

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1935 Disciplinary Docket No. 3
Petitioner :
 : No. 157 DB 2012
v. :
 : Attorney Registration No. 48970
DENNIS P. DENARD, :
Respondent : (Montgomery County)

ORDER

PER CURIAM:

AND NOW, this 19th day of June, 2013, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated April 3, 2013, 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 Dennis P. Denard is suspended on consent from the Bar of this Commonwealth for a period of eighteen months and he shall comply with all the provisions of Rule 217, Pa.R.D.E.

A True Copy Patricia Nicola
As Of 6/19/2013

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 157 DB 2012
Petitioner	:	
v.	:	Attorney Registration No. 48970
DENNIS P. DENARD	:	
Respondent	:	(Montgomery 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 Stephan K. Todd, Jane G. Penny, David A. Nasatir, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on January 22, 2013.

The Panel approves the Joint Petition consenting to a 18 month suspension 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: 4/3/13

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 157 DB 2012
Petitioner :
 :
v. : Attorney Reg. No. 48970
 :
DENNIS P. DENARD, :
Respondent : (Montgomery County)

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

Petitioner, the Office of Disciplinary Counsel by Paul J. Killion, Chief Disciplinary Counsel, and Barbara Brigham Denys, Disciplinary Counsel, and Respondent, Dennis P. Denard (hereinafter "Respondent"), 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:

1. Petitioner, whose principal office is situated at Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62485, Harrisburg, Pennsylvania 17106, 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 the aforesaid Enforcement Rules.

FILED

JAN 22 2013

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

2. Respondent, Dennis P. Denard, was born on October 7, 1952, was admitted to practice law in the Commonwealth of Pennsylvania on May 20, 1987, is currently on active status, and maintains his address of record at 1076 Bethlehem Pike, Montgomeryville, Montgomery County, Pennsylvania 18936.

3. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

SPECIFIC FACTUAL ALLEGATIONS ADMITTED

A. Unauthorized Practice of Law

4. On April 4, 2011, the Pennsylvania Supreme Court entered an Order placing Respondent on administrative suspension, effective 30 days after the date of the Order, pursuant to Rule 217, Pa.R.D.E.

5. The April 4, 2011 Order was issued due to Respondent's failure to become compliant with his Continuing Legal Education ("CLE") requirements due August 31, 2010; Respondent was three substantive credits shy of meeting his requirements due to his failure to make payment to the Pennsylvania Bar Institute for three on-line courses he took on August 31, 2010.

6. Respondent had been given several opportunities to correct the deficiency by notices and assessment of late fees sent to Respondent on October 22, 2010, and February 3, 2011,

which Respondent received. He failed, however, to do so within the required time period.

7. On April 4, 2011, the Attorney Registrar, Suzanne E. Price, caused to be sent to Respondent, to his registered preferred mailing address, a letter notifying Respondent that he would be "Administratively Suspended effective May 4, 2011, for failure to comply with the Pennsylvania Rules for Continuing Legal Education due August 31, 2010 (Compliance Group 2)."

8. A copy of the Supreme Court's April 4, 2011 Order, along with Rule 217 of the Pa.R.D.E. and §§91.91-91.99 of the Disciplinary Board Rules, Forms DB-23(a) and DB-24(a) (Nonlitigation and Litigation Notice of Administrative Suspension), and Form DB-25(a) (Statement of Compliance), were enclosed with the April 4, 2011 letter.

9. The April 4, 2011 letter, with its enclosures, was sent to Respondent by certified mail, return receipt requested.

10. On April 7, 2011, Respondent received the April 4, 2011 letter.

11. As of April 7, 2011, Respondent was aware that he was administratively suspended effective May 4, 2011.

12. Respondent failed to stop practicing law effective May 4, 2011.

13. Respondent continued to hold himself out as a practicing attorney after May 4, 2011.

14. Respondent failed to notify, by registered or certified mail, return receipt requested, all clients being represented in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of his transfer to administrative suspension and consequent inability to act as an attorney after May 4, 2011.

