

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2430 Disciplinary Docket No. 3
: :
Petitioner : No. 191 DB 2017
: :
v. : Attorney Registration No. 89591
: :
PATRICK O'HARE REGAN, : (Allegheny County)
: :
Respondent :

ORDER

PER CURIAM

AND NOW, this 2nd day of January, 2020, upon consideration of the Report and Recommendations of the Disciplinary Board, Patrick O'Hare Regan is suspended from the Bar of this Commonwealth for a period of two years, retroactive to December 21, 2017, and he shall comply with all the provisions of Pa.R.D.E. 217. Respondent shall pay costs to the Disciplinary Board pursuant to Pa.R.D.E. 208(g).

A True Copy Patricia Nicola
As Of 01/02/2020


Attest:
Chief Clerk
Supreme Court of Pennsylvania

**BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL	:	No. 191 DB 2017
Petitioner	:	
	:	
v.	:	Attorney Registration No. 89591
	:	
PATRICK O'HARE REGAN	:	
Respondent	:	(Allegheny 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

By Petition for Discipline filed on October 11, 2018, Petitioner, Office of Disciplinary Counsel, charged Respondent, Patrick O'Hare Regan, with professional misconduct arising from his criminal conviction of one count of conspiracy to commit mail and wire fraud in the United States District Court for the Eastern District of Pennsylvania. Respondent filed an Answer to Petition for Discipline on November 5, 2018.

Following a prehearing conference on January 10, 2019, a District IV Hearing Committee ("Committee") conducted a disciplinary hearing on February 15,

2019. Petitioner offered Exhibits AE 1 through AE 5 and PE 1, PE 2 and PE 3, all of which the Committee admitted without objection. Petitioner did not call any witnesses. Respondent testified on his own behalf and called three witnesses. Respondent offered a packet of exhibits containing character letters which were considered by the sentencing judge in the underlying criminal case. The Committee admitted Respondent's exhibits without objection.

On April 5, 2019, Petitioner filed a Brief to the Committee and requested that the Committee recommend to the Board that Respondent be suspended for a period of not less than two years.

On April 22, 2019, Respondent filed a Brief to the Committee and requested that the Committee recommend to the Board that he be suspended for a period of not more than two years, retroactive to the date of Respondent's temporary suspension on December 21, 2017.

The Committee filed a Report on June 21, 2019, concluding that Respondent committed professional misconduct and recommending that he be suspended for a period of two years, retroactive to the date of his temporary suspension.

The parties did not take exception to the Committee's Report and recommendation.

The Board adjudicated this matter at the meeting on October 17, 2019.

II. FINDINGS OF FACT

The Board makes the following findings:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, P.O. Box 62485, Harrisburg, PA 17106-2485, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, 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.

2. Respondent is Patrick O'Hare Regan, born in 1971 and admitted to practice law in the Commonwealth of Pennsylvania in 2002. Respondent's attorney registration address is 133 Marian Avenue, Glenshaw (Allegheny County), Pennsylvania 15116. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has no prior history of discipline.

4. On May 8, 2017, an information was filed in ***United States of America v. Patrick Regan***, in the United States District Court for the Eastern District of Pennsylvania at 17-CR-00255, charging Respondent with Conspiracy to Commit Mail and Wire Fraud, in violation of 18 U.S.C. § 371. PE 1.

5. Respondent, along with others, participated in an illegal scheme to corrupt the contracting process for awarding the City of Allentown's contract for replacing the city's street lights. PE 1; N.T. 10. Respondent's participation did not involve the practice of law.

6. The Allentown street light replacement contract had a face value of approximately \$3,000,000. *Id.*

7. Respondent was a vice-president of company #1 a/k/a TEN (The Efficiency Network) which submitted documentation for consideration in the City of Allentown street light contract process. PE 1; N.T. 17.

8. Five other companies submitted paperwork to the City of Allentown for consideration. PE 1.

9. Respondent was aware that an elected official had made it known that favorable official action would result from donors who made satisfactory campaign contributions. PE 1.

10. In order to increase the likelihood that company #1 would prevail, Respondent and one other individual associated with company #1 made contributions to an elected Allentown official's campaigns for local, state, and federal office. AE 1.

11. Respondent, along with one other individual, wrote language favorable to company #1, which language was included at the direction of Allentown officials in the City's requests for proposals and qualifications. AE 1.

12. Company #1 prevailed in the street light contractual process. AE 1; PE 1.

13. Respondent and others engaged in the acts set forth in PE 1 to form the criminal conspiracy involving the City of Allentown's street lighting contract.

