

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2448 Disciplinary Docket No. 3
: :
Petitioner : No. 177 DB 2017
: :
v. : Attorney Registration No. 312293
: :
DANIEL JOSEPH D'ANTONIO, : (Lackawanna County)
: :
Respondent :

ORDER

PER CURIAM

AND NOW, this 1st day of March, 2018, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board, the Joint Petition in Support of Discipline on Consent is granted, and Daniel Joseph D'Antonio is suspended on consent from the Bar of this Commonwealth for a period of two years. He shall comply with all the provisions of Pa.R.D.E. 217.

Respondent shall pay the costs incurred by the Disciplinary Board in the investigation and prosecution of this matter.

A True Copy Patricia Nicola
As Of 3/1/2018

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, Petitioner,	:	No. 177 DB 2017
	:	
v.	:	Attorney Reg. No. 312293
	:	
DANIEL JOSEPH D'ANTONIO, Respondent	:	(Lackawanna County)
	:	

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

Petitioner, Office of Disciplinary Counsel, by Paul J. Killion, Chief Disciplinary Counsel, and Anthony A. Czuchnicki, Disciplinary Counsel, and Respondent, Daniel Joseph D'Antonio, file this Joint Petition in Support of Discipline on Consent under Rule 215(d) of the Pennsylvania Rules of Disciplinary Enforcement (hereinafter "Pa. R.D.E.") and in support thereof state:

1. Petitioner, whose principal Office is located at the Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62485, Harrisburg, PA 17106, is invested, pursuant to Pa. R.D.E. 207, with the power and the duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Enforcement Rules.

2. Respondent, Daniel Joseph D'Antonio was born on June 25, 1986, was admitted to practice law in Pennsylvania on March 5, 2012, has a registered public

FILED 1/19/2018 The Disciplinary Board of the Supreme Court of Pennsylvania
--

address of 224 Charles Street, Old Forge, Lackawanna County, Pennsylvania 18518,¹ and is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent is not represented by counsel.

SPECIFIC FACTUAL ALLEGATIONS ADMITTED

4. Respondent's misconduct is primarily associated with his unauthorized practice of law while on administrative suspension for a period of five months; however, Respondent also engaged in neglect; failed to comply with the reporting requirements after his suspension became effective; and failed to supply an answer to ODC's Request for a Statement of Respondent's Position (Form DB-7).

5. Specifically, Respondent was administratively suspended for failing to comply with his CLE requirements on April 15, 2016; thereafter, Respondent also failed to pay his attorney registration fee before the filing deadline on July 1, 2016, or at any time thereafter.

6. On August 22, 2016, Respondent resigned from his firm, admitting to neglecting clients in two separate matters.

7. In his resignation, Respondent did not advise his supervising attorney of his administrative suspension or his failure to timely-pay his attorney registration fee until after the supervising attorney made the independent discovery and inquired into his dereliction of his professional obligations.

8. Respondent also failed to notify his clients of his inability to practice law.

¹ Respondent has a separate mailing address in New Jersey which is where Respondent is currently located.

9. During the course of ODC's initial investigation, Respondent failed to respond to the Form DB-7 inquiry, even though receipt was confirmed by certified mailer.

10. ODC filed a Petition for Discipline against Respondent on November 9, 2017. A true and correct copy of the Petition for Discipline is attached hereto as Exhibit "A." The Petition for Discipline sets forth in detail the factual allegations and Disciplinary Rule violations which Respondent was charged.

11. Thereafter, Respondent again failed to respond, failing to file an Answer to the Petition for Discipline, even though he accepted personal service of the Petition.

12. To date, Respondent has also made no efforts to come into compliance with his licensure requirements and remains administratively suspended.

