

IN THE SUPREME COURT OF PENNSYLVANIA


OFFICE OF DISCIPLINARY COUNSEL, : No. 1526 Disciplinary Docket No. 3
Petitioner :
 : No. 72 DB 2009
v. :
 : Attorney Registration No. 6598
BERNARD L. SIEGEL, :
Respondent : (Philadelphia)

ORDER

PER CURIAM:

AND NOW, this 7th day of October, 2009, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated August 26, 2009, 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 Bernard L. Siegel be subjected to public censure by the Supreme Court.

A True Copy Patricia Nicola
As of: October 7, 2009
Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL : No. 72 DB 2009
Petitioner :
v. : Attorney Registration No. 6598
BERNARD L. SIEGEL :
Respondent : (Philadelphia)

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 Stephan K. Todd, Charlotte S. Jefferies and Douglas W. Leonard, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on July 23, 2009.

The Panel approves the Joint Petition consenting to a Public Censure and recommends to the Supreme Court of Pennsylvania that the attached 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.



Stephan K. Todd, Panel Chair
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date: _____

8/26/09

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. Disciplinary
Petitioner : Docket No.
:
:
v. : No. 72 DB 2009
:
BERNARD L. SIEGEL, : Attorney Regis. No. 6598
:
Respondent : (Philadelphia)

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

Petitioner, Office of Disciplinary Counsel ("ODC"), by Paul J. Killion, Chief Disciplinary Counsel, and Gloria Randall Ammons, Disciplinary Counsel, and by Respondent, Bernard L. Siegel, and Respondent's Counsel, Samuel C. Stretton, Esquire, file this Joint Petition In Support of Discipline on Consent under Pennsylvania Rule of Disciplinary Enforcement (Pa.R.D.E.) 215(d), and respectfully represent that:

1. Petitioner, whose principal office is situated at Suite 1400, 200 North Third Street, Harrisburg, Pennsylvania, 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 prosecute all disciplinary proceedings brought in accordance with the various provisions of said Rules of Disciplinary Enforcement.

2. Respondent, Bernard L. Siegel, was born on September 15, 1938 and was admitted to practice law in the Commonwealth of Pennsylvania

FILED

JUL 23 2009

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

of Pennsylvania on October 5, 1964.

3. Respondent's office for the practice of law is located at Suite 1915, 1515 Market Street, Philadelphia, PA 19102-1920.

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

5. On May 11, 2009, Petitioner filed a Petition for Discipline against Respondent with the Secretary of the Disciplinary Board.

6. On June 5, 2009, Respondent filed his Answer to the Petition for Discipline.

**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 and that he violated the charged Rules of Professional Conduct.

Charge I: THE VASS APPEAL

8. In July 2007, Respondent was appointed to represent Norvel Vass in his Superior Court appeal, Docket No. 1375 EDA 2007.

9. On July 25, 2007, the Letter of Appointment was docketed in Superior Court.

10. On September 6, 2007, Mr. Vass filed a *pro se* application for extension of time to file his brief.

11. By Order dated September 11, 2007, the Superior Court denied Mr. Vass's *pro se* motion for an extension to file his brief because Respondent represented Mr. Vass.

12. On September 20, 2007, Respondent filed an application for extension of time to file a brief on behalf of Mr. Vass.

13. By Order dated September 25, 2007, the Superior Court granted Respondent's application, extended the deadline to file a brief until November 30, 2007, and directed that no further extensions would be granted.

14. Respondent received a copy of the Superior Court's September 25, 2007 Order.

15. Respondent failed to file a brief on or before November 30, 2007.

16. On December 14, 2007, Mr. Vass filed an application for relief.

17. On December 31, 2007, Respondent filed a second application for extension of time to file a brief.

18. By Order dated January 4, 2008, the Superior Court, *inter alia*, directed Respondent to file a brief on behalf of Mr. Vass within forty-five days of the date of filing of the Order.

19. Respondent received a copy of the Superior Court's January 4, 2008 Order.

20. On or before February 18, 2008, Respondent again failed to file a brief.

21. On March 12, 2008, Mr. Vass filed a *pro se* motion for, *inter alia*, an order to compel Respondent to file a brief on his behalf.

22. By Order dated April 18, 2008, the Superior Court denied Mr. Vass's motion but directed Respondent to file a brief on Mr. Vass's behalf within thirty days of the date of the Order.

23. Respondent received a copy of the Superior Court's April 18, 2008 Order.

24. On or before May 18, 2008, Respondent failed to file a brief.

25. Respondent failed to advise Mr. Vass that Respondent would not be able to file a brief before the due date.

26. By Order dated June 18, 2008, the Superior Court dismissed Mr. Vass's appeal due to Respondent's failure to file a brief.

