

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1901 Disciplinary Docket No. 3
Petitioner :
 : No. 211 DB 2011
v. :
 : Attorney Registration No. 73789
SUSAN C. KEVRA, :
Respondent : (Luzerne County)

ORDER

PER CURIAM:

AND NOW, this 28th day of February, 2013, upon consideration of the Report and Recommendations of the Disciplinary Board dated November 29, 2012, it is hereby

ORDERED that Susan C. Kevra is suspended from the Bar of this Commonwealth for a period of four years and she 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 2/28/2013

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 211 DB 2011
Petitioner	:	
v.	:	Attorney Registration No. 73789
SUSAN C. KEVRA	:	
Respondent	:	(Luzerne 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 December 21, 2011, Office of Disciplinary Counsel filed a Petition for Discipline against Susan C. Kevra. The Petition charged Respondent with violations of the Rules of Professional Conduct in regard to her management and operation of a title insurance company. Respondent did not file an Answer to Petition.

A disciplinary hearing was held on April 25, 2012, before a District III Hearing Committee comprised of Chair Jason J. Legg, Esquire, and Members Suzanne C. Williamson, Esquire, and Maria P. Cognetti, Esquire. Respondent did not appear.

Following the submission of a brief by Petitioner, the Hearing Committee filed a Report on August 29, 2012, concluding that Respondent violated the Rules of Professional Conduct and recommending that she be suspended for a period of four years.

No Briefs on Exception were filed by the parties.

This matter was adjudicated by the Disciplinary Board at the meeting on October 18, 2012.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, Office of Disciplinary Counsel, whose principal office is located at 601 Commonwealth Avenue, Suite 2700, 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 the aforesaid Rules.

2. Respondent is Susan C. Kevra. She was born in 1968 and was admitted to practice law in the Commonwealth in 1994. Her current attorney registration address is 748 Grove Street, Avoca, Luzerne County, Pennsylvania. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

3. Respondent has no history of discipline in Pennsylvania.

4. On January 5, 2012, John R. Stewart, an investigator employed by Office of Disciplinary Counsel, attempted to personally serve Respondent with a Petition for Discipline at her office located at 748 Grove Street in Avoca, Pennsylvania. Respondent

did not answer the door, nor were there any lights on. Mr. Stewart left a business card and a note on Respondent's door requesting that Respondent contact him so that he could personally serve her. (N.T. p. 12)

5. Respondent never contacted Mr. Stewart. Mr. Stewart left three voice messages on Respondent's home answering machine and three voice messages on Respondent's office answering machine. (N.T. p. 12)

6. On January 18, 2012, Mr. Stewart sent copies of the Petition for Discipline and a Disciplinary Counsel letter to Respondent's home address located at 1003 Whipoorwill Drive, Clarks Summit, Pennsylvania, as well as to her Grove Street office address via certified mail and by regular mail. None of these letters were returned to sender by the Post Office. (N.T. p. 12)

7. On January 19, 2012, Mr. Stewart again attempted to personally serve Respondent at her home and her office. Again, no one answered the door. Mr. Stewart placed an addressed envelope with the Petition for Discipline and letter from Disciplinary Counsel in the mailbox at each location. (N.T. p.13)

8. Mr. Stewart served Respondent by delivering the Petition for Discipline to the home and office addresses that matched those recorded in the attorney registration records at the Office of the Disciplinary Board.

9. Respondent did not answer the Petition for Discipline, nor did she appear at the prehearing conference on March 21, 2012.

10. Following the March 21, 2012 prehearing conference, on March 29, 2012, Disciplinary Counsel sent Respondent a letter detailing the events of the prehearing conference. The letter also informed Respondent of the date and time of the disciplinary hearing and encouraged her to attend the hearing. (ODC Exhibit 6)

11. Respondent did not appear at the hearing on April 25, 2012.

12. On December 8, 2003, Respondent entered into an agreement with Stewart Title Guaranty Company ("Stewart"), by and through G.K. Abstract Co., Inc., for the purpose of issuing title insurance policies in the name of Stewart to the purchasers of real estate. Respondent is the sole shareholder and officer of G.K. Abstract. (ODC Exhibits 1, 3, 4)

13. On September 23, 2008, Respondent signed, on behalf of G.K. Abstract, a Mutual Termination Agreement with Stewart. This Mutual Termination Agreement provided for termination of the December 8, 2003 agreement, effective September 23, 2008. Pursuant to this Mutual Termination Agreement, G.K. was no longer entitled or permitted to issue title insurance policies on behalf of Stewart. (ODC Exhibits 1, 3, 4)

14. Despite the existence of the Mutual Termination Agreement, Respondent, through G.K. Abstract, continued to hold herself and G.K. Abstract out as affiliated with Stewart and entitled and authorized to issue title insurance on behalf of Stewart.