DISCIPLINARY RULE VIOLATIONS

13. Respondent admits to violating the following Rules of Professional Conduct and Rules of Disciplinary Enforcement in this matter:

- a. RPC 1.1: A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation;
- b. RPC 1.3: A lawyer shall act with reasonable diligence and promptness in representing a client;
- c. RPC 1.4(a)(1): A lawyer shall ... promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;
- d. RPC 1.4(b): A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;
- e. RPC 5.5(a): A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so;

- f. RPC 5.5(b)(2): A lawyer who is not admitted to practice in this jurisdiction shall not ... hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction;
- g. RPC 8.1(b): 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;
- h. RPC 8.4(c): It is professional misconduct for a lawyer to ... engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- i. RPC 8.4(d): It is professional misconduct for a lawyer to ... engage in conduct that is prejudicial to the administration of justice;
- j. Pa. R.D.E. 203(b)(7): The following shall also be grounds for discipline ... Failure by a respondent-attorney without good cause to respond to Disciplinary Counsel's request or supplemental request under Disciplinary Board Rules, § 87.7(b) for a statement of the respondent-attorney's position;
- k. Pa. R.D.E. 217(a): A formerly admitted attorney shall promptly notify, or cause to be promptly notified, all clients being represented in pending matters, other than litigation or administrative proceedings, of the disbarment, suspension, administrative 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, administrative suspension or transfer to inactive status and shall advise said clients to seek legal advice elsewhere. The notice required by this subdivision (a) may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt. At the time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by this subdivision and proofs of receipt with the Secretary of the Board and shall serve a conforming copy on the Office of Disciplinary Counsel. See D.Bd. Rules § 91.91(b) (relating to filing of copies of notices);
- l. Pa. R.D.E. 217(b): A formerly admitted attorney shall promptly notify, or cause to be promptly notified, 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, administrative 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, 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. The notice required by this subdivision (b) may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt. See Note after subdivision (a), *supra*. At the time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by this subdivision and proofs of receipt with the Secretary of the Board and shall serve a conforming copy on the Office of Disciplinary Counsel. See D.Bd. Rules § 91.92(b) (relating to filing of copies of notices);

- m. Pa. R.D.E. 217(c)(1)-(3): A formerly admitted attorney shall promptly notify, or cause to be promptly notified, of the disbarment, suspension, administrative suspension or transfer to inactive status:
- (1) all persons or their agents or guardians, including but not limited to wards, heirs and beneficiaries, to whom a fiduciary duty is or may be owed at any time after the disbarment, suspension, administrative suspension or transfer to inactive status;
 - (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; and
 - (3) any other tribunal, court, agency or jurisdiction in which the attorney is admitted to practice. The notice required by this subdivision (c) may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt. See Note after subdivision (a), *supra*. At the time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices

required by this subdivision and proofs of receipt with the Secretary of the Board and shall serve a conforming copy on the Office of Disciplinary Counsel. 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;

- n. Pa. R.D.E. 217(d)(2): In addition to the steps that a formerly admitted attorney must promptly take under other provisions of this Rule to disengage from the practice of law, a formerly admitted attorney shall promptly cease and desist from using all forms of communication that expressly or implicitly convey eligibility to practice law in the state courts of Pennsylvania, including but not limited to professional titles, letterhead, business cards, signage, websites, and references to admission to the Pennsylvania Bar;
- o. Pa. R.D.E. 217(j)(4)(i), (iii)-(ix): Without 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;
 - (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;
 - (viii) appearing as a representative of the client at a deposition or other discovery matter;

- (ix) negotiating or transacting any matter for or on behalf of a client with third parties or having any contact with third parties regarding such a negotiation or transaction; and
- p. Pa. R.D.E. 219(d)(3): Every attorney who has filed the [Attorney Registration] form shall notify the Attorney Registration Office in writing of any change in the information previously submitted, including e-mail address, within 30 days after such change.

**SPECIFIC JOINT RECOMMENDATIONS FOR DISCIPLINE OF A TWO YEAR
LICENSE SUSPENSION**

Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent is a two year suspension. Respondent hereby consents to the 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 acknowledgements contained in Pa. R.D.E. 215(d)(1) through (4).