27. On July 3, 2008, Mr. Vass filed a *pro se* motion to compel Respondent to file a brief.

28. By letter dated July 3, 2008, Respondent notified Mr. Vass that his appeal had been dismissed because of Respondent's failure to file a brief.

29. On July 17, 2008, Mr. Vass filed in Superior Court a *pro se* application for reconsideration of the dismissal Order.

30. By Order dated July 21, 2008, the Superior Court reinstated Mr. Vass's appeal upon consideration of Mr. Vass's *pro se* motion to compel.

31. By Order dated August 1, 2008, the Superior Court established a new briefing schedule and directed that Mr. Vass's brief "must be filed on or before September 10, 2008."

32. Respondent received a copy of the Superior Court's August 1, 2008 Order.

33. Respondent failed to file the brief on or before September 10, 2008.

34. By Order dated October 21, 2008, the Superior Court ordered that, *inter alia*:

- a. upon consideration of the fact that Mr. Vass's brief was overdue for the "second" time in the appeal, Respondent's appearance on behalf of Mr. Vass is withdrawn;
- b. the trial court shall withhold any counsel fees due Respondent in connection with the appeal; and
- c. the trial court shall appoint new counsel.

35. Respondent received a copy of the Court's October 21, 2008 Order.

36. On October 22, 2008, Respondent filed a petition to file the brief out of time, therein alleging that he had completed the brief that day and had sent it to the Copy Center for reproduction.

37. By Order dated October 23, 2008, the Superior Court denied the petition because Respondent was dismissed pursuant to the October 21, 2008 Order, which remained in effect, and therefore Respondent was no longer counsel of record.

38. On October 29, 2008, new court-appointed counsel entered his appearance.

39. By his conduct as alleged in Paragraphs 8 through 38 above, Respondent violated the following Rules of Professional Conduct:

- 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)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;
- c. 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; and
- d. RPC 8.4(d), which states that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

Charge II: THE WILKINSON APPEAL AT 2662 EDA 2007

40. In or around 2007, Respondent was retained by William Wilkinson, Jr., to represent him in a Superior Court appeal.

41. On October 22, 2007, Respondent filed in Superior Court a Notice of Appeal, which was captioned *Commonwealth v. Wilkinson* and docketed at 2662 EDA 2007 on October 24, 2007.

42. By Order dated November 26, 2007, Respondent was directed to comply with Pa.R.A.P. 3517 and file a docketing statement by December 6, 2007.

43. On December 3, 2007, Respondent filed the Docketing Statement.

44. On May 16, 2008, the trial court record was received in Superior Court.

45. Respondent was required to file Mr. Wilkinson's brief on or about June 25, 2008.

46. Respondent failed to file a brief on behalf of Mr. Wilkinson.

47. By Order dated July 16, 2008, the Superior Court dismissed Mr. Wilkinson's appeal due to Respondent's failure to file a brief.

48. On July 17, 2008, Respondent filed an application to reinstate appeal.

49. By Order dated July 18, 2008, the Superior Court:

a. reinstated Mr. Wilkinson's appeal;

- b. directed Respondent to file a brief on or before August 18, 2008; and
- c. ordered that no further extensions of time would be granted.

50. Respondent failed to file Mr. Wilkinson's brief on or before August 18, 2008.

51. On September 3, 2008, Respondent filed an application for extension of time to file Mr. Wilkinson's brief.

52. By Order dated September 4, 2008, the Superior Court denied Respondent's application for an extension, and referenced the July 18, 2008 Order.

53. Respondent received a copy of the September 4, 2008 Order.

54. By Order dated September 16, 2008, the Superior Court dismissed Mr. Wilkinson's appeal due to Respondent's failure to file a brief.

55. Respondent received a copy of the Superior Court's September 16, 2008 Order.

56. On or about October 8, 2008, Respondent filed a motion with the Court of Common Pleas of Philadelphia County to have Mr. Wilkinson's appeal rights reinstated.

57. By Order dated October 15, 2008, the Honorable Rose Defino-Nastasi denied Respondent's motion because the Court lacked jurisdiction.

58. Respondent received a copy of Judge Defino-Nastasi's Order.

59. On or about November 24, 2008, Respondent filed a Limited Motion for Post-Conviction Collateral Relief to reinstate Mr. Wilkinson's right of direct appeal.

60. On or about January 8, 2009, Mr. Wilkinson filed a pro se motion to amend his FCRA Petition.

61. By Order dated January 20, 2009, Judge Defino-Nastasi:

- a. reinstated Mr. Wilkinson's appellate rights;
- b. removed Respondent as counsel; and
- c. appointed new counsel.

62. By his conduct as alleged in Paragraphs 40 through 61 above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 1.3; and
- b. RPC 8.4(d).

