

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1366 Disciplinary Docket No. 3
Petitioner :
 : No. 71 DB 2007
v. :
 : Attorney Registration No. 87229
ADAM JAMES LEE, :
Respondent : (Delaware County)

ORDER

PER CURIAM:

AND NOW, this 6th day of August, 2008, upon consideration of the Report and Recommendations of the Disciplinary Board dated March 7, 2008, it is hereby

ORDERED that Adam James Lee is suspended from the Bar of this Commonwealth for a period of one year and one day and he shall comply with all the provisions of Rule 217, Pa.R.D.E.

It is further ORDERED that respondent shall pay costs to the Disciplinary Board pursuant to Rule 208(g), Pa.R.D.E.

A True Copy Patricia Nicola

As of: August 6, 2008

Attest:


Chief Clerk

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 71 DB 2007
Petitioner	:	
v.	:	Attorney Registration No. 87229
ADAM JAMES LEE	:	
Respondent	:	(Delaware County)

REPORT AND RECOMMENDATIONS OF
THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

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

Pursuant to Rule 208(d)(2)(iii) of the Pennsylvania Rules of Disciplinary Enforcement, the Disciplinary Board of the Supreme Court of Pennsylvania ("Board") herewith submits its findings and recommendations to your Honorable Court with respect to the above-captioned Petition for Discipline.

I. HISTORY OF PROCEEDINGS

On May 7, 2007, Office of Disciplinary Counsel filed a Petition for Discipline against Adam James Lee, Respondent. The Petition charged Respondent with violations of the Rules of Professional Conduct and Rules of Disciplinary Enforcement arising from his failure to appear before Disciplinary Counsel for the imposition of an Informal Admonition. Respondent did not file an Answer to Petition.

A disciplinary hearing was held on August 21, 2007, before a District II Hearing Committee comprised of Chair Mark D. Damico, Esquire, and Members Kathryn A. Meloni, Esquire, and Daniel J. Donohue, Esquire. Respondent did not appear at the hearing.

The Hearing Committee filed a Report on November 2, 2007, finding that Respondent engaged in professional misconduct and recommending that he be suspended for a period of one year and one day.

This matter was adjudicated at the Disciplinary Board meeting held on January 30, 2008.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, Office of Disciplinary Counsel, whose principal office is located at Suite 1400, 200 North Third Street, Harrisburg, Pennsylvania, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, with the power and the duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of said Rules of Disciplinary Enforcement.

2. Respondent is Adam James Lee. He was born in 1974 and was admitted to practice law in the Commonwealth in 2001. His last attorney registration address was 216 Nottingham Court, Glen Mills, PA 19342-1342. Respondent is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has no prior history of discipline.

4. Respondent was transferred to inactive status by Order of the Supreme Court of Pennsylvania entered on December 15, 2006.

5. By letter dated February 27, 2007, sent by certified mail, return receipt requested and by first-class mail, Paul Killion, Chief Disciplinary Counsel, pursuant to Rule 208(a)(3), Pa.R.D.E., informed Respondent that the reviewing authorities had made a determination to impose an Informal Admonition to dispose of the complaint filed against Respondent by Jane P. Marks, Esquire, at File No. C2-06-74, for certain violations of the Rules, as follows:

a. RPC 1.15(a), 1.15(b), 1.15(c) and former 1.15(d) and 1.15(g), for depositing to his operating account checks in the amount of \$35,000.00 and \$15,000.00 received from his client Leonard Elisio for payment to Geraldine Elisio, in September 2004 and October 2005, respectively, and commingling those funds with his own; for failing to place those funds in an IOLTA account; and for failing to notify Ms. Marks, counsel for Mrs. Elisio, of his receipt of those funds, to maintain those funds in his

account, to distribute the funds to Ms. Marks as required by court order, and to account to Ms. Marks for the funds received;

b. Pa.R.D.E. 219(a),(d), and (e) and RPC 8.4(c), for failing to correct and update his employment and address information set forth in his 2004-2005 PA Attorney's Annual Fee Form and failing to identify therein the account in which at any time after May 1, 2003, he had held funds of a client or third party subject to RPC 1.15; failing to timely file his Annual Fee Form and pay his fee for 2005-2006; and, after being transferred to inactive status in October 2005, for filing in February 2006 an application for Resumption of Active Status for Fiscal Year 2005-2006 in which he falsely stated his employment and failed to identify the account in which he held RPC 1.15 funds; and

c. Pa.R.D.E. 217(b),(c), and (e), for continuing to make court appearances and failing to file with the Disciplinary Board a certification of notice to clients and others of his transfer to inactive status in October 2005.

