C.S.A. 3803(a)(1), is an ungraded misdemeanor punishable by a term of imprisonment of not more than six (6) months.

28. Respondent's conviction of 75 Pa.C.S.A. §3802(c), as to Count 2, was his second offense and, pursuant to 75 Pa.C.S.A. §3803(b)(4), is a misdemeanor of the first degree, which is punishable by a term of imprisonment of not more than five (5) years, pursuant to 18 Pa.C.S.A. §1104(1).

29. Respondent's conviction of 75 Pa.C.S.A. §1543(b)(1)(1.1)(i), as to Count 3, was his first offense and, pursuant to 75 Pa.C.S.A. §1543(b)(1)(1.1)(i), is a summary offense punishable by a term of imprisonment of not less than ninety (90) days.

30. As to Criminal Action Number 2007-106, on December 14, 2007, sentence was imposed by Judge William F. Morgan.

31. As to Count 3, Respondent was sentenced to:

(a) Commitment to the Warren County Jail for a minimum period of ninety (90) days, to run consecutive to the sentence he was serving at Criminal Action Number 2006-66, with credit given for time served;

(b) Pay the cost of prosecution and pay a fine of \$1,000; and,

(c) Have his operator's license suspended for a period of one (1) year.

32. As to Counts 1 and 2, Respondent was sentenced to:

(a) At his cost and expense, serve a period of Intermediate Punishment of five (5) years including a minimum period of thirty (30) days of confinement in an inpatient rehabilitation facility, followed by one hundred twenty (120) days on the SCRAM system, during which time he shall attend weekly outpatient counseling that "could taper to bi-weekly

after six to eight weeks, to monthly, et cetera," followed by fifty-five (55) months of consecutive supervision by the Warren County Probation Department, during which time regular attendance and formal acceptance of an AA program was also recommended, with this sentence to run consecutively to the prior sentence at Count 3;

(b) Pay the cost of prosecution, pay a fine of \$1,500, pay a surcharge of \$100, pay additional costs under Act 198 of 2002 of \$300, and pay an administrative fee to the Warren County Probation Department of \$500;

(c) Attend and successfully complete, at his expense, the Alcohol Highway Safety School Program of Warren County or any other similar program approved by the Probation Department and cooperate completely with teachers and other personnel of the school;

(d) Have his operator's license suspended for an additional period of eighteen (18) months;

(e) Attend the Warren County Victim Impact Panel or any other similar program approved by the Probation Department at his cost and expense; and,

(f) Complete fifteen (15) hours of community service.

33. Judge Morgan's Order also directed that, pursuant to Local Rule 1405, Respondent abide by all rules and conditions of probation/parole.

34. Respondent did not appeal Judge Morgan's sentence.

35. Respondent's conviction of 75 Pa.C.S.A. §3802(c), as to Count 2, is punishable by imprisonment for one year or upward and, therefore, is a "serious crime" as defined by Rule 214(i), Pa.R.D.E.

36. Respondent's conviction of 75 Pa.C.S.A. §3802(c) constitutes an independent ground for discipline, pursuant to Rule 203(b)(1), Pa.R.D.E.

37. Respondent did not report his conviction of 75 Pa.C.S.A. §3802(c) to the Secretary of the Disciplinary Board within twenty (20) days after the date of sentencing as required by Rule 214(a), Pa.R.D.E.

38. Respondent's failure to timely report his conviction to the Secretary of the Disciplinary Board also constitutes an independent basis for discipline, pursuant to Rule 203(b)(3), Pa.R.D.E.

JOINT RECOMMENDATION FOR DISCIPLINE

39. 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 two (2) years, with the suspension stayed in its

entirety and Respondent placed on probation for a period of two (2) years with the following conditions:

(a) Respondent shall abstain from using alcohol or any other mind-altering chemical;

(b) Respondent shall regularly attend Alcoholics Anonymous meetings on at least a weekly basis;

(c) Respondent shall maintain a sponsor in Alcoholics Anonymous and maintain weekly contact with that sponsor;

(d) Respondent shall abide by the terms and conditions of Judge Morgan's Sentencing Order, dated December 14, 2007, as to Criminal Action No. 2007-106;

(e) A sobriety monitor shall be appointed to monitor Respondent in accordance with Disciplinary Board Rule Section 89.293(c);

