

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 1069, Disciplinary Docket No. 3
Petitioner	:	
	:	No. 87 DB 2004
v.	:	
	:	Attorney Registration No. 73977
VICTOR PAUL GOLDBERG	:	
Respondent	:	(Philadelphia)

REPORT AND RECOMMENDATIONS OF
THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES
OF THE SUPREME COURT OF PENNSYLVANIA:

Pursuant to Rule 208(d)(2)(iii) of the Pennsylvania Rules of Disciplinary Enforcement, the Disciplinary Board of the Supreme Court of Pennsylvania (“Board”) herewith submits its findings and recommendations to your Honorable Court with respect to the above-captioned Petition for Discipline.

I. HISTORY OF PROCEEDINGS

On June 8, 2004, Office of Disciplinary Counsel filed a Petition for Discipline against Victor Paul Goldberg, Respondent. The Petition alleged that Respondent engaged in professional misconduct arising out of his unauthorized practice of law and mishandling

of several client matters. Respondent filed an Answer to Petition for Discipline on July 21, 2004.

A disciplinary hearing was held on October 27, 2004, before Hearing Committee 1.11 comprised of Chair Samuel J. Pace, Jr., Esquire, and Members Teresa Ficken Sachs, Esquire, and George M. Vinci, Jr., Esquire. Respondent appeared pro se.

The Hearing Committee filed a Report on April 7, 2005, finding that Respondent engaged in professional misconduct and recommending that he be suspended for one year.

Petitioner filed a Brief on Exceptions on April 18, 2005.

This matter was adjudicated by the Disciplinary Board at the meeting on July 16, 2005.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is located at Suite 1400, 200 North Third Street, Harrisburg, Pennsylvania, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, with the power and 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 said Rules of Disciplinary Enforcement.

2. Respondent, Victor Paul Goldberg, was born in 1951 and was admitted to practice law in the Commonwealth in 1994. Respondent maintains his office at 6632 Frankford Ave., Suite C, Philadelphia PA 19135. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

3. Respondent has no history of discipline.

Charge I - Inactive Status Matter

4. Respondent failed to comply with the requirements for Continuing Legal Education for the compliance year ending April 30, 2002.

5. By letters dated June 21, 2002 and October 1, 2002, sent by certified mail, return receipt requested, addressed to Victor Paul Goldberg, at 624 E. Girard Ave., Philadelphia PA 19125 and 6632 Frankford Ave, 1st Floor, Philadelphia PA 19315, the Pennsylvania CLE Board issued notices to Respondent that he was non-compliant and that a list of non-compliant attorneys would be sent to the Supreme Court after October 31, 2002.

6. By Order of the Supreme Court dated November 14, 2002, Respondent was transferred to inactive status for failure to comply with CLE requirements, effective December 14, 2002.

7. By certified letter dated November 14, 2002, addressed to Respondent at 6632 Frankford Ave, 1st Floor, Philadelphia PA 19135, the Disciplinary Board forwarded a copy of the Supreme Court Order, notified Respondent of his duty to comply with

Pa.R.D.E. 217 and other requirements, and forwarded copies of the Standard Guidance of the Disciplinary Board regarding inactive status and applicable rules and forms for compliance.

8. Respondent did not receive the certified letter.

9. Notice of the entry of the Order was published in The Philadelphia Inquirer and The Legal Intelligencer on December 23, 2002.

10. Respondent failed to withdraw as counsel in pending matters and to notify client and opposing counsel of his ineligibility to practice law, and to withdraw from cases in which he was counsel of record.

11. Respondent did not file a Pennsylvania Annual Attorney Fee form for 2003-2004.

12. By letter dated January 27, 2004, Disciplinary Counsel reminded Respondent of his ineligibility to practice law.

13. Respondent did not comply with Pa.R.D.E. 217.

14. At all times relevant hereto and continuing through at least March 2004, and in all pleadings and correspondence referenced herein, Respondent has operated his practice using letterhead captioned: ALLIED LEGAL SERVICES, A Professional Corporation, 6632 Frankford Avenue, Suite C, Philadelphia, PA 19135, 215.333.6050, Victor P. Goldberg, Esquire.

Charge II – The Harris Matter

15. On October 26, 2000, Brenda Harris was driving her automobile, which was struck by a vehicle owned by Philip Chew.

16. Ms. Harris was injured and her vehicle was rendered inoperable. Her vehicle carried a policy with State Farm Insurance Company which had no comprehensive coverage.

