

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL Petitioner	:	No. 88 DB 2017
	:	
v.	:	Attorney Registration No. 93666
	:	
MATTHEW GERALD PORSCHE Respondent	:	(Erie County)

ORDER

AND NOW, this 21st day of February, 2018, upon consideration of the Report and Recommendation of the Hearing Committee filed on December 5, 2017; it is hereby

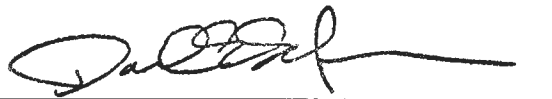
ORDERED that the said MATTHEW GERALD PORSCHE, of Erie County shall be subjected to **PUBLIC REPRIMAND WITH CONDITION** by the Disciplinary Board of the Supreme Court of Pennsylvania as provided in Rule 204(a)(5) of the Pennsylvania Rules of Disciplinary Enforcement.

Before the imposition of the Public Reprimand, Respondent shall submit to the Secretary of the Board and Disciplinary Counsel proof that he has:

1. Refunded the outstanding balance of \$527.50 to his client.

Failure to comply with the above Conditions shall be grounds for further action in accordance with the provisions of Enforcement Rule 208(f)(5). Costs shall be paid by the Respondent.

BY THE BOARD:



Board Chair

TRUE COPY FROM RECORD
Attest:



Marcee D. Sloan
Board Prothonotary
The Disciplinary Board of the
Supreme Court of Pennsylvania

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OFFICE OF DISCIPLINARY COUNSEL	:	No. 88 DB 2017
Petitioner	:	
	:	
v.	:	Attorney Registration No. 93666
	:	
MATTHEW GERALD PORSCHE	:	
Respondent	:	(Erie County)

OPINION

On June 8, 2017, Office of Disciplinary Counsel filed a Petition for Discipline against Respondent, Matthew Gerald Porsch, and charged him with violations of Rules of Professional Conduct (“RPC”) 1.3, 1.4(a)(3), 1.4(a)(4), 1.5(b), 8.1(b) and Pennsylvania Rules of Disciplinary Enforcement (“Pa.R.D.E.”) 203(b)(2), 204(b), and 203(b)(7). The charges stemmed from Respondent’s misconduct in failing to appear for an Informal Admonition on March 13, 2017. Respondent then failed to file an Answer to the Petition. Pursuant to Pa.R.D.E. 208(b)(3), the allegations contained in the Petition are deemed admitted.

Following a prehearing conference on August 29, 2017, a disciplinary hearing was held on October 3, 2017, before a District IV Hearing Committee. Respondent appeared at the prehearing conference and the hearing and testified on his own behalf. At the conclusion of the hearing, pursuant to Board Rule §89.181, the Hearing Committee invoked the abbreviated procedure and the parties stipulated that Respondent violated the rules as charged in the Petition for Discipline, and agreed that he should receive a Public Reprimand and reimburse the outstanding balance of \$527.50

to his client prior to the imposition of the reprimand. For the following reasons, the Board accepts the Committee's determination and imposes on Respondent a public reprimand with condition.

Born in 1978, Respondent was admitted to practice law in the Commonwealth in 2004, and has no history of professional discipline. Respondent is a part-time public defender in Erie County, with a private criminal defense practice. In 2016, by DB-7 Request for Statement of Respondent's Position, Petitioner advised Respondent that a complaint had been filed against him by his client, Jamie Lockwood. Mr. Lockwood's allegations involved Respondent's failure to complete the work on his divorce case, or refund the flat fee of \$700.00 Respondent had charged him. Respondent failed to submit a response to the DB-7 letter and, following review by a Hearing Committee member, it was determined that Respondent should receive an Informal Admonition as a disciplinary sanction.

By letter dated January 23, 2017, Chief Disciplinary Counsel informed Respondent that he was to receive an informal admonition for his violations of RPC 1.3, 1.4(a)(3), 1.4(a)(4), 1.5(b), and 8.1(b), and Pa.R.D.E. 203(b)(7), with a condition that required Respondent to refund the \$700.00 he owed to his client. By letter dated February 22, 2017, Chief Disciplinary Counsel notified Respondent that the Informal Admonition was scheduled for March 13, 2017, at the District IV Office in Pittsburgh. Office of Disciplinary Counsel sent Respondent a reminder letter dated February 24, 2017, that he was required to comply with the condition attached to the informal admonition and provide proof of payment.

Respondent failed to appear on the date and at the time scheduled for the Informal Admonition, and failed to comply with the condition attached to the Informal

Admonition. Petitioner made several fruitless attempts to contact Respondent regarding his failure to appear.

By letter dated March 16, 2017, sent by first-class mail to Respondent's attorney registration address and personally served on Respondent on March 17, 2017, Petitioner informed Respondent that his willful failure to appear before Chief Disciplinary Counsel was grounds for formal discipline, and that if he did not provide good cause for his failure to appear by March 24, 2017, Office of Disciplinary Counsel would initiate formal proceedings. Respondent made no effort to communicate with Office of Disciplinary Counsel regarding his pending disciplinary matter.

At the disciplinary hearing, Respondent offered credible, remorseful testimony. He said he panicked when he received correspondence from Office of Disciplinary Counsel, and used avoidance as a coping mechanism, instead of confronting his disciplinary issues. Respondent expressed extreme regret for making things worse, and offered a sincere apology. Respondent presented evidence that he had made a partial refund payment to his client, reducing the amount now owed to \$527.50.

Under these circumstances, a public reprimand with a condition to refund all money owed is appropriate discipline. In a recent, similar matter an attorney, who failed to appear for an informal admonition and then failed to appear for his disciplinary hearing, was suspended for one year and one day. ***Office of Disciplinary Counsel v. Frederick Seth Lowenberg***, No. 9 DB 2017 (D. Bd. Rpt. 11/1/2017) (S. Ct. Order 12/26/2017). The critical difference between these two cases is that Respondent Porsch appeared at his disciplinary hearing, agreed that he committed misconduct and should reimburse his client, made a partial reimbursement to his client, and showed credible, sincere remorse for his wrongdoing. Respondent's appearance at the disciplinary hearing

demonstrated that he valued his privilege to practice law and understood his obligation to address the disciplinary charges against him.

DETERMINATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously determines that Respondent, Matthew G. Porsch, shall receive a Public Reprimand with the following condition:

1. Respondent shall refund the outstanding balance of \$527.50 to his client prior to the imposition of the reprimand.

The expenses incurred in the investigation and prosecution of this matter shall be paid by Respondent.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: 

Jane G. Penny, Member

Date: 2/21/2018