

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	Nos. 13 DB 2000 and 114 DB 2000
Petitioner	:	
	:	
v.	:	Attorney Registration No. []
	:	
[ANONYMOUS],	:	
Respondent	:	([] 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 February 14, 2000 and August 25, 2000, Petitioner, Office of Disciplinary Counsel, filed Petitions for Discipline against Respondent, alleging that Respondent engaged in certain professional misconduct, thereby violating

Pennsylvania Rule of Disciplinary Enforcement 217 as well as Rules of Professional Conduct 1.3, 1.5(b), 1.15(a), 1.15(b), 1.16(d), 3.3(a)(1), 8.4(b), 8.4(c) and 8.4(d). These Petitions were consolidated pursuant to Disciplinary Board Order dated October 13, 2000. Respondent did not file Answers to these Petitions for Discipline.

Two disciplinary hearings were held before Hearing Committee [] comprised of Chair [], Esquire and Members [], Esquire and [], Esquire. At these hearings, Petitioner was represented by [], Esquire and Respondent was represented by [], Esquire. At the first hearing on January 29, 2001, Petitioner submitted two Joint Stipulations of Facts and presented no witnesses. At the second hearing on June 28, 2001, Petitioner withdrew two of the Counts as well as two charges of rule violations in the remaining Counts of the first Petition (13 DB 2000). Respondent submitted two exhibits and presented the testimony of his treating psychiatrist and several character witnesses as well as his own testimony.

The Hearing Committee filed a Report on February 14, 2002 recommending a suspension for two and one-half years, retroactive to April, 1999. A Brief on Exceptions was filed by Respondent. Petitioner filed a Brief Opposing Exceptions.

This matter was adjudicated by the Disciplinary Board at its meeting on May 15, 2002.

II. FINDINGS OF FACT

The Board makes the following findings of facts:

1. Respondent was admitted to practice law in the Commonwealth of Pennsylvania on or about November 7, 1988.

CHARGE IV OF 13 DB 2000

2. On or about November 15, 1997, [] and [] [A] ("the [A]") asked Respondent to represent them in a bankruptcy matter.

3. On or about November 15, 1997, Respondent had a meeting with the [A].

4. Between on or about November 15, 1997 and on or about January 22, 1998 Respondent scheduled a number of meetings with the [A] for purposes of having them sign their bankruptcy petition and provide additional information.

5. On each occasion Respondent scheduled a meeting with the [A] between on or about November 15, 1997 and on or about January 22, 1998, Respondent either canceled the meeting or failed to attend.

6. On or about January 23, 1998, Respondent met with the [A], had them review the bankruptcy petition and sign that document

7. Between on or about January 23, 1998 and March 20, 1998, Respondent failed to file the [A's] bankruptcy petition.

8. On or about March 20, 1998, Respondent filed the [A's] bankruptcy petition.

9. By Order dated March 20, 1998, the bankruptcy court directed that the [A's] bankruptcy petition would be dismissed on or after April 6, 1998 unless a proper form of petition was filed with the court.

10. On or about April 8, 1998, the [A] filed an amended bankruptcy petition as did Respondent.

11. On or about March 23, 1998, a section 341 meeting of creditors was scheduled for May 15, 1998 in the [A's] bankruptcy matter.

12. The [A's] debts were discharged by Order dated July 30, 1998.

13. On or about August 31, 1998, [B], Staff Attorney for the Office of the U.S. Trustee, filed a Motion for the Disgorgement of Compensation ("the Motion") in the [A's] bankruptcy matter.

14. On or about September 23, 1998, Respondent filed an Answer to the Motion.

15. In Respondent's Answer, he represented that the [A] had terminated his representation just prior to the May 15, 1998 section 341 meeting.

16. By Order dated October 22, 1998, the bankruptcy court directed Respondent to return \$350.00 of the fee paid to him by the [A].

17. Between on or about October 22, 1998 and on or about November 24, 1998, Respondent failed to pay the [A] any portion of the \$350.00 as directed by the court's Order.

18. On or about November 24, 1998, Respondent filed for bankruptcy in the [] District of Pennsylvania, No. [].

19. The filing of Respondent's bankruptcy stayed Respondent's payments to the [A] as directed by the court's Order dated October 22, 1998.