17. Shortly thereafter, Brenda Harris retained Steven Jarrett, Esquire, to represent her in claims arising from the accident.

18. In or prior to January 2002, Mr. Jarrett referred Ms. Harris' case to Respondent and supplied to Respondent Ms. Harris' file, which showed the date of expiration of the statute of limitations, but did not include a fee agreement.

19. Respondent advised Ms. Harris that Mr. Jarrett had transferred her case.

20. Respondent had not previously represent Ms. Harris, but did not advise her in writing of the basis or rate of his fee.

21. In March 2002, Respondent advised Ms. Harris of the status of her case and stated that he would contact her about the settlement demand. Respondent notified Mr. Chew's insurance company, American Independent Insurance Company. (AIM)

22. By letter dated May 20, 2002, Respondent forwarded to AIM information concerning Ms. Harris' claim, "[a] copy of the DEC page showing full tort coverage", and medical bills exclusive of emergency room charges; and demanded a settlement of \$5,000.

23. In a July 2002 telephone conversation, an AIM representative requested that Respondent provide emergency room bills for Ms. Harris and advised of the status of the release of the property damage claim, and Respondent stated that he would obtain the information and respond to AIM.

24. In July 2002, Ms. Harris contacted Respondent and advised him that she had received a letter from AIM concerning her settlement, and Respondent stated that he would contact AIM.

25. Between July and October 2002, Respondent sent three facsimile requests to State Farm for Ms. Harris' policy declaration sheet.

a. In July 2002, State Farm faxed to Respondent a declaration sheet for the period May 9, 1999 to November 9, 1999 and a previous policy.

b. In August 2002, Ms. Harris called Respondent, who advised her that he had to obtain the declaration sheet from State Farm to submit to AIM.

c. In September 2002, Respondent provided to AIM the incorrect declaration sheet.

d. An AIM representative advised Respondent the sheet was for the wrong time period.

e. In October 2002, Respondent advised Ms. Harris that he did not receive the declaration sheet, and that he would advise her further when it was received.

26. Respondent failed to file suit on behalf of Ms. Harris by October 26, 2002, the statute of limitations for her claims, thereby precluding her recovery.

27. Respondent failed to advise Ms. Harris that he had not met the statute of limitations and that she should seek the advice of independent counsel in the matter.

28. By letter dated November 4, 2002, State Farm forwarded to Respondent a bill for the period November 9, 2000 to May 9, 2001, and a Certificate of Coverage for the period including the accident date.

29. By fax dated November 7, 2002, Respondent provided to AIM a copy of one of the State Farm documents and stated, inter alia:

Attached please find a certificate of insurance which I received today from Ms. Harris' insurance company stating she had full tort on the date of loss.

I have already forwarded the other documents you need.

Please respond to our settlement demand as soon as possible.

30. In a telephone conversation shortly thereafter, AIM advised Respondent that it would not honor the claim, and Respondent advised AIM that he had not filed suit because he was under the impression that AIM would settle the case.

31. Respondent did not notify Ms. Harris of his transfer to inactive status.

32. In January 2003, Respondent advised Ms. Harris that he had sent the declaration sheet in late, and that he was negotiating with AIM about the late submission.

a. In April 2003, Respondent advised Ms. Harris that AIM had not finalized the claim, and that processing would take another three months.

b. In July 2003, Respondent advised Ms. Harris that AIM had rejected her claim and that he would inform her of his further action in the matter.

33. Thereafter, Respondent failed to communicate with Ms. Harris about the status and progress of her case and to respond to her efforts to communicate with him.

Charge III – The Henderson Matter

34. In July 2002, Jane Henderson contacted Respondent by telephone to discuss representation in negotiating or litigating visitation rights for herself and her husband James with their grandsons.

35. Respondent advised Mrs. Henderson of their rights in the situation and stated that he would represent the Hendersons for a fee of \$200 per hour.

36. In August and September 2002, Respondent corresponded with James W. Flood, Esquire, Counsel for James Volz, the father of the Hendersons' grandchildren.

a. In August and October 2002, Respondent billed the Hendersons \$200 and \$140 respectively, for the above services, which they paid.

b. Thereafter, Respondent did not communicate with the Hendersons.

c. Respondent did not advise the Hendersons of his transfer to inactive status.

37. In April 2003, Mrs. Henderson called Respondent to inquire as to the status of the matter, and he told her that would send her forms to sign.