(f) Respondent shall furnish his sobriety monitor with his Alcoholics Anonymous sponsor's name, address, and telephone number;

(g) Respondent shall establish his weekly attendance at Alcoholics Anonymous meetings by providing written verification to the Board on a Board approved form;

(h) Respondent shall undergo any counseling, out-patient or in-patient treatment, prescribed by a physician or alcohol counselor;

(i) Respondent shall file with the Secretary of the Board quarterly written reports;

(j) With the sobriety monitor, Respondent shall:

(i) Meet at least twice a month;

(ii) Maintain weekly telephone contact;

(iii) Provide the necessary properly executed written authorizations to verify his compliance with the required substance abuse treatment; and,

(iv) Cooperate fully.

(k) The appointed sobriety monitor shall:

(i) Monitor Respondent's compliance with the terms and conditions of the Supreme Court's Order imposing the stayed suspension with probation;

(ii) Assist Respondent in arranging any necessary professional or substance abuse treatment;

(iii) Meet with Respondent at least twice a month and maintain weekly telephone contact with Respondent;

(iv) Maintain direct monthly contact with Respondent's Alcoholics Anonymous sponsor and the Alcoholics Anonymous Chapter attended by the Respondent;

(v) File with the Secretary of the Board quarterly written reports; and,

(vi) Immediately report to the Secretary of the Board any violations by Respondent of the terms and conditions of the probation.

40. As Respondent is still suspended from the practice of law, should the three member Board panel approve this Joint Petition and recommended discipline and the Supreme Court issue an Order granting the Joint Petition and ordering the recommended discipline, Petitioner and Respondent jointly recommend that the ordered two year stayed suspension with a two year period of probation not become effective as of the date that the Supreme Court issues that Order.

41. Respondent desires to resume the practice of law and, to that end, intends to file a Petition for Reinstatement upon the resolution of this disciplinary prosecution. Petitioner and Respondent, therefore, jointly recommend that should Respondent undergo the reinstatement process and the Supreme Court

enters an Order reinstating Respondent to the practice of law, the two year stayed suspension with a two year period of probation would become effective on the date that said Supreme Court Order of reinstatement is issued.

42. While the delayed effective date of the Supreme Court Order is unusual, it is jointly recommended in this case because:

(a) Should Respondent violate the terms of his probation imposed in this case after he is reinstated to the practice of law, Petitioner will be able to request that Respondent be suspended for the two (2) year period, pursuant to the procedure outlined in Section 89.292 of the Board Rules regarding violation of probation; and,

(b) Respondent considers the two year suspension that may be ordered if he violates the terms of his probation after he is reinstated as further incentive for him to maintain his sobriety.

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

44. In support of Petitioner and Respondent's joint recommendation, it is respectfully submitted that it is an aggravating factor that Respondent is a recidivist, as he has been the subject of the following discipline in Pennsylvania:

(a) As described in paragraph 3 above, pursuant to an Order of the Supreme Court dated December 16, 2005, Respondent was suspended from the practice of law for a period of three years, retroactive to December 17, 2004, based upon his conviction of the crime of Indecent Assault in McKean County, Pennsylvania. The conviction was based on an incident that occurred on February 18, 2003 between 2:30 p.m. and 3:00 p.m. while Respondent was meeting with the victim at her home for the purpose of providing her with legal assistance and advice. During the disciplinary hearing, Respondent testified that at lunchtime on February 18, 2003 he consumed about three or four beers with his lunch;

(b) On May 14, 2003, a Private Reprimand was administered to Respondent by the Board Chair for misconduct regarding his representation of a client in a workers' compensation matter. Respondent requested the Judge to schedule another hearing so he could present further evidence. The Judge granted Respondent's request and gave him notice of the hearing. Respondent told the Judge that he would subpoena lay witnesses to testify for the client at the continued hearing. Respondent wanted to go on vacation but he waited until two days before the hearing to request that the Judge grant a continuance. The Judge denied his

request and ordered that Respondent appear at the hearing or send alternate counsel to represent the client. Respondent did not appear at the hearing, did not send alternate counsel, and did not subpoena any witnesses to appear at the hearing. The client appeared by herself. The Judge then issued an Order closing the record as to all lay testimony. Respondent thereby failed to act with reasonable diligence and promptness in representing a client. As Respondent's conduct denied the client the opportunity to fully present her case, he engaged in conduct that was prejudicial to the administration of justice. Respondent also failed to provide the client with a contingent fee agreement in writing; and,