The unauthorized practice of law is considered to be a serious violation of the Rules of Professional Conduct. See ODC v. Bohmueller, 53 DB 2011 (D. Bd. Rpt. 2014), at 27 (citing ODC v. DiGiovanni, 36 DB 2009 (Pa. 2009); ODC v. Goldin-Didinsky, 87 DB 2003 (Pa. 2004)). "[T]he Supreme Court does not tolerate lawyers who take a lax approach to the administrative rules governing the practice of law. Even in situations where lawyers lack disciplinary records and have otherwise good reputations, the Court finds their misconduct contemptuous...." ODC v. Forrest, 134 DB 2003 (D. Bd. Rpt. 2004), at 13-14.

Attorneys who practice while on inactive status for failing to fulfill CLE requirements generally receive some form of suspension; typically a one-year and one-day suspension. See id. Lesser discipline may be imposed for limited instances of unauthorized practice,

but greater discipline may also be imposed under aggravating circumstances. Compare ODC v. Buffington, 45 DB 2004 (D. Bd. Rpt. 2005) (six-month suspension) with ODC v. Jones, 71 & 126 DB 1999 (D. Bd. Rpt. 2001) (two year suspension).

In support of Petitioner and Respondent's Joint Recommendation, it is respectfully submitted that mitigating circumstances do exist: Respondent has no record of prior discipline; and Respondent is remorseful for and embarrassed by his conduct and understands he should be disciplined, as evidenced by his consent to receiving a two year license suspension. However, the failure to participate in disciplinary proceedings is a well-established aggravating factor, which outweighs any mitigation. See ODC v. Garagozzo, 58 DB 2016 (D. Bd. Rpt. 2017) (citing ODC v. Chandler, 10 DB 2010 (D. Bd. Rpt. 2011)).

In addition to Respondent engaging in the unauthorized practice of law for approximately five months, Respondent also failed to competently and diligently represent his clients in at least two separate matters, warranting more serious discipline.

The parties respectfully submit that a two year suspension, given the facts of the instant matter, is consistent with the above cited disciplinary authority.

WHEREFORE, Petitioner and Respondent respectfully request that pursuant to Pa. R.D.E. 215, a three-member panel of the Disciplinary Board review and approve the above Joint Petition in Support of Discipline on Consent and file its recommendation with the Supreme Court of Pennsylvania in which it is recommended that the Supreme Court of Pennsylvania enter an Order suspending Respondent for two years, for the conduct set forth herein.

Respectfully submitted,

Date: 1/19/18

By: Anthony Czuchnicki

Anthony A. Czuchnicki
Disciplinary Counsel
Attorney Registration No. 312620
601 Commonwealth Avenue, Suite 5800
P.O. Box 62675
Harrisburg, PA 17106-2675
Telephone (717) 772-8572

Date: 1/19/18

By: Daniel Joseph D'Antonio

Daniel Joseph D'Antonio
Respondent
Attorney Registration No. 312293
224 Charles Street
Old Forge, PA 18518
Telephone (570) 575-9553

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,
Petitioner,

v.

DANIEL JOSEPH D'ANTONIO,
Respondent

No. 177 DB 2017

Attorney Reg. No. 312293

(Lackawanna County)

VERIFICATION

The statements made in the foregoing Joint Petition in Support of Discipline on Consent Pursuant to Pa. R.D.E. 215(d) are true and correct to the best of my knowledge, information, and belief. This statement is made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Date: 1/19/18

By: Anthony A. Czuchnicki

Anthony A. Czuchnicki
Disciplinary Counsel
Attorney Registration No. 312620
601 Commonwealth Avenue, Suite 5800
P.O. Box 62675
Harrisburg, PA 17106-2675
Telephone (717) 772-8572

Date: 1/19/18

By: Daniel J. D'Antonio

Daniel Joseph D'Antonio
Respondent
Attorney Registration No. 312293
224 Charles Street
Old Forge, PA 18518
Telephone (570) 575-9553

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

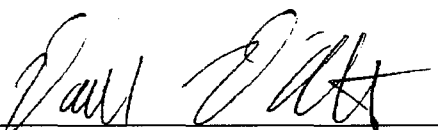
OFFICE OF DISCIPLINARY COUNSEL,	:	
Petitioner,	:	No. 177 DB 2017
	:	
v.	:	Attorney Reg. No. 312293
	:	
DANIEL JOSEPH D'ANTONIO,	:	(Lackawanna County)
Respondent	:	
	:	