38. By letter dated May 6, 2003, Respondent:

a. forwarded to the Hendersons for their completion a form providing information for a Petition for Modification of Custody;

b. stated he would show them the Petition prior to filing it; and advised that it would take two months to go to hearing; and

c. asked for a retainer of \$1,000.

39. One week later, Mrs. Henderson sent Respondent the completed form and a check in the amount of \$1,000, which Respondent negotiated for cash.

40. Respondent failed to deposit the Hendersons' funds in escrow pending his providing the services for which payment was made.

41. Thereafter, Respondent failed to communicate with the Hendersons concerning their legal matter.

a. In October and November 2003, the Hendersons attempted to reach Respondent by telephone on numerous occasions and by certified mail.

b. Respondent did not respond to messages left on his answering machine nor did he accept certified mail.

42. By letter dated February 2, 2004, sent by regular mail to Respondent's office and by certified mail to his residence, Mrs. Henderson advised Respondent that because he was ineligible to represent her when he accepted her fee, she requested that he refund the fee by February 16, 2004.

43. By letter dated February 17 and postmarked February 19, 2004, Respondent advised Mrs. Henderson that he was unaware that he was on inactive status until shortly before receiving her February 2 letter; he was investigating the matter; and if he determined that he was on inactive status at the time she retained him, he would refund the fee.

44. At the time that Respondent sent that letter, he had notice that he was on inactive status at the time he undertook the representation and had taken no further action to clarify or resolve his status.

45. Respondent failed to refund the fee to the Hendersons for approximately one year after they made the request for a refund.

Charge IV – The Williams Matter

46. In September 2002, Respondent filed suit captioned Nancy Williams v. Sears Roebuck & Co. in the Philadelphia Court of Common Pleas.

47. On October 6, 2002, Respondent filed a Complaint in that action.

48. The case was scheduled for an arbitration hearing on June 25, 2003.

49. After his transfer to inactive status, Respondent failed to file a Petition to Withdraw as Ms. Williams' counsel.

50. Respondent did not serve defendant with the Complaint until May 21, 2003.

51. In May 2003, Robert L. Sanzo, Esquire, forwarded to Respondent his Entry of Appearance for Defendant and requested an extension of time to answer the Complaint.

52. On June 9, 2003, at Respondent's request, the arbitration hearing was continued to September 10, 2003.

53. In June 2003, Mr. Sanzo filed and forwarded to Respondent, Defendant's Answer and New Matter and Defendant's Interrogatories and Requests for Production.

54. Respondent did not timely respond to the discovery requests and to file an Answer to the New Matter.

55. Between July 2003 and March 2004, Mr. Sanzo attempted to secure Respondent's cooperation in responding to discovery and scheduling depositions and in arranging for a site inspection at plaintiff's residence.

56. Respondent did not timely and fully respond to discovery or produce his witnesses for deposition.

57. In July 2003, Mr. Sanzo forwarded to Respondent Defendant's Motion to Compel Discovery, to be presented on July 30, 2003.

a. Respondent did not respond.

b. By Order dated July 30, 2003, the Motion to Compel Discovery was granted, and plaintiff was ordered to respond to Interrogatories within ten days and appear for deposition by August 8.

c. By letter dated July 30, 2003, Mr. Sanzo forwarded the Order to Respondent.

d. Respondent and his client did not comply with the Order.

58. On July 29, 2003, Respondent represented Ms. Williams' interests at depositions.

59. On September 8, 2003, Respondent requested a continuance of the arbitration hearing, which was denied.

60. On September 10, 2003, Ms. Williams failed to appear at the arbitration, and an award was entered for defendant.

61. On October 8, 2003, Respondent filed an appeal from the award of the arbitrators.

62. In November 2003, Mr. Sanzo forwarded to Respondent Defendant's Motion to Compel More Specific Discovery Answers and Plaintiff's Deposition, to be presented on December 4, 2003.

a. By Order dated December 4, 2003, Defendant's Motion to Compel More Specific Discovery Answers and Plaintiff's Deposition was granted, and Respondent was ordered to provide discovery and produce the plaintiff for deposition within twenty days.

b. On December 4, 2003, Mr. Sanzo forwarded the December 4 Order to Respondent.

c. Respondent and his client did not timely comply with the Order.