15. Respondent failed to notify, by registered or certified mail, return receipt requested, all other persons or their agents or guardians to whom Respondent owed or may have owed a fiduciary duty at any time after his transfer to administrative suspension, of his transfer to administrative suspension.

16. Respondent failed to notify, by registered or certified mail, return receipt requested, all other persons who might have inferred that Respondent remained an attorney in good standing, of his transfer to administrative suspension.

17. Respondent failed to file with the Disciplinary Board, within ten (10) days of his transfer to administrative suspension, a verified statement showing his compliance with the April 4, 2011 Order and the Rules of Disciplinary Enforcement.

18. Respondent failed to file with the Disciplinary Board, within ten (10) days of his transfer to administrative suspension, a verified statement showing all other state, federal and administrative jurisdictions to which Respondent had been admitted to practice and setting forth the residence or other address where communications to Respondent could thereafter be directed.

19. Following Respondent's administrative suspension:

- a. he performed law-related services from an office that was not staffed by a supervising attorney on a full time basis;
- b. he accepted new retainers and/or engagements as an attorney for another in new cases;
- c. he continued to have direct communication with at least some of his clients regarding matters which were not limited to ministerial matters;
- d. he performed law-related services for clients who in the past he had represented;
- e. he rendered legal consultation or advice to clients;
- f. he appeared on behalf of a client in at least one hearing and/or proceeding before an adjudicative person or body; and
- g. he received, disbursed and/or otherwise handled client funds.

20. In connection with the following matters, Respondent entered his appearance as an attorney on behalf of clients after he was placed on administrative suspension, actively represented

those clients, and received funds from those clients knowing that he was prohibited from doing so:

- a. *Commonwealth of Pennsylvania v. Lindsay Ann Casas*, a criminal proceeding in the Court of Common Pleas, Bucks County, Pennsylvania, Criminal Docket Number CP-09-CR-0002466-2011;
- b. *Joan Twigg v. William Denton Twigg II*, in the Court of Common Pleas, Bucks County, Pennsylvania, Case Number 2010-61944;
- c. *Mbarka Dchira v. Clifton Phillips*, in the Court of Common Pleas, Bucks County, Pennsylvania, Case Number 2011-61478; and
- d. *Brittany L. McGreevy v. Ryan McGreevy*, in the Court of Common Pleas, Bucks County, Pennsylvania, Case Number 2011-22490.

21. In connection with the following matters, in which Respondent's appearance had been entered before his administrative suspension, Respondent did not withdraw as counsel for his clients and instead continued to engage, for at least some period of time, in the unauthorized practice of law and law-related services while administratively suspended:

- a. *Central Bucks Athletic Association, Inc. v. Plumstead Township*, in the Court of Common Pleas, Bucks County, Case number 2010-01653; and
- b. *Exterior Associates, Inc. v. William Messick, et al.*, in the Court of Common Pleas, Bucks County, Pennsylvania, Case Number 2009-07621.

22. In *Central Bucks Athletic Association, Inc. v. Plumstead Township*, on May 24, 2011, after the effective date of Respondent's administrative suspension, Respondent filed a brief

on behalf of the plaintiff. Respondent continued to represent the plaintiff for the duration of the proceedings.

23. In the *Exterior Associates* matter, on May 19, 2011, after the effective date of Respondent's administrative suspension, Respondent filed a Motion for Hearing on behalf of Defendant/Petitioner Michael Messick.

24. On May 20, 2011, the plaintiff filed a Motion for Hearing.

25. On June 15, 2011, Respondent filed a Petition of Defendant, Michael Messick to Open and Strike-Off Judgment Pursuant to Pa.R.C.P. 237.3. The plaintiff opposed.

26. On June 16, 2011, Respondent went to Court in anticipation of a hearing which had been scheduled to take place before Judge Albert J. Cepparulo in the *Exterior Associates* matter.

27. At that time, Judge Cepparulo and Respondent discussed and Respondent acknowledged that Respondent was not permitted to appear before the Court as a result of his administrative suspension.

28. Judge Cepparulo rescheduled the hearing to July 8, 2011.

29. Respondent was not reinstated as of July 8, 2011, and his clients in the *Exterior Associates* matter proceeded *pro se*.