6. The February 27, 2007 letter also notified Respondent, inter alia, that:

a. the admonition would be administered on March 20, 2007, at the District I Office of Disciplinary Counsel located at 16th Floor, Seven Penn Center, 1635 Market Street, Philadelphia PA 19103-2217;

b. A condition of the admonition was that within six weeks after the scheduled administration of the Informal Admonition, Respondent was to provide proof to Office of Disciplinary Counsel that he had taken five hours of CLE ethics credits;

c. failure to appear for the admonition, without good cause, would constitute an independent act of professional misconduct and would automatically result in the institution of formal proceedings; and

d. he had 20 days to give written notification to Elaine M. Bixler, Secretary of the Disciplinary Board, that he did not wish to accept the informal admonition and that he desired formal proceedings be initiated pursuant to Rule 208(a)(6).

7. Respondent was notified by the Postal Service of attempts to deliver the copy of the February 27, 2007 letter sent by certified mail, but he did not accept or claim it. The copy sent by first-class mail was not returned as undelivered to Chief Disciplinary Counsel by the Postal Service.

8. Respondent never sought to secure the vacation of the Informal Admonition and never requested that formal proceedings be instituted against him.

9. Respondent failed to appear at the District I Office as directed on March 20, 2007.

10. By letter dated March 23, 2007, Chief Disciplinary Counsel advised Respondent that:

a. Respondent had failed to appear for the March 20, 2007 scheduled Informal Admonition;

b. if Respondent had any reason he wished to offer for not appearing at the admonition he should advise Chief Disciplinary Counsel within ten days from the date of his receipt of the March 23, 2007 letter; and

c. more serious disciplinary action would be initiated in the absence of receiving from Respondent any explanation for not appearing for his Informal Admonition.

11. The March 23, 2007 letter was personally served on Respondent on April 5, 2007, at 8:58 A.M. at 216 Nottingham Court, Glen Mills, PA 19342.

12. To date, Respondent has not replied to or attempted to contact Disciplinary Counsel in any manner.

13. To date, Respondent has not provided proof to Office of Disciplinary Counsel that he complied with the CLE condition attached to the February 27, 2007 letter.

14. Personal service of the Petition for Discipline with Notice to Plead was made upon Respondent on May 18, 2007 at 216 Nottingham Court, Glen Mills, PA.

15. Notice of the pre-hearing conference and disciplinary hearing was sent to Respondent by the Secretary of the Disciplinary Board, as required by the Rules.

16. Disciplinary Counsel sent a copy of the notice by first class mail.

17. Personal service of notice of the pre-hearing conference and disciplinary hearing was attempted by Investigator Daniel G. Richer of the Office of Disciplinary Counsel on five different occasions during the months of June and July 2007. On the last occasion, Mr. Richer left the documents inside the front storm door of the residence at 216 Nottingham Court, Glen Mills. Personal service is not required by the Rules.

III. CONCLUSIONS OF LAW

By failing to appear for the imposition of an Informal Admonition, as set forth above, Respondent violated the following Rules of Professional Conduct and Enforcement Rules:

1. RPC 8.4(d) - It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.
2. Pa.R.D.E. 203(b)(2) - Willful failure to appear before Disciplinary Counsel for informal admonition shall constitute misconduct and shall be grounds for discipline.
3. Pa.R.D.E. 214(b) - Conditions may be attached to an informal admonition and failure to comply with such conditions shall be grounds for reconsideration of the matter and prosecution of formal charges against the respondent-attorney.

In addition to the foregoing violations resulting from Respondent's failure to appear, Respondent is conclusively deemed to have violated the following Rules of Professional Conduct and Enforcement Rules as a result of his failure to demand the institution of formal proceedings:

1. RPC 1.15(a) - A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a client-lawyer relationship separate from the lawyer's own property.

2. RPC 1.15(b) - Upon receiving property of a client or third person in connection with a client-lawyer relationship, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client or third person, a lawyer shall promptly deliver to the client or third person any property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

3. RPC 1.15(c) - When in connection with a client-lawyer relationship a lawyer is in possession of property in which two or more persons, one of whom may be the lawyer, claim an interest, the property shall be kept separate by the lawyer until the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.