(c) On October 25, 2000, an Informal Admonition was administered to Respondent for misconduct regarding his representation of a client in a civil action. He failed to act with reasonable diligence and promptness in representing the client by failing to timely file an answer to a complaint in civil action. He failed to advise his client in writing that independent representation was appropriate to consider his offer to make an agreement prospectively limiting his liability to his client for malpractice regarding his offer of a general release to the client in exchange for a refund of her \$200 advance payment of fee. He failed to protect his client's interests upon termination of the representation by failing to refund to her the advance payment of her fee that was not earned. He engaged in conduct prejudicial to the administration of justice by failing to timely file

an answer to a complaint in civil action on behalf of the client, which resulted in the filing of a motion by successor counsel to strike/open default judgment, which necessitated the extra expense of the court's resources to entertain that motion.

45. In support of Petitioner and Respondent's joint recommendation, it is respectfully submitted that there are several mitigating factors:

(a) Respondent has acknowledged that he is an alcoholic;

(b) Respondent has maintained sobriety since August 23, 2007 and he understands that he cannot drink alcohol again because he is an alcoholic and because drinking alcohol will exacerbate his Type II Diabetes;

(c) Since about August 2007, Respondent has been involved in Alcoholics Anonymous and has attended several Alcoholics Anonymous meetings each week;

(d) Sometime in early December 2007, Respondent completed a thirty (30) day inpatient rehabilitation program at the Turning Point Chemical Dependency Treatment Center in Franklin, Pennsylvania;

(e) After a December 10, 2007 evaluation, on December 11, 2007, Respondent began the Intensive Outpatient Program at the Deerfield Center For Addictions Treatment by attending counseling

sessions three times a week for three hours, plus individual counseling sessions for one hour a week. He stayed in that program for just over three months until his health deteriorated due to Type II Diabetes. Since mid-March 2008, he has continued with the individual outpatient treatment;

(f) Respondent has been working with an Alcoholics Anonymous sponsor for about the last seven months;

(g) Respondent has provided Petitioner with a letter from his Alcoholics Anonymous sponsor, dated August 13, 2008, stating that Respondent is actively "working" the twelve step program of recovery and he is dedicated to his program and his "new life";

(h) Respondent has provided Petitioner with a letter from F. David Clifford, M.D., dated August 29, 2008, stating that Respondent is an alcoholic and his alcoholism was a contributing factor in his being charged with driving under the influence of alcohol;

(i) Respondent has also provided Petitioner with a letter from Dr. Clifford, dated September 2, 2008, stating that if Respondent continues with his active participation in Alcoholics Anonymous and in his individual and group therapy at the Deerfield Center for Addiction Treatment, his prognosis for long term recovery is "excellent";

(j) Respondent is in compliance with the terms of Judge Morgan's Sentencing Order, dated December 14, 2007, as to Criminal Action Number 2007-106;

(k) Respondent has admitted engaging in the conduct underlying his convictions and violating the charged Rule of Professional Conduct and Rules of Disciplinary Enforcement;

(l) Respondent has cooperated with Petitioner, as is evidenced by his admissions herein and his consent to the imposition of the jointly recommended discipline;

(m) Respondent accepts responsibility for engaging in the conduct underlying his convictions, as is evidenced by his consent to the imposition of the jointly recommended discipline;

(n) Respondent is remorseful for and embarrassed by his engaging in the conduct underlying his convictions and being convicted of the crimes in question; and,

(o) By oversight, Respondent did not report his conviction as to Criminal Action No. 2007-106 (Charge II) to the Secretary of the Disciplinary Board as required by Rule 214(a), Pa.R.D.E. Respondent did, however, report his conviction as to Criminal Action No. 2006-66 (Charge I) to the Secretary of the Disciplinary Board, even though he was

not required to do so by Rule 214(a) because he had not been convicted of a serious crime.

46. The joint recommendation of a two year suspension, stayed in its entirety, with a two year period of probation, is within the range of discipline imposed by the Supreme Court in other Pennsylvania disciplinary cases involving a lawyer convicted of driving under influence of alcohol and related crimes with similar facts. The lawyers in these other disciplinary cases also had more than one driving under the influence of alcohol conviction, admitted to being an alcoholic, and proved that the lawyer's alcoholism was a factor in causing the misconduct.