Charge III: THE WILKINSON APPEAL AT 2670 EDA 2007

63. In or around 2007, Respondent was retained by William Wilkinson, Jr. to represent him in a Superior Court appeal.

64. On October 22, 2007, Respondent filed in Superior Court a Notice of Appeal, which was captioned *Commonwealth v. Wilkinson* and docketed at 2670 EDA 2007 on October 24, 2007.

65. By Order dated November 26, 2007, Respondent was directed to comply with Pa.R.A.P. 3517 and file a docketing statement by December 6, 2007.

66. On December 3, 2007, Respondent filed the Docketing Statement pursuant to Pa.R.A.P. 3517.

67. On or about July 1, 2008, Respondent filed an application for extension of time to file Mr. Wilkinson's brief.

68. By Order dated July 2, 2008, the Superior Court:

- a. granted Respondent's application;
- b. extended the deadline to file a brief until August 28, 2008; and
- c. directed that no further extensions would be granted.

69. Respondent received a copy of the Superior Court's July 2, 2008 Order.

70. Respondent failed to file a brief on or before August 28, 2008.

71. On or about September 3, 2008, Respondent filed a second application for extension of time to file Mr. Wilkinson's brief.

72. By Order dated September 4, 2008, the Superior Court denied Respondent's application for an extension.

73. Respondent received a copy of the Superior Court's September 4, 2008 Order.

74. By Order dated October 2, 2008, the Superior Court:

- a. dismissed Mr. Wilkinson's appeal due to Respondent's failure to file a brief;
- b. ordered that counsel fees be withheld if Respondent were court-appointed;
- c. directed Respondent to file with the Court within 10 days a certification that Mr. Wilkinson had been notified of the dismissal; and
- d. informed Respondent that failure to comply with the Order may result in referral to the Disciplinary Board.

75. Respondent received a copy of the Superior Court's October 2, 2008 Order.

76. Respondent failed to file a certification with the Court.

77. On or about November 24, 2008, Respondent filed a Limited Motion for Post-Conviction Collateral Relief to reinstate Mr. Wilkinson's right of direct appeal.

78. On or about January 8, 2009, Mr. Wilkinson filed a *pro se* motion to amend his PCRA Petition.

79. By Order dated January 20, 2009, Judge Defino-Nastasi:

- a. reinstated Mr. Wilkinson's appellate rights;
- b. removed Respondent as counsel; and
- c. appointed new counsel.

80. By his conduct as alleged in Paragraphs 63 through 79 above, Respondent violated the following Rules of

Professional Conduct:

- a. RPC 1.3; and
- b. RPC 8.4(d).

SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

81. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a public censure.

82. 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 Rule 215(d), Pa.R.D.E., stating that he consents to the recommended discipline, including the mandatory acknowledgements contained in Rule 215(d)(1) through (4), Pa.R.D.E.

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

- a. Respondent has admitted engaging in misconduct and violating the charged Rules of Professional Conduct;
- b. Respondent has cooperated with Petitioner, as is evidenced by Respondent's admissions herein and his consent to receiving a public censure; and
- c. Respondent is remorseful for his misconduct and understands he should be disciplined, as is evidenced by his consent to receiving a public censure.

84. Respondent has the following record of discipline, which is an aggravating factor in determining the discipline to impose:

- a. On October 31, 2003, Respondent received an Informal Admonition for violating RPC 1.3 and RPC 8.4(d) in one matter (ODC File No. C1-03-146), in that Respondent, who was court-appointed, had requested three extensions to file a Superior Court brief on behalf of his client and then failed to file the brief, resulting in the dismissal of the appeal.
- b. On October 31, 2005, Respondent received an Informal Admonition for violating RPC 8.4(d) in one matter (ODC File No. C1-05-422), in that Respondent, after requesting three extensions to file a brief, failed to file a brief on behalf of his client, which resulted in the dismissal of his client's appeal.

85. Although there is no per se rule for discipline in this jurisdiction, a public censure is within the range of discipline imposed upon attorneys with a history of discipline who have engaged in misconduct similar to Respondent Siegel's. See *Office of Disciplinary Counsel v. Wentworth D. Vedder*, 161 DB 2007 (S.Ct. Order 3/26/08) (respondent, who had received two informal admonitions and a private reprimand involving two matters, and who was successful in having the PCRA court reinstate his client's direct appeal rights, *nunc pro tunc*, failed to file an appeal with the Superior Court of Pennsylvania on behalf of his client, which caused the lower court to appoint new counsel to represent the client; respondent received consent discipline of a public censure);

Office of Disciplinary Counsel v. Donald Chisholm, II, 87 DB 2007 (S.Ct. Order 3/20/08) (respondent, with a history of discipline of a private reprimand with one year of probation and a practice monitor, failed to file a brief in two criminal matters, which resulted in the dismissal of both appeals; respondent received consent discipline of a public censure);

Office of Disciplinary Counsel v. Edward C. Meehan, Jr., 26 DB 2006 (S.Ct. Order 9/18/06) (respondent, with a history of discipline of a private reprimand involving three matters, failed to file notices of appeal in two criminal matters, which required his clients to file PCRA actions seeking court reinstatement of their appellate rights; respondent received consent discipline of a public censure).