4. Former RPC 1.15(d) and current RPC 1.15(g) - All Qualified Funds shall be placed in an IOLTA account.

5. RPC 8.4(c) - It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

6. Pa.R.D.E. 217(a) - 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 a pending matter, other than litigation or administrative proceedings, of the...transfer to inactive status and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the ...transfer to inactive status and shall advise said clients to seek legal advice elsewhere.

7. Pa.R.D.E. 217(b) - 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 ...transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the ...transfer to inactive status.

8. Pa.R.D.E. 217(c) - A formerly admitted attorney shall promptly notify, or cause to be notified, of the ...transfer to inactive status, by registered or certified mail, return receipt requested:

a. all persons or their agents or guardians to whom a fiduciary duty is or may be owed at anytime after the... transfer to inactive status, and

b. 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.

9. Pa.R.D.E. 217(d) - Orders imposing..transfer to inactive status shall be effective 30 days after entry. The formerly admitted attorney, after entry of the..transfer to inactive status order, shall not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature.

10. Pa.R.D.E. 217(e) - Within ten days after the effective date of the ...transfer to inactive status order, the formerly admitted attorney shall file with the Board a verified statement showing:

a. that the provisions of the order and these rules have been fully complied with; and

b. 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.

11. Pa.R.D.E. 219(a) - Every attorney admitted to practice in any court of this Commonwealth shall pay an annual fee of \$130.00 under this rule.

IV. DISCUSSION

This matter comes before the Disciplinary Board on a Petition for Discipline charging Respondent with professional misconduct arising out of his failure to appear for an Informal Admonition. Respondent was personally served with the Petition for Discipline and failed to file an Answer. The allegations are deemed admitted. Rule 208(b)(3), Pa.R.D.E.

The charges against Respondent are relatively straightforward. He was found to have engaged in client misconduct warranting an Informal Admonition with conditions. This conduct entailed his failure to deposit to his operating account several checks received from his client. Respondent thereafter commingled these funds with his own. He continued to practice law after transfer to inactive status, failed to pay his annual fee and failed to provide current employment information on his annual fee form. Given the facts of the misconduct, an Informal Admonition, which is the lowest form of discipline available, appears to have been a good result for Respondent. Respondent was given notice of the Informal Admonition and the opportunity to contest the charges by requesting formal proceedings. Nevertheless, Respondent failed to request formal charges, failed to appear for the admonition, and failed to provide good cause for his non-appearance. He made no contact with Office of Disciplinary Counsel regarding his disciplinary issues. The filing of formal charges initiated by a Petition for Discipline followed Respondent's non-appearance.

Respondent's lack of participation continued subsequent to the filing of the Petition for Discipline. From his failure to answer the charges against him to his final act of non-appearance at the disciplinary hearing, Respondent has demonstrated an utter lack of interest in maintaining his ability to practice law.

The Hearing Committee has recommended a suspension of one year and one day. This is also the recommendation of Petitioner. The Board finds this recommendation to be sound. The reasoning behind such recommendation is that it requires Respondent to apply for reinstatement to the bar and demonstrate competence and fitness to practice law. This is especially critical in situations such as this where a respondent has never participated in disciplinary proceedings. The record is devoid of any explanation for Respondent's actions. For the sake of the public, the Board cannot allow Respondent to continue practicing without an assessment of his fitness to do so. Respondent's unwillingness or inability to participate in the process to determine the consequence of his admitted misconduct supports the suspension of one year and one day. Prior discipline cases have resulted in a one year and one day suspension where an attorney fails to appear for an informal admonition or private reprimand and subsequently absents himself from the disciplinary process. Office of Disciplinary Counsel v. William McVay, 112 DB 2002, 984 Disciplinary Docket No. 3 (Pa. Jan. 31, 2005); Office of Disciplinary Counsel v. Kenton O'Neil, 212 DB 2003, 980 Disciplinary Docket No. 3 (Pa. Dec. 22, 2004).

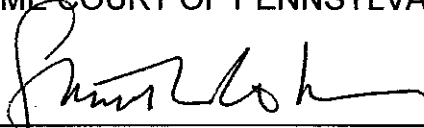
V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Adam James Lee, be Suspended from the bar of this Commonwealth for a period of one year and one day.

It is further recommended that the expenses incurred in the investigation and prosecution of this matter are to be paid by the Respondent.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: 
Stewart L. Cohen, Board Member

Date: March 7, 2008

Board Member Jefferies did not participate in the adjudication of this matter.