20. Respondent's bankruptcy was dismissed prior to on or about January 8, 1999.

21. By Order dated January 8, 1999, the bankruptcy court again directed Respondent to return \$350.00 of the fee paid to him by the [A].

22. Between on or about January 8, 1999 and February 8, 1999, Respondent failed to pay the [A] any portion of the \$350.00 as directed by the court's Order.

23. By Order dated February 8, 1999, the bankruptcy court directed Respondent to appear for a hearing on February 23, 1999 to determine why he had not complied with the court's January 8, 1999 Order and whether Respondent had violated F.R.B.P. 1006(b) (3).

24. On or about February 22, 1999, Respondent faxed a copy of a check that was issued to the [A] as partial payment pursuant to the court's January 8, 1999 Order.

25. On or about February 22, 1999, Respondent made a telephone call to the bankruptcy court and represented that he could not attend the hearing scheduled

for February 23, 1999 because his car had been "totaled" in an accident and he had no transportation.

26. Between on or about February 23, 1999 and April 22, 1999, Respondent paid \$350.00 to the [A] as directed by the bankruptcy court.

CHARGE II OF 13 DB 2000

27. By Order dated November 9, 1998, the Supreme Court of Pennsylvania transferred Respondent to Inactive status for failing to timely file a registration statement and pay the annual fee pursuant to Rule 219, Pa.R.D.E.

28. The Court's November 9, 1998 Order informed Respondent that his transfer to inactive status would take effect 30 days after the date of that Order, December 9, 1998.

29. By letter dated November 9, 1998, Elaine M. Bixler, Executive Director & Secretary of the Disciplinary Board of the Supreme Court of Pennsylvania ("the Secretary") provided Respondent with a copy of the Court's November 9, 1998 Order.

30. The Secretary's November 9, 1998 letter also provided Respondent with the following documents:

- a. Rule 217 of the Pennsylvania Rules of Disciplinary Enforcement ("Pa.R.D.E.");
- b. §§ 91.91 - 91.99 of the Disciplinary Board Rules;
- c. Forms DB-23(i) and DB-24(i), Nonlitigation and Litigation Notice of Disbarment, Suspension or Transfer to Inactive Status; and
- d. Form DB-25, Statement of Compliance.

31. The Secretary's November 9, 1998 letter also informed Respondent that he was required to comply with the Pennsylvania Rules of Disciplinary Enforcement and Disciplinary Board Rules enclosed with the letter.

32. Respondent received the Court's November 9, 1998 Order, and the Secretary's letter of November 9, 1998.

33. Between on or about November 9, 1998 and April of 1999, Respondent never filed any documentation with the Disciplinary Board certifying that Respondent had in any way complied with the provisions of the Order of the Supreme Court. Respondent did file the proper certification in or about April of 1999.

34. Between on or about November 9, 1998 and April of 1999, Respondent never filed any document with the Disciplinary Board certifying that Respondent had fully complied with the applicable provisions of the Pa.R.D.E. Respondent did file his certification in or about April of 1999.

35. Between on or about November 9, 1998 and April of 1999, Respondent never filed any document with the Disciplinary Board certifying that Respondent had fully complied with the applicable provisions of the Disciplinary Board Rules. Respondent filed the proper certifications in or about April of 1999.

CHARGE I OF 114 DB 2000

36. Prior to or on March 1, 1999, but after November 9, 1998, [C] and [D] ("Complainant [C]," or "Complainants") asked Respondent and Respondent agreed to represent them in the incorporation of [E] Construction, Inc. ("[E]") and a bankruptcy matter involving [F] Construction, Inc. ("[F]").

37. On or about March 21 1999, Complainant [C] paid Respondent a \$300.00 retainer for the [E] matter.

38. On or about March 2, 1999, Respondent received a partial retainer of \$400.00 for the [F] matter.

39. Respondent never disclosed to Complainants that he was on inactive status and was not permitted to practice law.

40. On or about March 2, 1999, Respondent began the incorporation process on behalf of [E] through [G] Company.

41. On or about March 4, 1999, Respondent faxed a draft of the Articles of Incorporation for [E] to Complainant [C].

42. On or about March 4, 1999, Respondent also faxed a bill to Complainant [C] for legal services rendered in the [E] matter.