30. With the exception of the *Exterior Associates* matter, following Respondent's June 16, 2011 appearance before Judge Cepparulo and while Respondent remained administratively suspended, he continued to communicate with and perform law-related services for existing and new clients.

31. On August 12, 2011, the CLE Board sent a letter to Suzanne Price, Attorney Registrar, certifying that Respondent had completed his CLE requirements.

32. On August 15, 2011, Ms. Price sent a letter to Respondent confirming receipt of certification of compliance from the CLE Board and explaining to Respondent the procedure for reinstatement.

33. Ms. Price's letter explained that to be reinstated, Respondent was required to pay his current license and reinstatement fees in the total amount of \$500.00 and "to comply with Rule 217, Pa.R.D.E. by completing and filing Form DB-25(a), Statement of Compliance."

34. On October 10, 2011, several days before an investigator for Petitioner handed Respondent a copy of Petitioner's September 7, 2011 DB-7 Request for Statement of Respondent's Position ("DB-7 Letter"), Respondent signed and submitted to Attorney Registration a Statement of Compliance (Form DB-25(A)), pursuant to Rule 217(e), which certified

"[t]hat [he] ha[d] fully complied with the provisions of the [April 4, 2011] Order of the Supreme Court, with the applicable provisions of the Pennsylvania Rules of Disciplinary Enforcement and with the applicable Disciplinary Board Rules."

35. On October 17, 2011, Attorney Registration reinstated Respondent to active status.

36. Respondent's October 10, 2011 Statement of Compliance was not submitted within ten (10) days after the effective date of his administrative suspension.

37. Respondent's October 10, 2011 Statement of Compliance certified compliance with the requirements of Pa.R.D.E. 217 when, in fact, Respondent had not complied with Pa.R.D.E. 217.

38. On October 17, 2011, four (4) days after Respondent received the DB-7 Letter, Respondent signed and submitted to Attorney Registration a "CORRECTED" Statement of Compliance.

39. Respondent added the word "NOT" to the Statement of Compliance, noting in his cover letter as follows: "As I have not complied fully with Rule 217(e), I ask that my reinstatement be held in abeyance until full compliance."

40. Attorney Registration, however, had already reinstated Respondent to active status upon its receipt of Respondent's October 10, 2011 Statement of Compliance.

41. Respondent remained listed as counsel of record in at least the following additional matters in various state courts in the Commonwealth of Pennsylvania while under administrative suspension:

- a. *John Mortom v. Spinio, Inc.*, Court of Common Pleas, Bucks County, Pennsylvania, No. 2011-01007;
- b. *Jodi Hertzberg v. Barry Hertzberg*, Court of Common Pleas, Bucks County, Pennsylvania, No. 2009-61499;
- c. *Tulio Landscaping, Inc. v. Victory Gardens, Inc., et al.*, Court of Common Pleas, Bucks County, Pennsylvania, No. 2009-04553;
- d. *Chris Cozzi, et al. v. Blue Haven Pools Northeast, Inc.*, Court of Common Pleas, Bucks County, Pennsylvania, No. 2009-01369;
- e. *Petro Heating & Air Conditioning SE v. Victory Gardens, Inc.*, Court of Common Pleas, Bucks County, Pennsylvania, No. 2008-06454;
- f. *Mark Dean v. Spinio, Inc.*, Court of Common Pleas, Bucks County, Pennsylvania, No. 2009-09488;
- g. *Spinio, Inc. v. David Zanolli, et al.*, Court of Common Pleas, Bucks County, Pennsylvania, No. 2009-09291;
- h. *Vito Braccia Concrete & Building Contractors, Inc. v. Spinio, Inc.*, Court of Common Pleas, Montgomery County, Pennsylvania, No. 2010-29763;
- i. *Platinum Pools, Inc. v. Steven Bouchard*, Court of Common Pleas, Montgomery County, Pennsylvania, No. 2010-00116;
- j. *Gunite Specialist, Inc. v. Platinum Pools, Inc.*, Court of Common Pleas, Montgomery County, Pennsylvania, No. 2009-31845;