15. From September 29, 2008 through at least December 2, 2009, Respondent fraudulently issued approximately 88 policies of title insurance on behalf of Stewart. (ODC Exhibits 1, 3, 4, 5)

16. Respondent, through G.K. Abstract, collected approximately \$88,000 for these policies under false pretenses. The potential liabilities for these policies were not covered by Stewart and the effectiveness of the policies in insuring the title to the properties purchased in reliance on them was compromised. The lending institutions that required the title insurance as a prerequisite to the completion of the mortgage loans on

the properties in question did not have the insurance protection they and their borrowers believed they had paid to receive. (ODC Exhibits 1, 3, 4)

17. Respondent did not remit any share of the premiums she collected to Stewart. She defrauded the banks and purchasers of the real estate who believed that she was a bona fide agent of Stewart when they relied on her representations that she was a bona fide agent of Stewart. (ODC Exhibits 1, 3, 4)

18. Respondent did not hold the premiums separate from her own funds, nor did she keep them in a trust account on behalf of the persons to whom those funds belonged. (ODC Exhibits 1, 3)

19. Beginning on September 23, 2008, Respondent did not use the premiums collected from purchasers of real estate and the lenders who provided loans for the purchase of real estate to pay Stewart or any other title insurance underwriter to issue title insurance for the real estate transactions conducted by Respondent.

III. CONCLUSIONS OF LAW

By her actions as set forth above, Respondent violated the following Rules of Professional Conduct:

1. RPC 1.15(b) – A lawyer shall hold all Rule 1.15 Funds and property separate from the lawyer's own property. Such property shall be identified and appropriately safeguarded.

2. RPC 1.15(e) – 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, including but not limited to Rule 1.15 Funds, 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 the property; Provided, however, that the delivery, accounting and disclosure of Fiduciary Funds or property shall continue to be governed by the law, procedure and rules governing the requirements of Fiduciary administration, confidentiality, notice and accounting applicable to the Fiduciary entrustment.

3. RPC 1.15(l) – All Fiduciary Funds shall be placed in a Trust Account or in another investment or account which is authorized by the law applicable to the entrustment or the terms of the instrument governing the Fiduciary Funds.

4. RPC 1.15(m) – All Qualified Funds which are not Fiduciary Funds shall be placed in an IOLTA Account.

5. RPC 4.1(a) – In the course of representing a client, a lawyer shall not knowingly make a false statement of material fact or law to a third person.

6. RPC 8.4(b) – 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.

7. RPC 8.4(c) – It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

IV. DISCUSSION

This matter is before the Disciplinary Board for consideration of charges against Respondent that she committed professional misconduct with regard to her management and operation of a land title insurance agency. Respondent was properly

served with the Petition for Discipline. After numerous attempts to personally serve Respondent, service was effectuated by delivery of the Petition for Discipline to Respondent's home and office addresses that matched those recorded in the attorney registration records at the Office of the Disciplinary Board. Respondent failed to answer the Petition for Discipline or otherwise participate in the disciplinary process. Any factual allegation that is not timely answered shall be deemed admitted. Pa.R.D.E. 208(b)(3).

The evidence of record demonstrates that Respondent owned and operated an abstract and title insurance agency. After her contract with Stewart Title Insurance was terminated, Respondent continued to operate as if she had a contract with Stewart. Respondent was not authorized to issue title insurance after September 23, 2008, yet continued to fraudulently issue approximately 88 policies of title insurance on behalf of Stewart, through at least December 2, 2009. None of the purchasers of real estate, or the financial institutions providing mortgages to said purchasers after September 23, 2008 had valid title insurance. Furthermore, Respondent kept all fees and costs collected from her clients purportedly for the issuance of title insurance.

In determining the appropriate sanction to address Respondent's misconduct, it is proper to consider her failure to participate at any level of the disciplinary process. This is an aggravating factor and calls into question her fitness to practice law. Office of Disciplinary Counsel v. Lougenia Graves, 71 DB 2009 (Pa. 2010) Respondent made no efforts to explain her actions, accept responsibility, express remorse, or introduce any evidence of mitigation. We note for the record the mitigating factor that Respondent has no history of discipline.

In a similar matter, the Supreme Court suspended an attorney for four years after he sustained an escrow account shortfall of \$770,000 while operating a title insurance

agency. Like the instant Respondent, Mr. Baker operated his title insurance agency while having no agency relationship with a title insurer. Office of Disciplinary Counsel v. Thomas H. Baker, 60 DB 2011 (Pa. 2011).

While the amount of money involved in the instant matter is considerably less than in the Baker matter, the underlying actions in both matters are similarly egregious in nature and deserving of a severe sanction. A lengthy suspension of four years is both consistent with prior matters and supported by Respondent's failure to participate in the disciplinary process.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Susan C. Kevra, be Suspended from the practice of law for a period of four years.

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: 
David A. Nasatir, Board Member

Date: November 29, 2012

Board Member Momjian did not participate in the adjudication.