43. By his conduct as set forth above, Respondent engaged in the practice of law in the Commonwealth of Pennsylvania while on inactive status as to the [E] matter.

44. By his conduct as set forth above, Respondent accepted two separate retainers for legal representation while he was on inactive status.

45. By his conduct as set forth above, Respondent held himself out as an attorney able to maintain an office and practice law in the Commonwealth of Pennsylvania.

46. By letter dated March 15, 1999, Complainants informed Respondent that they had discovered that Respondent was not authorized to practice law in Pennsylvania.

47. Complainants' March 15, 1999 letter also demanded that Respondent refund the \$700.00 that had been paid to him on behalf of [E] and [F].

CHARGE II OF 114 DB 2000

48. On or about July 29, 1999, [H], Esquire, District Attorney for [] County, filed a criminal information against Respondent.

49. On or about July 29, 1999, Respondent was charged with unauthorized practice of law in violation of 42 Pa.C.S.A. §2524 (a) in a criminal action captioned Commonwealth v. [Respondent], Criminal Action No. [], [] County Court of Common Pleas ("the criminal matter"), with regard to his acceptance of the representation of Complainants.

50. On or about September 13, 1999, Respondent entered into an A.R.D. Participation Agreement - Non D.U.I. ("the Agreement") in the criminal matter.

The Agreement states, in pertinent part, that:

I certify that I have never been convicted of any misdemeanor or felony charge in this or any other state, nor have I ever been placed on A.R.D. or received any pretrial probation without verdict for any misdemeanor or felony charge . . .

By signing this document, I certify that the above statements are true and correct. This certification is made subject to the penalty under 18 Pa.C.S. §4904(b), regarding false statements.

51. Respondent placed his signature on the Agreement certifying that those statements were true and correct.

52. After Respondent signed the Agreement, it was submitted to the Honorable [I], Judge, [] County Court of Common Pleas.

53. Respondent received an Accelerated Rehabilitative Disposition ("A.R.D.") for a period of one year on the charge of unauthorized practice of law in the criminal matter.

54. Also, Respondent was required to make restitution in the amount of \$1,420.00, which is now paid in full.

55. Respondent was arrested for possession of cocaine on June 18, 1997. (N.T. 105).

56. As a result of this arrest, Respondent was placed on Section 17 probation for approximately one year. (N.T. 105 – 106)

57. Respondent was on a Section 17 probation until on or about October 16, 1998.

58. Respondent has a long history of drug abuse, commencing his use of same in high school and continuing thereafter. (N.T. 13 – 16)

59. After Respondent passed the Bar and got a job, he increased his use of cocaine because “he could afford it” now. (N.T. 17)

60. Shortly thereafter, Respondent began to experience a series of job failures, and by the mid to late 1990’s, both his personal and professional life was affected by his use of cocaine. (N.T. 85 – 99)

61. Following his arrest in June 1997 for possession of cocaine, Respondent entered [J] for rehabilitation and stayed for two weeks; he remained sober for three months thereafter. (N.T. 19).

62. In September or October 1997, Respondent began to use cocaine again, on a daily or every other day basis. (N.T. 110)

63. This cocaine use was affecting Respondent's ability to handle his cases.

64. On March 11, 1999, Respondent was in Bankruptcy Court, having been summoned to appear to address his handling of some cases. A fellow lawyer, [K], Esquire, himself a recovering alcoholic and a prior AA acquaintance of Respondent, was present in court that day and after observing Respondent's appearance (Respondent was sweating profusely, his face was green and his hands were shaking) and speaking with Respondent who admitted to having relapsed, [K] represented Respondent at the hearing and then helped Respondent get treatment. (N.T. 63 – 64)

65. On March 17, 1999, Respondent was admitted to [J] for rehabilitation and stayed for over two weeks.

66. Respondent has been sober and free of drugs since March 1999. (N.T. 91, 105)

67. In April 1999, Respondent complied with Pa.R.D.E. 217 and he was then transferred back to active status.

68. In May 1999, Respondent saw [L], M.D., a psychiatrist and an expert in the treatment of alcoholism and addiction. (N.T. 9 – 11)

69. Dr. [L] met with Respondent on five occasions in May, 1999 and on four occasions in August, 2000. (N.T. 11- 12)

70. In addition to meeting with Respondent on the aforesaid occasions, Dr. [L] also reviewed the records of [J], Petitioner's DB-7 letters, one of the Petitions for Discipline, a history of addiction written by Respondent, and letters by [K] and Judge [M]. (N.T. 30 – 31)

71. Based on his meetings with Respondent as well as his review of the aforesaid documents, Dr. [L] issued an expert report dated August 25, 2000.