14. Respondent's participation in the conspiracy lasted from December 2013 until approximately June 30, 2015. PE 1; N.T. 30.

15. On June 12, 2017, Respondent entered a counselled plea of guilty. AE 1; PE 2.

16. By letter dated June 23, 2017, Respondent, through his counsel, complied with Rule 214, Pa.R.D.E., by reporting his criminal conviction to the Office of Disciplinary Counsel. AE 1.

17. Following a presentence investigation/report, Respondent was sentenced on September 13, 2017 by United States District Court Judge Juan R. Sanchez, to:

- a. A term of two years' probation with six months of home confinement on electronic monitoring;
- b. Pay a mandatory \$100 special assessment;
- c. Pay a \$5,000 fine;
- d. Pay \$5,000 restitution; and
- e. Perform 40 hours of community service, specified as public speaking on "business law and situational ethics."

PE 2.

18. In sentencing Respondent, Judge Sanchez did not impose a period of incarceration, although under the federal sentencing guidelines, the range was zero to six months' incarceration.

19. Respondent paid the special assessment, fine, and restitution prior to the time of sentencing, and has complied with the community service requirements.

PE 2.

20. Respondent admitted to his crime, accepted the sentence imposed, and filed no appeal. PE 2; AE 1.

21. By Order dated December 21, 2017, the Supreme Court of Pennsylvania granted the Joint Petition to Temporarily Suspend an Attorney and placed Respondent on temporary suspension from the practice of law. AE 2.

22. Respondent fully cooperated with Petitioner by agreeing to be placed on temporary suspension. N.T. 20.

23. The Supreme Court Order directed Respondent to comply with Rule 217, Pa.R.D.E. AE 2.

24. Respondent submitted his Statement of Compliance to the Board on January 18, 2018. AE 3.

25. At the time of the disciplinary hearing on February 15, 2019, Respondent was still on probation. N.T. 29-30.

26. Respondent's probation requires him to communicate with his probation officer by telephone or through emails. N.T. 33.

27. Respondent has acknowledged the wrongfulness of his conduct. N.T. 19-20.

28. Respondent explained his involvement as something he did to help his company win projects and be successful. He admits that he should have handled things differently. N.T. 18, 19.

29. Respondent expressed genuine remorse for his actions, which have caused embarrassment and humiliation to himself and his family. Respondent expressed regret that his conduct tarnished the profession. N.T. 28.

30. During his temporary suspension, Respondent has been employed full-time as vice-president of business development for System One, a staffing and

recruitment firm in Pittsburgh. N.T. 21-22. This employment does not involve the practice of law.

31. Respondent reports directly to the chief executive officer and the chief operating officer at System One and informed these individuals of his criminal conviction. N.T. 22-23.

32. Respondent regularly volunteers at his children's school and participates as a youth sports coach. N.T. 26-27.

33. Three witnesses testified on Respondent's behalf.

34. Joseph Bielevicz is a detective with the City of Pittsburgh Police. He considers Respondent to be a good friend and has known Respondent since they were teenagers. Detective Bielevicz credibly testified that Respondent is a good person and a very good family man who is honest and trustworthy. Although Detective Bielevicz is fully aware of Respondent's criminal acts, he believes that this one incident does not define Respondent's character. N.T. 34 -39.

35. William Lestitian is an attorney and licensed CPA who serves as the head of the corporate and business department of the Rothman Gordon law firm in Pittsburgh. He has known Petitioner since the early 2000s, and particularly during the time frame 2005 through 2009, when Petitioner was employed as an associate attorney at the firm. N.T. 42-43.

36. Mr. Lestitian credibly testified that Respondent is a person of exemplary character, and a truthful, honest and law-abiding citizen. N.T. 44 - 45.

37. Mr. Lestitian is fully aware of Respondent's criminal conviction and although he was surprised by it, he was not surprised that Respondent took responsibility

for his actions, as Mr. Lestitian found that response to be consistent with Respondent's character. N.T. 45 - 46.

38. David DelFiandra is an attorney with the law firm of Leech, Tishman, Fuscaldo and Lampl. He has known Respondent for approximately 23 years. Mr. DelFiandra credibly testified that Respondent has a great character and is a law-abiding, truthful and honest individual. N.T. 52.

39. Mr. DelFiandra is aware of Respondent's criminal conviction and was shocked by it, but the conviction does not impact Mr. DelFiandra's opinion of Respondent, based on their interactions through the decades. N.T. 52-53.

40. Respondent submitted a packet of 19 character letters, which had been considered by the sentencing judge in the underlying criminal case. RE A.

