

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 890 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 136 DB 2002
v.	:	
	:	Attorney Registration No. 36449
JOHN D. ENRIGHT	:	
Respondent	:	(Philadelphia)

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 October 16, 2002, Petitioner, Office of Disciplinary Counsel, filed a Petition for Discipline against John D. Enright, Respondent. The Petition charged Respondent with violations of the Rules of Disciplinary Enforcement and the Rules of

Professional Conduct as a result of allegations that he practiced law subsequent to his transfer to inactive status by Order of the Supreme Court of Pennsylvania. Respondent filed an Answer to Petition for Discipline on November 18, 2002.

A disciplinary hearing was held on February 28, 2003, before Hearing Committee 1.19 comprised of Chair John E. Quinn, Esquire, and Member Steven M. Steingard, Esquire. Member Edward C. Toole, Jr., Esquire, was unable to attend the hearing but participated in the matter by reviewing the transcript of the proceedings. Respondent did not appear at the hearing.

The Hearing Committee filed a Report on June 30, 2003 and recommended that Respondent be Suspended from the practice of law for a period of one year and one day.

The parties did not file exceptions to the Report.

This matter was adjudicated by the Disciplinary Board at the meeting of August 26, 2003.

## II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is situated at Suite 1400, 200 North Third Street, Harrisburg PA 17101, is invested, pursuant to Pa.R.D.E. 207, with the power

and duty to investigate all matters involving 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 was born in 1957 and was admitted to practice law in the Commonwealth in 1982. He currently resides at 7949 Ridge Avenue, Apt. No. F-4, Philadelphia, PA 19128. He is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. By Order dated July 22, 1999, effective thirty days thereafter, the Supreme Court of Pennsylvania transferred Respondent to inactive status pursuant to Rule 111(b), Pennsylvania Rules for Continuing Legal Education (Pa.R.C.L.E.).

4. By certified letter dated July 22, 1999, Elaine M. Bixler, Executive Director & Secretary of the Disciplinary Board, advised Respondent, inter alia, that:

- a. the Prothonotary of the Supreme Court of Pennsylvania had forwarded to the Disciplinary Board a certified copy of the Supreme Court's Order of July 22, 1999, transferring Respondent to inactive status effective August 21, 1999, for failure to comply with the Pa.R.C.L.E.;
- b. she was enclosing a copy of the Supreme Court's Order together with the applicable page containing Respondent's name;
- c. because Respondent would be transferred to inactive status, he was required to comply with Rule 217 of the Pa.R.D.E. and §§ 91.91-91.99 of the Disciplinary Board Rules; and

d. in order to resume active status, Respondent would be required to comply with the Pa.R.C.L.E before a request for reinstatement to the Disciplinary Board would be considered.

5. Ms. Bixler's letter was signed for by someone at Respondent's office, and Respondent became aware of the letter.

6. By certified letter dated September 22, 1999, Robert M. Rancitelli, an Investigator with the Office of Disciplinary Counsel;

a. reminded Respondent that he had been advised that he was transferred to inactive status due to his failure to fulfill continuing legal education requirements;

b. provided Respondent with a copy of the Supreme Court's Order;

c. advised Respondent that until such time as he was reinstated from the Inactive list to the Active list, he was prohibited from practicing law in Pennsylvania or holding himself out to the public as a "lawyer", "attorney", or "entitled to practice law";

d. advised Respondent that if he was engaging in any such activity he was required to cease immediately.

7. On September 23, 1999, Respondent signed for and received Mr. Rancitelli's letter.

8. Frank Branella, Esquire, testified at the disciplinary hearing. He employed Respondent as an attorney for a fifteen year period of time ending in December 2001.

9. Respondent continued to work for Mr. Branella as an attorney after August 1999 by providing legal services to the clients of Mr. Branella's law firm.

10. Respondent never advised Mr. Branella that Respondent had been transferred to inactive status and was prohibited from practicing law in Pennsylvania.

11. On December 10, 1999, Respondent filed a Petition for Appeal of License Suspension on behalf of Melissa Su Hazel in the Court of Common Pleas of Philadelphia County .

12. Respondent signed the Petition for Appeal as "Attorney for Petitioner".

13. The Petition for Discipline in this matter was filed on October 16, 2002.

14. Respondent filed an Answer to Petition for Discipline in which he listed his address as 7949 Ridge Ave., Apt. No. F-4, Philadelphia, PA 19128.

15. On several occasions during the period from January 17, 2003 through January 22, 2003, Investigator Robert Rancitelli of the Office of Disciplinary Counsel, attempted to personally serve Respondent with a Notice of Prehearing Conference and Hearing in this matter at the Ridge Avenue address.