72. At the disciplinary hearing, Dr. [L] testified that in preparing for his testimony, he also reviewed the Joint Stipulations of Fact and that nothing contained therein changed his opinion. (N.T. 38)

73. Dr. [L] opined that Respondent's actions as a lawyer "were directly related and caused by the symptoms...of chemical dependency, typically and

characteristically cocaine in this case, and absent that of cocaine, he will not and would not have done the things he did.”

74. Respondent also continues to go to therapy on a weekly or biweekly basis. In addition, Respondent is currently on antidepressants.

75. Respondent has participated in the 12 Step Program of Alcoholics/Narcotics Anonymous. He currently attends three to five 12 Step meetings every week. He has established a group home, which has weekly meetings (on Sundays). He has obtained a full time sponsor.

76. Respondent has been paying back the Pennsylvania Lawyers Fund for Client Security on a regular basis and full restitution will soon be made.

77. Respondent has no prior history of discipline.

78. Respondent expressed sincere remorse.

III. CONCLUSIONS OF LAW

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

1. Pa. R.D.E. 217 which state that:

(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 pending matters, other than litigation or administrative proceedings, of the disbarment, suspension or transfer to inactive status and the 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 and shall advise said clients to seek legal advice elsewhere.

(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 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. 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 or transfer to 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.

(c) A formerly admitted attorney shall promptly notify, or cause to be notified, of the disbarment, 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 duty is or may be owed at any time after the disbarment, 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 or on inactive status.

(d) Orders imposing suspension, disbarment or transfer to inactive status shall be effective 30 days after entry. The formerly admitted attorney, after entry of the disbarment, 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.

(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:

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.

(i) A formerly admitted attorney shall keep and maintain records of the various steps taken by such person under these rules so that, upon any subsequent proceeding instituted by or against such person, proof of compliance with these rules and with the disbarment, suspension or transfer to inactive status order will be available. Proof of compliance with these rules shall be a condition precedent to any petition for reinstatement.

2. RPC 1.3 – A lawyer shall act with reasonable diligence and promptness in representing a client.

3. 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.

4. 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 on Petitions for Discipline charging Respondent with the failure to promptly and diligently represent clients; the failure to provide notification of his transfer to inactive status; the representation of clients, including the acceptance of a fee, while on inactive status; and knowingly making a false statement to a tribunal. Respondent did not file Answers to the Petitions for Discipline; however, he entered into Joint Stipulations of Facts admitting to professional misconduct. Respondent argues that due to a cocaine addiction, he is entitled to mitigation pursuant to Office of Disciplinary Counsel v. Braun, 553 A.2d 894 (Pa. 1989).

The first issue to be decided by this Board is to determine whether Respondent violated any of the disciplinary rules. Petitioner has the burden of proving by clear and satisfactory evidence that Respondent violated those Rules charged in the Petitions. Office of Disciplinary Counsel v. Surrick, 561 Pa. 167, 749 A.2d 441 (2000). The Board finds, after reviewing the Joint Stipulations of Facts, that Petitioner has met its burden of proof as to the charges in Petition for Discipline No. 13 DB 2000 and

Charge I of Petition for Discipline 114 DB 2000. The Board notes that the Hearing Committee did not find that Respondent knowingly made a false statement to a tribunal as charged in 114 DB 2000 and thus, did not violate those rules relating to same and charged by Petitioner. The Board agrees. The evidence establishes that Respondent, after being arrested for possession of cocaine in June 1997, had served a term of probation pursuant to 35 P.S. § 780-117 (probation without verdict for drug dependent first time offenders also known as Section 17 probation) until on or about October 16, 1998. Respondent's arrest for the unauthorized practice of law and his request to be placed into the ARD Program in 1999 occurred nearly one year after his Section 17 probation was completed. Since the Section 17 probation had been completed, the underlying criminal charges in that matter were required by statute to be automatically dismissed and the record expunged. See, Commonwealth v. Benn, 675 A.2d 261 (Pa. 1996). Since Respondent was not required to disclose his prior Section 17 probation as a matter of law, he could not have violated the rules set forth in Charge II of 114 DB 2000.