63. On December 16, 2003, Respondent represented plaintiff's interests at the depositions of five witnesses.

64. The site inspection was scheduled for December 30, 2003, but plaintiff refused to permit it.

65. In December 2003, Mr. Sanzo forwarded to Respondent Defendant's Motion to Enforce Court Order, Compel Site Inspection and for Sanctions, to be presented to the court on January 15, 2004.

a. By Order dated January 15, 2004, the court granted the Motion to Enforce and ordered that within ten days plaintiff respond to

discovery, make the property available for inspection, verify her answers to Interrogatories, and pay sanctions in the amount of \$300 to defense counsel.

b. By letter dated January 15, 2004, Mr. Sanzo forwarded the Order and advised Respondent that the site inspection would take place on January 22, 2004.

c. Respondent and his client did not timely comply with the Order.

d. On January 21 at 4:20 p.m., Respondent notified Mr. Sanzo that the site inspection was cancelled.

e. Respondent did not respond to efforts to reschedule the inspection.

66. On January 28, 2004, Respondent filed a suit by Writ of Summons, captioned Nancy Williams v. Phar-Mor, in the Philadelphia Court of Common Pleas, arising from a fall which occurred on January 31, 2002.

a. By letter dated February 5, 2004, Respondent mailed to Phar-Mor's Legal Department a copy of the Writ of Summons in the Phar-Mor case.

b. The statute of limitations expired as to Ms. Williams' claim.

67. Under cover of a February 26, 2004 letter, received by the Prothonotary on March 1, 2004, Respondent filed a Complaint in the Phar-Mor case.

68. By letter dated March 10, 2004, Respondent sent to Phar-Mor's Legal Department a copy of the Complaint.

a. On March 29, 2004, Michael D. Shaffer, counsel for Phar-Mor, called and wrote to Respondent concerning the case.

b. Respondent did not respond to Mr. Shaffer's communications.

69. Respondent did not file a Petition to Withdraw as Ms. Williams' attorney in either the Sears or Phar-Mor cases.

70. In February 2004, Mr. Sanzo filed another Motion for Sanctions in the Sears Case.

a. By Order dated February 19, 2004, the court granted the Motion for Sanctions and ordered that within ten days plaintiff respond to discovery, make the property available for inspection, verify her answers to Interrogatories, and pay sanctions in the amount of \$300 to defense counsel.

b. By letter dated February 24, 2004, Respondent forwarded to Mr. Sanzo the Statement of Ms. Williams that she could not locate a document and confirmed that he had advised his client of a home inspection scheduled for March 5, 2004, but did not forward payment of counsel fees.

71. By letter dated March 10, 2004, Mr. Sanzo sent to Respondent a Motion for Sanctions in the Sears case, to be presented on March 25, 2004.

72. By letters dated March 12 and 15, 2004, the Honorable Frederica A. Massiah-Jackson, President Judge of the Philadelphia Court of Common Pleas, notified Respondent that he was counsel of record in the Phar-Mor and Sears cases, and reminded him of his ineligibility to practice law, and asked that he advise the court of cases in which he was counsel of record or provide proof of reactivation.

73. Respondent did not respond.

74. On March 15, 2004, Respondent appeared before Howard Chambers, Settlement Master, in the Sears case.

a. Respondent did not reveal to the Master that he was on inactive status.

b. On March 17, 2004, Respondent contacted the Settlement Master and advised that the case was not settled.

c. Respondent appeared in Motions Court on March 25, 2004, but Ms. Williams did not appear.

d. By Order dated March 25, 2004, the Complaint in the Sears case was dismissed with prejudice for plaintiff's violation of four court Orders and failure to cooperate in the discovery process, subject to plaintiff's compliance with previous sanctions order, subject to payment of the \$600 in outstanding sanctions and \$600 for re-inspection costs by May 1, 2004.

75. By fax dated March 26, 2004, Respondent forwarded to Ms. Williams a copy of the March 25 Order in the Sears case, advised her of the need to pay the \$600 in

sanctions and the \$600 re-inspection fee, stated that he was attaching “Withdrawal of Appearance forms” for her cases, and stated that “Until I get my CLE credits straightened out and am placed back on active status, I cannot work on these cases.”

76. On April 7, 2004, a Petition for Reconsideration of the March 25, Order was filed in the Sears case but was not filed on Respondent’s caption paper.