RESPONDENT'S AFFIDAVIT UNDER RULE 215(d) OF THE
PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

I, Daniel Joseph D'Antonio, Respondent in the above-captioned matter, hereby consent to the imposition of a two year suspension, as jointly recommended by the Petitioner, Office of Disciplinary Counsel, and myself, in a Joint Petition in Support of Discipline on Consent and further state:

1. My consent is freely and voluntarily rendered; I am not being subjected to coercion or duress; I am fully aware of the implications of submitting the consent;
2. I am aware there is presently pending a proceeding involving allegations that I have been guilty of misconduct as set forth in the Joint Petition;
3. I acknowledge that the material facts set forth in the Joint Petition are true;
4. I consent because I know that if the charges continued to be prosecuted in the pending proceeding, I could not successfully defend against them; and

5. I acknowledge that I am fully aware of my right to consult and employ counsel to represent me in the instant proceeding.

By: 

Daniel Joseph D'Antonio
Respondent
Attorney Registration No. 312293
224 Charles Street
Old Forge, PA 18518
Telephone (570) 575-9553

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	
Petitioner,	:	No. 177 DB 2017
	:	
v.	:	Attorney Reg. No. 312293
	:	
DANIEL JOSEPH D'ANTONIO,	:	(Lackawanna County)
Respondent	:	
	:	

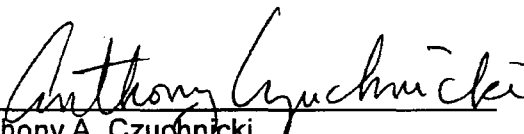
CERTIFICATE OF SERVICE

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 Pa. R.A.P. 121.

Electronic Mail, return receipt requested, as follows:

Daniel Joseph D'Antonio
224 Charles Street
Old Forge, PA 18518
xdan3220@gmail.com

Date: 1/18/2018

By: 
Anthony A. Czuchnicki
Disciplinary Counsel
Attorney Registration No. 312620
601 Commonwealth Avenue, Suite 5800
P.O. Box 62675
Harrisburg, PA 17106-2675
Telephone (717) 772-8572

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	
Petitioner,	:	No. DB 2017
	:	
v.	:	Attorney Reg. No. 312293
	:	
DANIEL JOSEPH D'ANTONIO,	:	(Lackawanna County)
Respondent	:	

PETITION FOR DISCIPLINE

Petitioner, Office of Disciplinary Counsel, by Paul J. Killion, Chief Disciplinary Counsel, and Anthony A. Czuchnicki, Disciplinary Counsel, files this Petition for Discipline, and charges Respondent, Daniel Joseph D'Antonio, with professional misconduct in violation of the Rules of Professional Conduct as follows:

1. Petitioner, whose principal Office is located at the Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62485, Harrisburg, PA 17106, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement (hereinafter "Pa. R.D.E."), with the power and the duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of the aforesaid Rules.

Exhibit A

2. Respondent, Daniel Joseph D'Antonio, was born on June 25, 1986, was admitted to practice law in Pennsylvania on March 5, 2012, has a registered public address of 224 Charles Street, Old Forge, Pennsylvania 18518, and is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

Procedural History: Administrative Suspension and Disciplinary Proceedings

3. On May 29, 2015, the Pennsylvania Continuing Legal Education Board ("PaCLE Board") sent Respondent an initial Notice that he had not yet complied with his Continuing Legal Education requirements ("CLE"), and that compliance was required by August 31, 2015.¹

4. As a member of "Group 2" for CLE compliance, Respondent's deadline to complete his CLEs was August 31st of each year.

5. On October 23, 2015, the PaCLE Board sent Respondent a Notice that he was non-compliant with his CLE requirements, and that he was being assessed a \$100 late fee. The Notice also provided information regarding how to resolve his non-compliance.

6. On January 27, 2016, the PaCLE Board sent Respondent a second Notice of non-compliance, and assessed an additional \$100 late fee. The Notice also provided information regarding how to resolve Respondent's non-compliance.