16. Despite his efforts, Investigator Rancitelli was unable to personally serve Respondent. On January 22, 2003, he left the Notice of Prehearing Conference and Hearing under Respondent's apartment door.

17. The Office of the Secretary of the Disciplinary Board also sent the Notice of Prehearing Conference and Hearing to Respondent's Ridge Avenue address by regular and certified mail. The regular mail was not returned.

18. Respondent did not attend the prehearing conference.

19. At the conference, John E. Quinn, Esquire, the Designated Member, directed Disciplinary Counsel to communicate to Respondent the rulings that had been made at the conference.

20. By letter dated January 27, 2003, Disciplinary Counsel advised Respondent of those rulings.

21. On February 27, 2003, Disciplinary Counsel attempted to reach Respondent by telephone, the number Respondent had provided on the cover letter to his Answer. The line had been disconnected.

22. Respondent did not attend the disciplinary hearing.

23. Respondent has no prior history of discipline.

### III. CONCLUSIONS OF LAW

By his conduct as set forth above, Respondent violated the following Rules of Disciplinary Enforcement and Rules of Professional Conduct:

1. RPC 5.5(b) – A lawyer shall not practice law in a jurisdiction where to do so would be in violation of regulations of the profession in that jurisdiction.
2. RPC 8.4(c) – It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.
3. RPC 8.4(d) – It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.
4. 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 for each adverse party, of the disbarment, suspension or transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension or transfer to inactive status.
5. Pa.R.D.E. 217(d) – A 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.
6. Pa.R.D.E. 217(e) – Within ten days after the effective date of the disbarment, suspension or transfer to inactive status order, the formerly admitted attorney shall file with the Board a verified statement showing that the provisions of the order and the Enforcement Rules have been fully complied with.

#### IV. DISCUSSION

This matter is before the Disciplinary Board on a Petition for Discipline charging Respondent with violation of the Rules as a result of practicing law in violation of a Supreme Court Order transferring him to inactive status.

Respondent filed an Answer to the Petition and his admissions clearly demonstrate that he committed professional misconduct by practicing law after he was transferred to inactive status and by failing to comply with the Rules of Disciplinary Enforcement governing formerly admitted attorneys. Furthermore, despite having knowledge of these disciplinary proceedings, Respondent failed to appear at both the prehearing conference and the disciplinary hearing.

In his Answer, Respondent admits that on December 10, 1999 he signed a Petition for Appeal as “Attorney for Petitioner”. He then attempts in his Answer to excuse his actions by saying that the Petition for Appeal was completed as an example and not meant for filing and furthermore that the action was commenced in error. However, Respondent contradicts himself by later admitting in his Answer that in filing the Petition for Appeal after the effective date of the Supreme Court Order transferring him to inactive status, he violated Pa.R.D.E. 217(d), which provides that a formerly admitted attorney shall not engage as attorney for another in a new case after entry of the transfer to inactive status order. Thus, by his own words Respondent admits that he continued to practice law after his transfer to inactive status.

The testimony of Frank Branella, Esquire, Respondent's employer during the time frame of the misconduct, further illuminates Respondent's misconduct. Respondent continued to practice law by providing services to clients at Mr. Branella's law firm after Respondent's transfer to inactive status, which included the Petition for Appeal in the



license suspension case. Mr. Branella was very emphatic that Respondent never advised him of his transfer to inactive status and his inability to practice law in Pennsylvania.

By continuing to hold himself out as an attorney, Respondent was in violation of the Order of the Supreme Court of Pennsylvania dated July 22, 1999, which transferred him to inactive status. His disregard of this order and his subsequent actions violated the Rules of Professional Conduct and Rules of Disciplinary Enforcement as set forth above.

An aggravating factor in this matter is Respondent's failure to appear at the disciplinary hearing. This demonstrates further evidence of Respondent's cavalier attitude toward the disciplinary system in this Commonwealth. Respondent is a practitioner with twenty years of experience. The Board is at a loss to understand why Respondent would file an Answer and then pointedly avoid the rest of the proceedings.

The Hearing Committee recommended a suspension of one year and one day. The Board is persuaded by the nature of the misconduct and the aggravating circumstances that this is an appropriate sanction. As the record stands, the Board has no evidence of Respondent's fitness and competence to practice law, and for that reason recommends a suspension of one year and one day in order to require Respondent to petition for reinstatement and prove his fitness at a later date.

V.           RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, John D. Enright, be Suspended from the practice of law 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: \_\_\_\_\_  
Gary G. Gentile, Member

Date: December 5, 2003

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

PER CURIAM:

AND NOW, this 15<sup>th</sup> day of March, 2004, upon consideration of the Report and Recommendations of the Disciplinary Board dated December 5, 2003, it is hereby

ORDERED that JOHN D. ENRIGHT be and he 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.