III. CONCLUSIONS OF LAW

By his conduct as set forth above, Respondent violated the following Pennsylvania Rule of Disciplinary Enforcement:

1. Pa.R.D.E. 203(b)(1) – Respondent's criminal conviction in the United States District Court for the Eastern District of Pennsylvania is grounds for discipline.

IV. DISCUSSION

This matter is before the Board on a Petition for Discipline charging Respondent with violation of Rule 203(b)(1), Pa.R.D.E., arising out of Respondent's criminal conviction of conspiracy to commit mail and wire fraud. The certified copies of the court records from Respondent's conviction in the United States District Court for the Eastern District of Pennsylvania (PE 1 and PE 2) constitute conclusive evidence of Respondent's commission of a crime, and incontrovertible evidence of his professional misconduct. *Office of Disciplinary Counsel v. Harold E. Casety, Jr.*, 512 A.2d 607, 609 (Pa. 1986). Further, Respondent by his Answer to the Petition for Discipline and testimony at the disciplinary hearing acknowledged and admitted his misconduct.

The Board's task is to determine the appropriate level of discipline, bearing in mind that the recommended discipline must reflect facts and circumstances unique to the case, including circumstances that are aggravating or mitigating, *Office of Disciplinary Counsel v. Joshua Eilberg*, 441 A.2d 1193, 1195 (Pa. 1982), and to "examine the underlying facts involved in the criminal charge to weigh the impact of the conviction upon the measure of discipline." *Office of Disciplinary Counsel v. Frank Troback*, 383 A.2d 952, 953 (Pa. 1978). Despite the fact-intensive nature of the endeavor, consistency is required so that similar misconduct "is not punished in radically different ways." *Office of Disciplinary Counsel v. Robert S. Lucarini*, 472 A.2d 186, 190 (Pa. 1983). Following review of this matter, we conclude that the appropriate discipline is a suspension for a period of two years, retroactive to the date of Respondent's temporary suspension from the practice of law.

The record establishes that Respondent participated in an illegal scheme to corrupt the contracting process for awarding the City of Allentown's contract for replacing

street lights. Respondent was a vice-president of a company that submitted documentation to the city for consideration, and he was aware that an elected official had made it known that favorable official action would result for donors who made satisfactory campaign contributions. In order to increase the likelihood that his company would prevail in the consideration, Respondent along with another individual associated with TEN, made contributions to an elected Allentown official's campaign for various offices. Additionally, Respondent wrote language favorable to his company, at the direction of Allentown officials. Respondent's participation in the scheme lasted from December 2013 until approximately June 30, 2015. Respondent's participation did not involve the practice of law.

Respondent was caught, pleaded guilty to one count of conspiracy to commit mail and wire fraud, and was sentenced to probation for a period of two years with six months of home confinement on electronic monitoring, a fine, restitution, special assessment, and community service. Respondent completed the terms of his sentence. Respondent timely reported his conviction to Office of Disciplinary Counsel and cooperated by agreeing to the temporary suspension of his law license.

In mitigation, we find that Respondent is sincerely repentant for his criminal acts, which caused embarrassment and humiliation to his family. He has consistently accepted responsibility and demonstrated cooperation, both in his criminal proceeding and the instant disciplinary proceeding. Respondent's character witnesses confirmed his remorse, and further confirmed that Respondent's good reputation in his community has not been diminished by his actions. Respondent offered a packet of 19 letters to corroborate that he is a decent, hardworking family man whose conviction was out of character. Notwithstanding the current matter, Respondent has had an unblemished

disciplinary history since his admission to the bar in 2002. During his temporary suspension, Respondent has maintained full-time employment at a staffing and recruitment firm and candidly advised his employer of his criminal conviction. He currently volunteers at his children's school and coaches youth sports.

The Board has adjudicated numerous disciplinary cases involving criminal convictions for mail fraud, wire fraud, official bribery, and other governmental fraud. These convictions have generally resulted in suspension for three years or less. While these cases are not identical to the instant matter, they bear enough similarity to guide the Board in assessing appropriate discipline. See, ***Office of Disciplinary Counsel v. Joseph DeMesquita***, No. 139 DB 1995 (D. Bd. Rpt. 3/17/1997) (S. Ct. Order 6/13/1997) (convicted of two counts of mail fraud and two counts of aiding and abetting; DeMesquita and his client, along with a doctor, engaged in a scheme to submit a fictitious medical report and bill for the purpose of increasing the insurance recovery; sentenced to three years of probation, restitution and community service; suspended for three years retroactive to the temporary suspension); ***Office of Disciplinary Counsel v. Glenn D. DeSantis***, No. 22 DB 1996 (D. Bd. Rpt. 6/10/1997) (S. Ct. Order 7/29/1997) (convicted of one count of mail fraud; submitted false and fraudulent medical reports and bills for the purpose of inflating his personal insurance claims; sentenced to three years of probation; suspended for a period of three years retroactive to the temporary suspension); ***Office of Disciplinary Counsel v. Michael S. Butler***, No. 119 DB 2007 (S. Ct. Order 9/15/2008) (convicted of bribery concerning programs receiving federal funds, but sentenced under the lesser charge of illegal gratuities; sentenced to twelve months of probation with six months served on home confinement and a fine of \$30,000; aggravating factor was Butler's laundering of the official's payment through his former law firm; suspension on