7. All of the aforementioned notices were sent to Respondent's registered mailing address in Mickleton, NJ.

8. On March 16, 2016, Respondent was notified by the Attorney Registrar, Suzanne E. Price, that he was to be administratively suspended from the practice of law

¹ At the time, Respondent had three registered addresses: a home address in Old Forge, stated in ¶ 2; an office address indicating he was employed with the Pisanchyn Law Firm in Scranton, PA; and Respondent's registered mailing address, 704 Kings Highway, Mickleton, NJ 08056.

for failing to comply with his CLE requirements.

9. This Notice was sent certified, return receipt requested, to Respondent's registered mailing address in Mickleton, NJ.

10. The certified mailer was returned received on March 18, 2016.

11. Receipt of this correspondence demonstrates that Respondent was informed that he would be administratively suspended on April 15, 2016.

12. On April 15, 2016, the March 16, 2016, Order became effective, and Respondent was administratively suspended from the practice of law.

13. Despite being administratively suspended, Respondent failed to inform his clients of his administrative suspension and engaged in the unauthorized practice of law, in violation of the Pennsylvania Rules of Professional Conduct, by continuing to represent clients for approximately four months.

14. Respondent failed to pay his attorney registration fee on or before July 1, 2016, or at any time thereafter.

15. On August 22, 2016, Respondent sent an email to his employer, Michael Pisanchyn, Jr., Esquire.

16. In this email, Respondent stated:

I'm really sorry to have to be sending you this email, but I didn't want to make a scene at the office. Please accept this email as my resignation from your firm effective immediately. I screwed up with the Karen Engel case and believe that it is going to get dismissed in summary judgment. Also I didn't get a medical expert for Debbie and Jayme's case so that is two significant screw ups. I have realized I don't have what it takes to provide the clients the representation they need which isn't fair to them or you. Rather than put you in a position where you would have to fire me ... I think it is better for me to voluntarily resign.

17. In this email, Respondent failed to inform his employer of his

administrative suspension.

18. On an unknown date between August 22, 2016, and September 8, 2016, Attorney Pisanchyn became independently aware that Respondent was administratively suspended from the practice of law.

19. On September 8, 2016, Attorney Pisanchyn inquired into when Respondent became aware of his administrative suspension, via text message.

20. In response, on the same date, Respondent stated that he had only become aware of his administrative suspension a day prior; however, Respondent also stated, that he "knew [he] was late on paying [his] fee."

21. Respondent knew or should have known of his administrative suspension prior to September 8, 2016, as he had received a certified mailing notifying him of his suspension six months prior, on or about March 16, 2016.

22. Respondent knew or should have known that the date for paying his attorney registration fee had lapsed, as well as both late registration deadlines, July 31st and August 31st respectively.

23. Respondent also knew or should have known that he had failed to take sufficient CLE credits for both his 2016 and 2017 compliance years.

24. Therefore, Respondent's statement to his former employer was false and misleading as Respondent should have been aware of his non-compliance with both his fee and CLE requirements.

25. To date, Respondent has failed to:

- a. complete his CLE requirements; and
- b. pay his registration fees, and the accompanying penalties.

26. To date, Respondent has failed to comply with the Rules associated with administrative suspension. Specifically, Respondent has failed to:

- a. pay his reinstatement fee;
- b. file a DB-25(a) Statement of Compliance; and
- c. comply with Pa. R.D.E. 217.

27. On May 4, 2017, a Request for Statement of Respondent's Position (Form DB-7) was sent certified to Respondent's address in Mickleton, NJ.

28. The certified mailer receipt was returned, indicating receipt on May 6, 2017.

29. Respondent failed to timely-respond to the Form DB-7.²

The Geroulo Complaint – C3-16-619

30. At some time prior to December 21, 2015, Respondent assumed primary responsibility for a personal injury matter on behalf of Karen Engel. See Engel v. Port Elevator, Civil Case No. 15-1661 (Lycoming Co.).

31. On May 13, 2016, Christopher Carling, Esquire, counsel for Development Alliance (among others) filed a Motion for Summary Judgment.