- k. *Orrino Building Group, LLC v. Montgomery Office Park, LLC, et al.*, Court of Common Pleas, Montgomery County, Pennsylvania, No. 2009-25842;
- l. *Spinio, Inc. v. James M. Pizzo, Jr.*, Court of Common Pleas, Montgomery County, Pennsylvania, No. 2009-10286;
- m. *Spinio Electric v. Pheonix Electrical Contractors, Inc.*, Court of Common Pleas, Montgomery County, Pennsylvania, No. 2009-03532; and
- n. *Platinum Pools, Inc. v. Richard Alessandrini, et al.*, Court of Common Pleas, Montgomery County, Pennsylvania, No. 2010-33161.

42. Respondent does not appear to have actively engaged in the provision of legal services in connection with the matters identified in paragraph 41 during his administrative suspension.

B. Misconduct In Connection With Disciplinary Matter

43. In contradiction with Respondent's representation to Petitioner that he was withdrawing his appearance in the matters identified in paragraph 41, Respondent did not do so and did not inform Petitioner of his failure to do so until Petitioner served Respondent with its June 19, 2012 DB-7A Supplemental Request for Statement of Respondent's Position ("DB-7A Letter") asserting violation of Rule 8.1.

44. In his November 28, 2011 Statement of Position, in response to paragraph 19 of the DB-7 Letter, Respondent stated that "[w]ithdraw [sic] of appearances w[ould] be filed."

45. By letters to Respondent dated November 30, 2011, and December 21, 2011, Petitioner sought confirmation of such filings.

46. By submission to Petitioner dated January 11, 2012, Respondent referenced that he had attached "Withdrawal [sic] of Appearance" forms in connection with nine (9) of the matters referenced in the DB-7 Letter.

47. Respondent did not, however, enclose with his January 11, 2012 submission the documentation he referred to as having been attached.

48. On January 13, 2012, Petitioner wrote to Respondent, in part, to seek the documents referred to in his January 11, 2012 submission as having been attached.

49. On February 3, 2012, Respondent provided to Petitioner eight (8) "Withdraw [sic] of Appearance" forms.

50. None of the "Withdraw [sic] of Appearance" forms Respondent provided to Petitioner on February 3, 2012, had been filed as of February 3, 2012.

51. On June 19, 2012, Petitioner served Respondent with the DB-7A Letter.

52. In response to the DB-7A Letter, Respondent for the first time affirmatively stated to Petitioner that although he had attempted to file the withdrawal forms, he was informed that

new counsel would have to simultaneously enter appearances, or that he would have to file petitions for leave to withdraw.

53. On August 8, 2012, Respondent filed petitions to withdraw as counsel in the following matters:

- a. *Chris Cozzi, et al. v. Blue Haven Pools Northeast, Inc.*, Court of Common Pleas, Bucks County, Pennsylvania, No. 2009-01369;
- b. *Tulio Landscaping, Inc. v. Victory Gardens, Inc., et al.*, Court of Common Pleas, Bucks County, Pennsylvania, No. 2009-04553;
- c. *Petro Heating & Air Conditioning SE v. Victory Gardens, Inc.*, Court of Common Pleas, Bucks County, Pennsylvania, No. 2008-06454;
- d. *Orrino Building Group, LLC v. Montgomery Office Park, LLC, et al.*, Court of Common Pleas, Montgomery County, Pennsylvania, No. 2009-25842; and
- e. *Gunite Specialist, Inc. v. Platinum Pools, Inc.*, Court of Common Pleas, Montgomery County, Pennsylvania, No. 2009-31845.

C. Misconduct In Exterior Associates Matter

54. On August 15, 2009, Respondent entered his appearance in the *Exterior Associates* matter on behalf of the defendants, William Messick, the Messick Group, Michael Messick, and W.L.M. Management, Inc.

55. On October 5, 2009, the plaintiff filed a petition to compel discovery.

56. On October 16, 2009, the Court entered an order directing the production of records and documents; the defendants were required to provide full and complete responses to the plaintiff's first set of requests for production of documents within thirty days of the date of the order or file a motion for hearing within ten days.