The next issue before this Board is to determine the sanction to be imposed upon Respondent. The appropriateness of a disciplinary sanction is based on the nature and gravity of the misconduct and the aggravating and mitigating factors present. In re Anonymous No. 85 DB 97, 44 Pa. D. & C.4th 299 (1999). The Board finds that Respondent's misconduct was both serious and grave, and warrants a suspension.

The type and length of suspension warranted is dependent upon the existence of any aggravating and mitigating factors. The Board finds that there are no aggravating circumstances in the instant case. There are, however, mitigating factors. First, Respondent has no prior history of discipline. Second, he has nearly completed full restitution to the Pennsylvania Lawyers Fund for Client Security. Third, Respondent is extremely remorseful for his misconduct and has demonstrated a sincere effort at rehabilitation. Respondent understands that his misconduct not only hurt his clients, but reflected badly on the legal process and lawyers on the whole. Respondent is embarrassed that he was a contributing factor to the public perception of dishonest lawyers. Respondent has worked hard to rehabilitate himself. The testimony of Rabbi [N] and [K], Esquire, bolsters Respondent's description of himself as a changed person. Rabbi [N] described the change in Respondent as truly dramatic. He perceives Respondent to be stable, relaxed and functioning well as a husband and father. Attorney [K] helped Respondent through the initial, difficult process of receiving treatment and picking up the pieces of his law practice so that clients were not irreparably harmed. Attorney [K] is very familiar with Respondent's impaired status at that time as compared with his current sobriety and stability.

Finally, Respondent presented the testimony of Dr. [L], a board-certified psychiatrist and expert in the treatment of alcoholism and addiction. Dr. [L] opined that Respondent had a history of drug abuse, especially cocaine, that he was suffering from cocaine addiction at the time of his misconduct, and that there was a direct causal link

between the cocaine addiction and the misconduct. He further opined that Respondent's future prognosis for continued sobriety was positive and that Respondent was no longer involved in the types of activities that he had been when he was using cocaine. Dr. [L], in his testimony, demonstrated that he was fully aware of Respondent's history as well as the facts of Respondent's misconduct. Respondent, through the testimony of Dr. [L], has satisfied the Braun standard for consideration of his substance abuse as a mitigating factor. see In re Anonymous, 66 DB 1996, No. 384 Disciplinary Docket No. 3 (Pa. Feb. 10, 1998). In re Anonymous No. 104 DB 95, No. 126 Disciplinary Docket No. 3 (Pa. May 21, 1997).

The Pennsylvania Supreme Court has imposed stayed suspensions and probations with conditions in prior cases where the Braun standard was met and there was no history of prior discipline. In the matter at No. 18 DB 1999 (Pa. Dec. 14, 2000), the Court imposed a four-year stayed suspension and a four-year probation with sobriety and practice monitors on an attorney who had no history of prior discipline and was suffering from cocaine and alcohol addiction at the time of his misconduct. In the matter at No. 28 DB 1993 (Pa. Sept. 9, 1996), the Court imposed a one-year stayed suspension and a two-year probation with financial and practice monitors on an attorney who had no history of prior discipline and was suffering from major depression and pathological grieving over the death of a parent.

Comparing the facts of the above-cited cases with the facts of the instant case, the Board finds that a stayed suspension and probation with conditions would be

warranted; however, because Respondent's misconduct was more egregious than that of the attorneys in the above-cited cases, the suspension and probation should be for a longer period.

Finally, the Board finds that this suspension should not be retroactive. In re Anonymous, 95 DB 1998, No. 541 Disciplinary Docket No. 3 (Pa. Oct. 15, 1999), it was held that a suspension should be retroactive only where the respondent has affirmatively removed himself from the practice of law or where a formal suspension has already been imposed. In the instant case, Respondent was not under a formal suspension at the time of this disciplinary proceeding. Further, Respondent, at the time of his misconduct, was on inactive status, not because he voluntarily assumed inactive status, but rather because he had been involuntarily transferred to inactive status by the Court due to his non-compliance with Pa.R.D.E. 219.