32. On May 27, 2016, the Court set oral argument on the Motion for August 18, 2016.

33. On July 11, 2016, Thomas Geroulo, Esquire, counsel for Port Elevator, Inc., filed a Motion for Summary Judgment.

34. Respondent failed to competently and diligently represent his client in that he failed to timely-file responses to the Motions for Summary Judgment.

² ODC also sent the Form DB-7 in July 2017 to Respondent's address in Old Forge, PA, but it was returned unclaimed.

35. On August 18, 2016, the Court held a hearing on the Motions.

36. At the hearing, despite objection by opposing counsel, the Honorable George Wheeler permitted Respondent to present oral argument relating to the Motions.

37. At this hearing, Respondent engaged in the unauthorized practice of law by representing Ms. Engel.

38. At this hearing, Respondent held himself out as being licensed to practice law in the Commonwealth.

39. By participating in the hearing on behalf of a client, Respondent misrepresented that he was licensed to practice law in the Commonwealth.

40. On August 29, 2016, the Motions for Summary Judgment were granted.

The Wescoe Complaint – C3-16-659

41. Between April 15, 2016, and September 8, 2016, Respondent engaged in the unauthorized practice of law by taking the following actions:

- a. On May 25, 2016, Respondent served six notices of depositions on James Wescoe, Esquire, counsel for Transport America in D'Albero v. Roden, Civil Case No. 2015-1028 (Luzerne Co.).
- b. On or about May 25, 2016, Respondent also served these same six notices of depositions on: Robert Panowicz, Esquire; John Dougherty, Esquire; Shawna Laughlin, Esquire; Anthony Sallavanti, Esquire; and John Yaninek, Esquire.
- c. On July 14, 2016, Respondent deposed two individuals, Hernan Rodriguez and Clay Roden, acting as "lead attorney" in the

depositions.

- d. On July 14, 2016, Respondent defended plaintiff Raymond D'Albero in connection with a deposition taken by Attorneys Wescoe, Panowicz, Sallavanti, and Yaninek.
- e. During that deposition, Respondent objected to questioning of Mr. D'Albero on the basis of "attorney-client privilege."
- f. On July 21, 2016, Respondent deposed three individuals, Shawn Hilbert, Edward Crucey, and Gary Falldin, acting as "lead attorney" in the depositions.
- g. On July 21, 2016, Respondent defended plaintiff Linda D'Albero in connection with a deposition taken by Attorneys Wescoe, Panowicz, Dougherty, Sallavanti, and Yaninek.
- h. On July 28, 2016, Respondent initiated settlement negotiations in the D'Albero matter with Attorney Wescoe via email.
- i. On or about July 28, 2016, Respondent also initiated settlement negotiations in the D'Albero matter with Attorneys Panowicz, Dougherty, Laughlin, Sallavanti, and Yaninek via email.

42. By taking the actions described above, Respondent misrepresented that he was licensed to practice law in the Commonwealth.

43. By taking the actions described above, Respondent held himself out as being licensed to practice law in the Commonwealth.

44. By his conduct as set forth in Paragraphs 3 through 43, Respondent violated the following Rules of Professional Conduct and Rules of Disciplinary

Enforcement:

- a. **RPC 1.1:** A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation;
- b. **RPC 1.3:** A lawyer shall act with reasonable diligence and promptness in representing a client;
- c. **RPC 1.4(a)(1):** A lawyer shall ... promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;
- d. **RPC 1.4(b):** A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;
- e. **RPC 5.5(a):** A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so;
- f. **RPC 5.5(b)(2):** A lawyer who is not admitted to practice in this jurisdiction shall not ... hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction;
- g. **RPC 8.1(b):** An applicant for admission to the bar, or a lawyer in connection with a bar admission application or 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;