57. The defendants failed to comply with the October 16, 2009 Order.

58. On November 18, 2009, the plaintiff filed a petition for contempt, and a hearing was scheduled for December 16, 2009.

59. On December 14, 2009, the plaintiff filed motions to compel the depositions of William Messick and Michael Messick.

60. On December 16, 2009, Respondent replied to the petition for contempt on behalf of the defendants and appeared at a hearing on the petition for contempt.

61. At the hearing, the Court granted the plaintiff's petition for contempt, finding that the defendants were in willful contempt of the October 16, 2009 Order, and required the defendants to provide discovery.

62. In addition, the Court ordered the defendants to pay the plaintiff's attorney's fees regarding the contempt matter in the amount of \$500.00.

63. The defendants failed to comply with the December 16, 2009 Order.

64. On January 12, 2010, the plaintiff filed a petition for contempt, and a hearing was set for March 9, 2010.

65. On January 27, 2010, the plaintiff filed a motion to compel the depositions of William Messick and Michael Messick.

66. On March 2, 2010, the plaintiff filed another motion to compel the depositions of William Messick and Michael Messick.

67. Neither Respondent nor his clients appeared for the March 9, 2010 hearing on the plaintiff's second petition for contempt.

68. By Order dated March 17, 2010, the Court found the defendants in contempt of its October 16, 2009 and December 16, 2009 Orders, directed the defendants to comply with outstanding discovery requests within seven (7) days, ordered the defendants to pay additional attorney's fees of \$1,000.00, and stated that upon a petition proving noncompliance with the March 17, 2010 Order, the Court would grant a default judgment for the plaintiff and against the defendants.

69. The defendants failed to comply with the March 17, 2010 Order.

70. On March 22, 2010, the Court entered an Order compelling the depositions of William Messick and Michael Messick.

71. Thereafter, the plaintiff's counsel, Christopher P. Coval, Esquire, noticed the depositions to take place on April 21, 2010.

72. Respondent and his clients, William Messick and Michael Messick, failed to appear for the depositions in violation of the Court's March 22, 2010 Order.

73. On April 7, 2010, the plaintiff filed a motion for entry of a default judgment against the defendants because the defendants were in violation of the March 17, 2010 Order. The Court fixed a May 14, 2010 hearing date.

74. Respondent and the defendants failed to appear at the May 14, 2010 hearing, and the Court found the defendants to be in willful contempt of its October 16, 2009, December 16, 2009, and March 17, 2010 Orders.

75. The defendants had failed to produce any documents responsive to outstanding discovery requests and had failed to pay any of the attorney's fees.

76. The Court directed the Prothonotary to enter judgment by default against the defendants and in favor of the plaintiff.

77. On May 19, 2010, judgment by default was entered against the defendants and in favor of the plaintiff in the sum of \$48,427.21, plus costs and interest.

78. No appeal was filed or attempted by Respondent on behalf of the defendants or by any of the defendants represented by other counsel or acting *pro se*.

79. Thereafter, the plaintiff sought to execute on the judgment.

80. On May 2, 2011, at Respondent's request, an *ex parte* emergency Order was entered postponing until further order of the Court a sheriff's sale of personal property which had been scheduled for May 2, 2011.

81. At the *ex parte* hearing on the emergency petition, Respondent failed to inform Judge Cepparulo that Respondent had not served opposing counsel, Christopher Coval, Esquire, with a copy of the Emergency Petition or otherwise notified Mr. Coval of Respondent's intended appearance in Court on May 2, 2011, or that Mr. Coval would no doubt oppose the entry of the proposed emergency Order if given the opportunity.

82. Mr. Coval had received no notice of Respondent's emergency petition and proposed Order and was therefore not in Court when Respondent presented the proposed emergency Order to Judge Cepparulo.

83. As a result, Judge Cepparulo entered the *ex parte* emergency Order.

84. On May 3, 2011, Mr. Coval objected to the May 2, 2011 Order on the ground that he was not in agreement with it and had had no notice or opportunity to oppose the entry of the Order.