For the above reasons, the Board recommends a prospective five-year stayed suspension stayed in its entirety, and a five-year period of probation with a sobriety monitor.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania recommends that the Respondent, [], be Suspended from the practice of law in this Commonwealth for a period of five (5) years, that the suspension be stayed in its

entirety, and that Respondent be placed on probation for a period of five (5) years with a sobriety monitor, subject to the following conditions:

- (a) Respondent shall abstain from using alcohol or any other mind altering chemical;
- (b) Respondent shall regularly attend Alcoholics Anonymous meetings on a weekly basis;
- (c) Respondent shall obtain a sponsor in Alcoholics Anonymous and maintain weekly contact with that sponsor;
- (d) A sobriety monitor shall be appointed to monitor Respondent in accordance with Disciplinary Board Rule §89.293(c);
- (e) Respondent shall furnish his sobriety monitor with his Alcoholics Anonymous sponsor's name, address and telephone number;
- (f) Respondent shall establish his weekly attendance at Alcoholics Anonymous meetings by providing written verification to the Board on a Board approved form;
- (g) Respondent shall undergo any counseling, out-patient or in-patient treatment, prescribed by a physician or alcohol counselor;
- (h) Respondent shall file with the Executive Director & Secretary of the Board quarterly written reports;
- (i) With the sobriety monitor, Respondent shall:
 - i) meet at least twice a month;
 - ii) maintain weekly telephone contact;
 - iii) provide the necessary properly executed written authorizations to verify his compliance with the required substance abuse treatment; and
 - iv) cooperate fully.
- (j) The appointed sobriety monitor shall:

- i) monitor Respondent's compliance with the terms and conditions of the order imposing probation;
- ii) assist Respondent in arranging any necessary professional or substance abuse treatment;
- iii) meet with Respondent at least twice a month, and maintain weekly telephone contact with Respondent;
- iv) maintain direct monthly contact with the Alcoholics Anonymous chapter attended by the Respondent;
- v) file with the Executive Director & Secretary of the Board quarterly written reports; and
- vi) immediately report to the Executive Director & Secretary of the Board any violations by the Respondent of the terms and conditions of the probation.

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: _____
Charles J. Cunningham, III, Vice-Chair

Date: January 29, 2003

Board Members Iole, Donohue and Watkins dissented and would recommend a three year stayed suspension and a three year period of probation with a sobriety monitor.

Board Members Curran and Wright did not participate in this adjudication.

PER CURIAM:

AND NOW, this 3rd day of April, 2003, upon consideration of the Report and Recommendations of the Disciplinary Board dated January 29, 2003, it is hereby

ORDERED that [Respondent] be and he is SUSPENDED from the practice of law in the Commonwealth of Pennsylvania for a period of five years, that the suspension be stayed in its entirety and that Respondent be placed on probation for a period of five years with a sobriety monitor, subject to the following conditions:

- (a) Respondent shall abstain from using alcohol or any other mind altering chemical;
- (b) Respondent shall regularly attend Alcoholics Anonymous meetings on a weekly basis;
- (c) Respondent shall obtain a sponsor in Alcoholics Anonymous and maintain weekly contact with that sponsor;
- (d) A sobriety monitor shall be appointed to monitor Respondent in accordance with Disciplinary Board Rule §89.293(c);
- (e) Respondent shall furnish his sobriety monitor with his Alcoholics Anonymous sponsor's name, address and telephone number;
- (f) Respondent shall establish his weekly attendance at Alcoholics Anonymous meetings by providing written verification to the Board on a Board approved form;
- (g) Respondent shall undergo any counseling, out-patient or in-patient treatment, prescribed by a physician or alcohol counselor;
- (h) Respondent shall file with the Executive Director & Secretary of the Board quarterly written reports;
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- i) monitor Respondent's compliance with the terms and conditions of the order imposing probation;
 - ii) assist Respondent in arranging any necessary professional or substance abuse treatment;
 - iii) meet with Respondent at least twice a month, and maintain weekly telephone contact with Respondent;
 - iv) maintain direct monthly contact with the Alcoholics Anonymous chapter attended by the Respondent;
 - v) file with the Executive Director & Secretary of the Board quarterly written reports; and
 - vi) immediately report to the Executive Director & Secretary of the Board any violations by the Respondent of the terms and conditions of the probation.

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