47. *In Re Anonymous No. 101 DB 2003*, an unreported case, the Supreme Court issued an Order, dated October 22, 2004, that the lawyer be suspended for a period of two years, the suspension be stayed in its entirety, and he be placed on probation for a period of two years, subject to the stated conditions.

The Disciplinary Board found that the conviction at issue was the lawyer's third conviction for driving under the influence of alcohol. The Board determined that through the testimony of a board certified psychiatrist, the lawyer produced clear and convincing evidence that he was an alcoholic and that his alcoholism caused his misconduct. The psychiatrist also testified as to the history of the

lawyer's alcoholism and his efforts to achieve sobriety through individual and group therapy, as well as through his participation in Alcoholics Anonymous.

The Board stated that the Supreme Court in similar disciplinary cases has imposed a stayed suspension with probationary terms. The Board also stated that this matter, which constituted the lawyer's third conviction of driving under the influence of alcohol and his second disciplinary proceeding for same, was serious enough to require a "length of suspension." The Board found that while it is true that the lawyer's convictions never involved bodily injury to another, he nevertheless engaged in a pattern of conduct which threatened public safety. The Board determined that the ultimate sanction must be tempered by the evidence of his alcoholism and he proved that he is an alcoholic and his alcoholism caused his misconduct. The Board found that clearly, however, the lawyer was in the early stages of his recovery, having been sober for a mere five month at the time of the disciplinary hearing, and the psychiatrist indicated that the continuation of the lawyer's recovery plan for two or three years is crucial to his prognosis. For those reasons, the Board recommended a suspension for two years, to be stayed in its entirety with two years of probation imposed.

48. *In Re Anonymous No. 79 DB 1994*, 32 Pa. D. & C.4th 104 (1995), the Supreme Court ordered issued an Order, dated December 18, 1995, that the lawyer be suspended for a period of three years, that the suspension be stayed in its entirety, and that he be placed on probation for three years, subject to the stated conditions. This is one of the cases cited in *In Re Anonymous 101 DB*

2003 in support of a recommendation of a stayed suspension with probationary terms.

This case involved the lawyer being convicted of driving under the influence of alcohol and failure to drive on the right side of the highway, pursuant to a guilty plea. A breathalyzer was administered to the lawyer and revealed a blood alcohol content of .21 percent.

The Board determined that the lawyer introduced the expert testimony of his treating psychologist and it was her professional opinion that a causal connection existed between the lawyer's alcoholism and his misconduct and the prognosis for the lawyer's recovery was favorable.

The Board stated that it was satisfied that the record supported a finding that the lawyer suffered from alcoholism and that his infirmity led to the conviction. The Board also stated it could not ignore the lawyer's history of discipline. He was suspended for three months in 1988 for a conviction of unlawful possession of a weapon. Prior to graduating from law school, he was arrested and pleaded no contest to vehicular assault. Years before that, he was arrested for disorderly conduct relative to being under the influence of alcohol. The lawyer testified that alcohol or drugs played a role in these incidents.

The Board determined that it perceived this case to be different than a case involving a single driving under the influence of alcohol conviction because the totality of the circumstances presents a lawyer who has been arrested and

convicted of three separate offenses since graduation from law school and two arrests prior to that time. The Board recommended a three year suspension to be stayed with a three year probation period imposed. The Board concluded that the lawyer's placement on probation would adequately protect the interests of both the public and the Bar and enable the lawyer to continue to practice law and make a contribution to the profession.

49. *In Re Anonymous No. 114 DB 1990*, 19 Pa. D. & C.4th 197 (1993), the Supreme Court issued an Order, dated December 13, 1993, that the lawyer be suspended for a period of three years, that the suspension be stayed in its entirety, and that the lawyer be placed on probation for a period of three years, subject to the stated conditions. This is the other case cited in *In Re Anonymous 101 DB 2003* in support of a stayed suspension with probationary terms.

This case involved the lawyer's two convictions for driving under the influence of alcohol. The lawyer was arrested on three occasions within a period of about one month for driving under the influence of alcohol. As to the first arrest, he was accepted into the Accelerated Rehabilitative Disposition program and placed on probation for a period of twelve months with conditions. The lawyer also had other prior convictions for driving under the influence of alcohol.