WHEREFORE, Petitioner and Respondent respectfully request that:

- a. Pursuant to Pa.R.D.E. 215(e) and 215(g), the three-member panel of the Disciplinary Board review and approve the Joint Petition in Support of Discipline on Consent and file its recommendation with the Supreme Court of Pennsylvania recommending that the Supreme Court enter an Order that Respondent receive a Public Censure.
- 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 this matter as a condition to the grant of

the Petition, and that all expenses be paid by Respondent before the imposition of discipline under Pa.R.D.E. 215(g).

Respectfully and jointly submitted,

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION
CHIEF DISCIPLINARY COUNSEL

By Gloria Randall Ammons
Gloria Randall Ammons
Disciplinary Counsel

By Samuel C. Stretton, Esquire
Samuel C. Stretton, Esquire
Counsel for Respondent

By Bernard L. Siegel
Bernard L. Siegel
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. Disciplinary
Petitioner : Docket No.
:
:
v. : No. 72 DB 2009
:
:
BERNARD L. SIEGEL, : Attorney Regis. No. 6398
:
Respondent : (Philadelphia)

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 our
knowledge or information and belief and are made subject to
the penalties of 18 Pa.C.S. §4904, relating to unsworn
falsification to authorities.

7/21/09
Date

Gloria Randall Ammons
Gloria Randall Ammons
Disciplinary Counsel

Date

Samuel C. Stretton, Esquire
Counsel for Respondent

7-17-09
Date

Bernard L. Siegel
Bernard L. Siegel
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. Disciplinary
Petitioner : Docket No.
:
:
v. : No. 72 DB 2009
:
BERNARD L. SIEGEL, : Attorney Regis. No. 6598
:
Respondent : (Philadelphia)

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

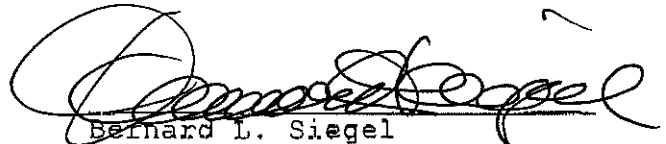
Respondent, Bernard L. Siegel, hereby states that he consents to the imposition of a Public Censure, and further states that:

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 has been guilty of misconduct as set forth in the Joint Petition;

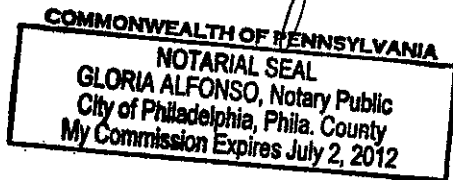
3. He acknowledges that the material facts set forth in the Joint Petition are true; and

4. He consents because he knows that if the charges against him continue to be prosecuted in the pending proceeding, he could not successfully defend against them.


Bernard L. Siegel
Respondent

Sworn to and subscribed
before me this 17
day of July, 2009.


Notary Public



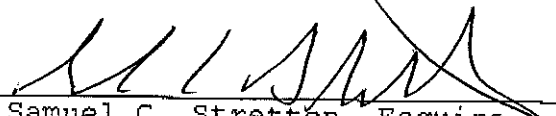
the Petition, and that all expenses be paid by Respondent before the imposition of discipline under Pa.R.D.E. 215(g).

Respectfully and jointly submitted,

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION
CHIEF DISCIPLINARY COUNSEL

By _____
Gloria Randall Ammons
Disciplinary Counsel

By  _____
Samuel C. Stretton, Esquire
Counsel for Respondent

By _____
Bernard L. Siegel
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. Disciplinary
Petitioner : Docket No.
:
:
v. : No. 72 DB 2009
:
:
BERNARD L. SIEGEL, : Attorney Regis. No. 6598
:
Respondent : (Philadelphia)

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 our
knowledge or information and belief and are made subject to
the penalties of 18 Pa.C.S. §4904, relating to unsworn
falsification to authorities.

Date

Gloria Randall Ammons
Disciplinary Counsel

5/18/09
Date

[Signature]
Samuel C. Stretton, Esquire
Counsel for Respondent

Date

Bernard L. Siegel
Respondent