consent for a period of three years retroactive to the temporary suspension); **Office of Disciplinary Counsel v. Michael Sedor**, No. 225 DB 2005 (S. Ct. Order 2/2/2007) (conviction of one count of conspiracy to defraud the United States Department of Housing and Urban Development by submitting a series of false HUD-1 Forms; sentenced to seven months of imprisonment, supervised release for two years with seven months served on home confinement; suspended on consent for a period of two years, retroactive to the temporary suspension); **Office of Disciplinary Counsel v. James Allen Steiner**, No. 103 DB 2013 (D. Bd. Rpt. 6/18/2015) (S. Ct. Order 8/7/2015) (convicted of conspiracy to commit wire fraud; participated in a scheme to fraudulently obtain mortgage financing for the purchase of real estate; Steiner not the originator or planner of the fraud; misconduct occurred between June 2007 and October 2007 in six closings; cooperated with the federal government by assisting in obtaining indictments and/or conviction of others involved in the scheme; sentenced to one year of probation; suspended for a period of one year, retroactive to the temporary suspension).

In comparing the instant matter with the above-cited cases, we conclude that the facts of Respondent's matter align with cases that have resulted in less than a three year period of suspension. Unlike Mr. Butler, who was suspended for three years, Respondent did not engage in money laundering. Unlike Mr. DeMesquita, who also was suspended for three years, Respondent's criminal conduct did not involve his practice of law. While the **DeSantis** matter is a closer call, a close reading of the facts demonstrates that Mr. DeSantis commenced his criminal conduct within four years of his admission to the bar, unlike Respondent, who practiced law for more than ten years without incident prior to the criminal activity. On balance, Respondent's compelling mitigation makes his matter more comparable to **Sedor** and **Steiner**, and warrants a suspension of two years.

We take note of the recent matter of *Office of Disciplinary Counsel v. Dale Robert Wiles*, No. 3 DB 2016 (S. Ct. Order 5/2/2019). Therein, the Court granted a Joint Petition in Support of Discipline on Consent and suspended Wiles for five years, retroactive to the date of the temporary suspension. Wiles pleaded guilty to one count of conspiracy to commit mail and wire fraud involving political corruption in the award of a municipal contract to campaign donors of an elected official in the City of Allentown. The political corruption involved the decision of Allentown's mayor to steer the city's 2014 revenue contract for the collection of delinquent municipal real estate taxes to a law firm that had been a significant donor to the mayor's campaign. At the time of the conspiracy, Wiles was the assistant city solicitor. He was the first defendant to plead guilty for his role in rigging the requests for proposals and steering the revenue committee's recommendation of the city's 2014 revenue contract to the law firm. Wiles cooperated with the federal government in the investigation and prosecution of others involved in the conspiracy. Wiles was sentenced to a one-day period of incarceration, supervised release for three years with home confinement for the first three months, and was fined \$3,000 and ordered to perform 100 hours of community service.

In comparing the facts of the *Wiles* matter with the instant matter, we conclude that *Wiles* is more serious than the instant matter and warranted more severe discipline, as Wiles was a public official in a position of trust at the time that he engaged in the criminal activity.

The goals of the disciplinary system are to protect the public and preserve the integrity of the profession. *Office of Disciplinary Counsel v. John Keller*, 506 A.2d 872 (Pa. 1986). The Hearing Committee recommended a suspension of two years to address Respondent's misconduct. The parties have not objected to this sanction. Upon

our review of the severity of the misconduct, the mitigating circumstances, and the decisional law, we conclude that the appropriate discipline to fulfill the goals of the disciplinary system is a suspension for two years, retroactive to the date of Respondent's temporary suspension.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Patrick O'Hare Regan, be Suspended for two years from the practice of law in this Commonwealth, retroactive to December 21, 2017.

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: _____


Gretchen A. Mundorff, Member

Date: October 21, 2019

Vice-Chair Haggerty and Members Porges and Lehocky recused.