- h. RPC 8.4(c): It is professional misconduct for a lawyer to ... engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- i. RPC 8.4(d): It is professional misconduct for a lawyer to ... engage in conduct that is prejudicial to the administration of justice;
- j. Pa. R.D.E. 203(b)(7): The following shall also be grounds for discipline ... Failure by a respondent-attorney without good cause to respond to Disciplinary Counsel's request or supplemental request under Disciplinary Board Rules, § 87.7(b) for a statement of the respondent-attorney's position; and
- k. Pa. R.D.E. 217(a): A formerly admitted attorney shall promptly notify, or cause to be promptly notified, all clients being represented in pending matters, other than litigation or administrative proceedings, of the disbarment, suspension, administrative 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, administrative suspension or transfer to inactive status and shall advise said clients to seek legal advice elsewhere. The notice required by this subdivision (a) may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt. At the time of the filing of the verified statement of compliance required by

subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by this subdivision and proofs of receipt with the Secretary of the Board and shall serve a conforming copy on the Office of Disciplinary Counsel. See D.Bd. Rules § 91.91(b) (relating to filing of copies of notices);

- I. Pa. R.D.E. 217(b): A formerly admitted attorney shall promptly notify, or cause to be promptly notified, 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, administrative 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, 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. The notice required by this subdivision (b) may be delivered by the most efficient method possible as long as the chosen method is

successful and provides proof of receipt. See Note after subdivision (a), *supra*. At the time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by this subdivision and proofs of receipt with the Secretary of the Board and shall serve a conforming copy on the Office of Disciplinary Counsel. See D.Bd. Rules § 91.92(b) (relating to filing of copies of notices);

m. Pa. R.D.E. 217(c)(1)-(3): A formerly admitted attorney shall promptly notify, or cause to be promptly notified, of the disbarment, suspension, administrative suspension or transfer to inactive status:

- (1) all persons or their agents or guardians, including but not limited to wards, heirs and beneficiaries, to whom a fiduciary duty is or may be owed at any time after the disbarment, suspension, administrative suspension or transfer to inactive status;
- (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; and
- (3) any other tribunal, court, agency or jurisdiction in which the attorney is admitted to practice.

The notice required by this subdivision (c) may be delivered by the most efficient method possible as long as the chosen method is successful and provides proof of receipt. See Note after subdivision (a), *supra*. At the

time of the filing of the verified statement of compliance required by subdivision (e)(1) of this Rule, the formerly admitted attorney shall file copies of the notices required by this subdivision and proofs of receipt with the Secretary of the Board and shall serve a conforming copy on the Office of Disciplinary Counsel. 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;

- n. Pa. R.D.E. 217(d)(2): In addition to the steps that a formerly admitted attorney must promptly take under other provisions of this Rule to disengage from the practice of law, a formerly admitted attorney shall promptly cease and desist from using all forms of communication that expressly or implicitly convey eligibility to practice law in the state courts of Pennsylvania, including but not limited to professional titles, letterhead, business cards, signage, websites, and references to admission to the Pennsylvania Bar;
- o. Pa. R.D.E. 217(j)(4)(i), (iii)-(ix): Without 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;

- (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;
- (viii) appearing as a representative of the client at a deposition or other discovery matter;
- (ix) negotiating or transacting any matter for or on behalf of a client with third parties or having any contact with third parties regarding such a negotiation or transaction;

- p. Pa. R.D.E. 219(d)(3): Every attorney who has filed the [Attorney Registration] form shall notify the Attorney Registration Office in writing of any change in the information previously submitted, including e-mail address, within 30 days after such change.

WHEREFORE, Petitioner prays that your Honorable Board appoint, pursuant to Pa. R.D.E. 205, a Hearing Committee to hear testimony and receive evidence in support of the forgoing charges and upon completion of said Hearing to make such findings of fact, conclusions of law, and recommendations for disciplinary action as it may deem appropriate.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

Paul J. Killion
Chief Disciplinary Counsel

By: 

Anthony A. Czuchrnicki
Disciplinary Counsel
Attorney Registration No. 312620

601 Commonwealth Avenue, Suite 5800
P.O. Box 62675
Harrisburg, PA 17106-2675
Telephone (717) 772-8572

VERIFICATION

I, Anthony A. Czuchnicki, Disciplinary Counsel, verify that the statements made in the foregoing Petition for Discipline are true and correct to the best of my knowledge, information, and belief. This statement is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.



Anthony A. Czuchnicki