85. On May 9, 2011, the Court vacated the May 2, 2011 Order.

86. On May 19, 2011, after the effective date of Respondent's administrative suspension, Respondent filed a motion for hearing on behalf of Defendant/Petitioner Michael Messick.

87. On May 20, 2011, the plaintiff filed a motion for hearing.

88. On June 15, 2011, Respondent filed the Petition of Defendant, Michael Messick to Open and Strike-Off Judgment Pursuant to Pa.R.C.P. 237.3. The plaintiff opposed.

89. On June 16, 2011, Respondent came to Court in anticipation of a hearing Judge Cepparulo had scheduled.

90. Judge Cepparulo addressed Respondent's administrative suspension on the record and rescheduled the hearing to take place on July 8, 2011.

91. On July 8, 2011, Respondent, who remained administratively suspended, was in attendance in the courtroom, but his clients appeared *pro se*.

92. Judge Cepparulo began the July 8, 2011 hearing by stating, in part, that the May 2, 2011 Order was entered based upon his belief at the time that the *ex parte* emergency Order Respondent had presented to him was unopposed.

93. When Respondent presented the *ex parte* emergency Order to Judge Cepparulo, Respondent failed to inform Judge Cepparulo that Mr. Coval had had no notice of the *ex parte* proceeding and would no doubt object to the entry of the proposed Order.

94. Judge Cepparulo also explored at the July 8, 2011 hearing the improper nature of the Petition to Open and Strike-Off Judgment.

95. The judgment in the matter had been entered almost a year before the July 8, 2011 hearing as a final litigation sanction against the defendants for their willful contempt of three court orders in the case.

96. Respondent averred in the Petition to Open and Strike-Off Judgment that defendants had filed preliminary objections asserting that Michael Messick was not properly served with original process in the matter.

97. The preliminary objections to the original complaint, prepared and filed by Respondent, did not include an objection as to service of process, and Respondent never filed preliminary objections to the amended complaint, which had superseded the original complaint.

98. Respondent stated in the memorandum in support of the Petition to Open and Strike-Off Judgment that the defendant had filed an appeal from the judgment of the Magisterial District Court.

99. The Court of Common Pleas had entered judgment for \$48,427.21, plus interest and costs. There had been no action in Magisterial District Court and, therefore, no appeal from the Magisterial District Court.

100. At the July 8, 2011 hearing, Judge Cepparulo concluded that Respondent's actions in the litigation were "abusive" and, as an aside, noted that Respondent should have resolved his administrative suspension "sometime ago."

101. Judge Cepparulo denied the Petition to Stay Sheriff's Sale and to Open and Strike-Off Judgment. He also ordered Respondent to pay the sum of \$1,000.00 as a counsel fee sanction to Mr. Coval.

102. On or about August 4, 2011, Respondent paid the sanction.

**SPECIFIC RULES OF PROFESSIONAL CONDUCT AND
RULES OF DISCIPLINARY ENFORCEMENT VIOLATED**

Respondent violated the following Rules of Disciplinary Enforcement and Rules of Professional Conduct:

A. **RPC 1.16(a) (1)**, which states "a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation if . . . the representation will result in violation of the Rules of Professional Conduct or other law."

B. **RPC 3.3(d)**, which states "[i]n an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer that will enable the tribunal to make an informed decision, whether or not the facts are adverse."

C. **RPC 3.4(a)**, which states "[a] lawyer shall not . . . unlawfully obstruct another party's access to evidence . . ."

D. **RPC 5.5(b)**, which states "[a] lawyer who is not admitted to practice in this jurisdiction shall not:

(1) Except as authorized by these Rules, Pa.B.A.R. 302 or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or

(2) Hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction."

E. **RPC 8.1(b)**, which states "a lawyer in connection with . . . a disciplinary matter, shall not . . . fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6."

F. **RPC 8.4(d)**, which states "[i]t is professional misconduct for a lawyer to . . . engage in conduct that is prejudicial to the administration of justice.