The Board stated that the lawyer produced substantial evidence of his long-standing battle with alcoholism and that considerable testimony was

proffered regarding his chronic alcohol abuse and the role it played in his convictions. The Board determined that it was satisfied that the record supports a finding that the lawyer suffered from alcoholism and that his alcoholism was a causal factor in his driving while intoxicated. It also determined that the lawyer's alcoholism was a mitigating factor when determining the appropriate discipline.

The Board found that the nature of the lawyer's offenses, the presence of his alcoholism and his ongoing rehabilitation from this "insidious" disease, as well as his past contributions to the field of law and favorable stature within the legal community, combined to make the lawyer a candidate for probation pursuant to Disciplinary Board Rule 89.292. The Board therefore recommended the lawyer be placed on probation as the Board believed that probation will adequately protect the interests of both the public and the Bar and enable the lawyer to continue to make a positive contribution to the practice of law in this Commonwealth.

WHEREFORE, Petitioner and Respondent respectfully request that pursuant to Rule 215(e) and 215(g), Pa.R.D.E., the three member Board 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 of Pennsylvania in which it is recommended that the Supreme Court enter an Order that:

- (a) The Joint Petition be granted;

(b) Respondent be suspended from the practice of law for a period of two (2) years, that the suspension be stayed in its entirety, and that Respondent be placed on probation for a period of two (2) years with the above recommended conditions; and,

(c) The stayed suspension and two (2) year period of probation shall take effect upon the issuance of an Order of the Supreme Court granting Respondent's reinstatement to the practice of law.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION
CHIEF DISCIPLINARY COUNSEL

By Mark G. Weitzman
Mark G. Weitzman
Disciplinary Counsel

and

By Thomas J. Bonavita
Thomas James Bonavita
Respondent

and

By Craig E. Simpson
Craig E. Simpson, Esquire
Counsel for Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1340 Disciplinary Docket
: No. 3 – Supreme Court
Petitioner :
: No. 184 DB 2007 - Disciplinary
v. : Board
: :
THOMAS JAMES BONAVIDA, : Attorney Registration No. 34239
: :
Respondent : (Warren County)

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

Respondent, Thomas James Bonavita, hereby states that he consents to the imposition of a suspension from the practice of law for a period of two (2) years, with the suspension stayed in its entirety and Respondent placed on probation for a period of two (2) years with conditions, as jointly recommended by Petitioner, Office of Disciplinary Counsel, and Respondent in the Joint Petition In Support Of Discipline On Consent pursuant to Rule 215(d), Pa.R.D.E. Respondent further states that:

1. His consent is freely and voluntarily rendered; he is not being subjected to coercion or duress; he is fully aware of the implications of submitting the consent; and, he has consulted with counsel in connection with the decision to consent to discipline;

2. He is aware that there is presently pending a proceeding involving allegations that he is guilty of misconduct as set forth in the Joint Petition;

3. He acknowledges that the material facts set forth in the Joint Petition are true; and,

4. He consents because he knows that if charges were to be prosecuted, he could not successfully defend against them.

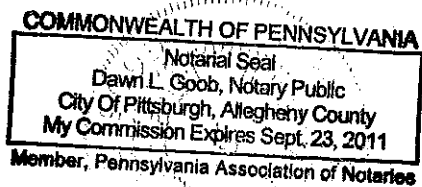
It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S.A. §4904 (relating to unsworn falsification to authorities).

Signed this 8th day of September 2008.

Thomas J. Bonavita
Thomas James Bonavita
Respondent

Sworn to and subscribed
before me this 8th
day of September, 2008.

Dawn L. Goob
Notary Public



BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1340 Disciplinary Docket
: No. 3 – Supreme Court
Petitioner :
: No. 184 DB 2007 - Disciplinary
v. : Board
:
THOMAS JAMES BONAVIDA, : Attorney Registration No. 34239
:
Respondent : (Warren County)

VERIFICATION

The statements contained in the foregoing Joint Petition In Support Of Discipline On Consent Under Rule 215(d), Pa.R.D.E. 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. §4904, relating to unsworn falsification to authorities.

9/8/08

Date

Mark G. Weitzman

Mark G. Weitzman
Disciplinary Counsel

9/8/2008

Date

Thomas J. Bonavita

Thomas James Bonavita
Respondent

7-8-08

Date

Craig E. Simpson
Craig E. Simpson, Esquire
Counsel for Respondent