G. **Pa.R.D.E. 217(b)**, which states "[a] formerly admitted attorney shall promptly notify, or cause to be notified, by registered or certified mail, return receipt requested, all clients who are in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of the disbarment, suspension, administrative suspension or transfer to inactive status. The notice to be given to the client shall advise the prompt substitution of another attorney or attorneys in place of the formerly admitted attorney. In the event the client does not obtain substitute counsel before the effective date of the disbarment, suspension, administrative suspension or transfer to [inactive] status, it shall be the responsibility of

the formerly admitted attorney to move in the court or agency in which the proceeding is pending for leave to withdraw. The notice to be given to the attorney or attorneys for an adverse party shall state the place of residence of the client of the formerly admitted attorney."

H. **Pa.R.D.E. 217(c)**, which states "[a] formerly admitted attorney shall promptly notify, or cause to be notified, of the disbarment, suspension, administrative suspension or transfer to inactive status, by registered or certified mail, return receipt requested:

(1) all persons or their agents or guardians to whom a fiduciary is or may be owed at any time after the disbarment, suspension, administrative suspension or transfer to inactive status, and

(2) 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.

The responsibility of the formerly admitted attorney to provide the notice required by this subdivision shall continue for as long as the formerly admitted attorney is disbarred, suspended, administratively suspended or on inactive status.

I. **Pa.R.D.E. 217(d)**, which states "[o]rders imposing suspension, disbarment, administrative suspension or transfer to inactive status shall be effective 30 days after entry. The formerly admitted attorney, after entry of the disbarment, suspension, administrative suspension or 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. However, during the period from the entry date of the order and its effective date the formerly admitted attorney may wind up and complete, on behalf of any client, all matters which were pending on the entry date."

J. **Pa.R.D.E. 217(e)**, which states "[w]ithin ten days after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status order, the formerly admitted attorney shall file with the Board a verified statement showing:

(1) that the provisions of the order and these rules have been fully complied with; and

(2) 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."

K. **Pa.R.D.E. 217(j)(4)**, which states "[w]ithout limiting the other restrictions in this subdivision (j), a formerly admitted attorney is specifically prohibited from engaging in any of the following activities:

(i) performing any law-related activity for a law firm, organization or lawyer if the formerly admitted attorney was associated with that law firm, organization or lawyer on or after the date on which the acts which resulted in the disbarment or suspension occurred, through and including the effective date of disbarment or suspension;

(ii) performing any law-related services from an office that is not staffed by a supervising attorney on a full time basis;

(iii) performing any law-related services for any client who in the past was represented by the formerly admitted attorney;

(iv) representing himself or herself as a lawyer or person of similar status;

(v) having any contact with clients either in person, by telephone, or in writing, except as provided in paragraph (3);

(vi) rendering legal consultation or advice to a client;

(vii) appearing on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, hearing officer or any other adjudicative person or body;

(x) receiving, disbursing or otherwise handling client funds.

SPECIFIC RECOMMENDATION FOR DISCIPLINE

103. 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 eighteen (18) months.

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

105. In support of Petitioner and Respondent's joint recommendation, it is respectfully submitted that the following

mitigating circumstances are present:

- a) Respondent has admitted engaging in misconduct and violating charged Rules of Professional Conduct and Rules of Disciplinary Enforcement;
- b) Respondent has attributed his unauthorized practice of law to two surgeries, one for a torn rotator cuff and one to address prostate cancer in December 2010, and February 2011, respectively, and the economic pressure that resulted from his inability to work around that period of time;
- c) Respondent is remorseful for his misconduct and understands he should be disciplined, as is evidenced by his cooperation with Petitioner and his consent to receiving an eighteen (18) month suspension; and
- d) Respondent has no record of discipline.

106. A suspension for eighteen (18) months falls within a range of precedent addressing the unauthorized practice of law and other misconduct involving lack of candor. See *e.g.* *ODC v. DiGiovanni*, No. 36 DB 2008 (suspension for one year and one day for unauthorized practice of law and submission of false certification in Statement of Compliance); *ODC v. Cavadel*, Nos.

176 DB 2006 and 5 DB 2007 (two-year suspension for unauthorized practice of law, submission of false certification in Statement of Compliance, and violation of RPC 3.3(a)(1) regarding candor toward tribunal; no answer filed in response to petitions for discipline); *ODC v. Unterberger*, No. 14 DB 2007 (suspension for one year and one day for unauthorized practice of law and dishonest conduct relating to a forged letter); *ODC v. Mainor*, No. 135 DB 2005 (suspension for one year and one day for unauthorized practice of law and knowingly making a false statement of material fact or law to a tribunal and to a third person).

Petitioner and Respondent submit that an eighteen (18) month suspension is a fair and appropriate resolution based upon the specific facts of this case and analysis of prior cases.

WHEREFORE, Petitioner and Respondent respectfully request that, pursuant to Pa.R.D.E. 215(e) and Pa.R.D.E. 215(g), a three-member panel of the Disciplinary Board review and approve the Joint Petition in Support of Discipline on Consent and file a recommendation with the Supreme Court of Pennsylvania that Respondent receive an eighteen (18) month suspension and that Respondent be ordered to pay all necessary expenses incurred in the investigation and prosecution of this matter as a condition to the grant of the Petition.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION,
Chief Disciplinary Counsel

Date: 1/18/13

BY:



BARBARA BRIGHAM DENYS
Attorney Registration No. 78562
Disciplinary Counsel
Suite 170
820 Adams Avenue
Trooper, PA 19403
610) 650-8210

Date: 1/18/13

BY:



DENNIS P. DENARD, ESQUIRE
Respondent

VERIFICATION


The statements contained in the foregoing Joint Petition in Support of Discipline on Consent 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.A. §4904, relating to unsworn falsification to authorities.

Date: 1/18/13



BARBARA BRIGHAM DENYS
Disciplinary Counsel

Date: 1/18/13

BY: 

DENNIS P. DENARD, ESQUIRE
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 157 DB 2012
Petitioner :
 :
v. : Attorney Reg. No. 48970
 :
DENNIS P. DENARD, :
Respondent : (Montgomery County)

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

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF MONTGOMERY

DENNIS P. DENARD, being duly sworn according to law, deposes and hereby submits this affidavit consenting to the recommendation of an eighteen (18) month suspension from the practice of law in the Commonwealth of Pennsylvania in conformity with Pa.R.D.E. 215(d) and further states as follows:

1. He is an attorney admitted in the Commonwealth of Pennsylvania, having been admitted to the bar on or about October May 20, 1987.

2. He desires to submit a Joint Petition in Support of Discipline on Consent pursuant to Pa.R.D.E. 215(d).

3. His consent is freely and voluntarily rendered; he is not being subjected to coercion or duress, and he is fully aware of the implications of submitting this affidavit.

4. He is aware that there are presently pending

investigations into allegations that he has been guilty of misconduct as set forth in the Joint Petition in Support of Discipline on Consent to which this affidavit is attached.

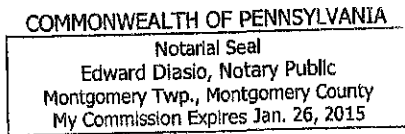
5. He acknowledges that the material facts set forth in the Joint Petition are true.

6. He submits the within affidavit because he knows that if charges predicated upon the matter under investigation continued to be prosecuted in the pending proceeding, he could not successfully defend against them.

7. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant proceeding. He has not consulted or followed the advice of counsel in connection with his decision to consent to execute the within Joint Petition.

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 18th day of January, 2013.




DENNIS P. DENARD

Sworn to and subscribed
before me this 18th day
of January, 2013


Notary Public

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 157 DB 2012
Petitioner :
 :
v. : Attorney Reg. No. 48970
 :
DENNIS P. DENARD, :
Respondent : (Montgomery County)

CERTIFICATE OF SERVICE


I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 204 Pa. Code §89.22 (relating to service by a participant).

First Class and Overnight Mail, as follows:

Dennis P. Denard, Esquire
1076 Bethlehem Pike
Montgomeryville, Pennsylvania 18936

Date: 1/18/13

BY:


BARBARA BRYGHAM DENYS
Attorney Registration No. 78562
Disciplinary Counsel
Suite 170
820 Adams Avenue
Trooper, PA 19403
610) 650-8210