77. The Petition was denied on May 6, 2004.

78. On April 20, 2004, the Honorable Arnold L. New of the Court of Common Pleas of Philadelphia County issued a Rule to Show Cause why Respondent should not be removed from the Phar-Mor case in view of the Supreme Court Order of November 12, 2002.

a. Respondent failed to respond to the Rule.

b. By Order dated May 7, 2004, Judge New ordered that pursuant to Respondent’s failure to appear and explain why he was not in violation of the Supreme Court Order, he was removed as plaintiff’s counsel in the matter.

79. Respondent admitted that he engaged in misconduct with his clients, and further, that he should have known he was on inactive status when he practiced law.

III. CONCLUSIONS OF LAW

By his conduct as set forth above, Respondent violated the following Rules of

Professional Conduct and Rules of Disciplinary Enforcement:

1. RPC 1.1 – A lawyer shall provide competent representation to a client.
2. RPC 1.3 – A lawyer shall act with reasonable diligence and promptness in representing a client.
3. RPC 1.4 (a) – A lawyer shall keep a client informed about the status of a matter and promptly comply with reasonable requests for information.
4. RPC 1.4 (b) – A lawyer shall explain a matter to the extent necessary to permit the client to make informed decisions regarding the representation.
5. RPC 1.5 (b) – When the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, in writing before or within a reasonable time after commencing the representation.
6. RPC 1.5 (c) – A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (d) or other law.
7. RPC 1.15(a) – A lawyer shall hold property of a client or third person that is in a lawyer's possession in connection with a representation separate from the lawyer's own property.
8. RPC 1.16(a)(1) - A lawyer shall not represent a client, or, where representation has commenced, shall withdraw from the representation of a client if the representation will result in violation of the rules of professional conduct or other law.

9. RPC 1.16(d) – Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client’s interest, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee that has not been earned.

10. RPC 5.5(b) – A lawyer shall not practice law in a jurisdiction where to do so would be in violation of regulations of the profession in that jurisdiction.

11. 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.

12. RPC 8.4(c) – It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

13. RPC 8.4(d) – It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

14. Pa.R.D.E. 217(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...transfer to inactive status and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the...transfer to inactive status and shall advise said client to seek legal advice elsewhere.

15. Pa.R.D.E. 217(b) – A formerly admitted attorney shall promptly notify, or cause to be notified by registered or certified mail, return receipt requested, all clients who are involved in pending litigation...and the attorney for each adverse party in such matter or proceeding of...the transfer to inactive status and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the transfer to inactive status. The notice to be given to the client shall advise the prompt substitution of another attorney in place of the formerly admitted attorney. In the event the client does not obtain substitute counsel before the effective date of the...transfer to inactive status, it shall be the responsibility of the formerly admitted attorney to move in the court...in which the proceeding is pending for leave to withdraw. The notice to be given to the attorney for the adverse party shall state the place of residence of the client or formerly admitted attorney.

16. Pa.R.D.E. 217(c)(2) – A formerly admitted attorney shall promptly notify, or cause to be notified, of the ...transfer to inactive status, by registered or certified mail, return receipt requested, all...persons with whom the formerly admitted attorney may at any time expect to have professional contacts under circumstances where...they may infer that he or she continues as an attorney in good standing.

17. Pa.R.D.E. 217(d) – Orders imposing... transfer to inactive status shall be effective 30 days after entry. The formerly admitted attorney, after entry of the...transfer to inactive status order, shall not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature. 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.

18. Pa.R.D.E. 217(e) – within ten days after the effective date of the ...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.

19. Pa.R.D.E. 217(j) – A formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except in accordance with the following requirement:

1. All law-related activities of the formerly admitted attorney shall be conducted under the direct supervision of a member in good standing of the Bar of this Commonwealth who shall be responsible for ensuring that the formerly admitted attorney complies with the requirements of this subdivision (j). If the formerly admitted attorney is employed by a law firm, an attorney of the firm shall be designated by the firm as the supervising attorney for purposes of this subdivision.

2. For purposes of this subdivision (j), the only law-related activities that may be conducted by a formerly admitted attorney are the following:

a. legal work of a preparatory nature, such as legal research, assembly of data and other necessary information, and drafting of transactional documents, pleadings, briefs, and other similar documents;

b. direct communications with the client or third parties to the extent permitted by paragraph(3); and

c. accompanying a member in good standing of the Bar of this Commonwealth to a deposition or other discovery matter or to a meeting regarding a matter that is not currently in litigation, for the limited purpose of providing clerical assistance to the member in good standing who appears as the representative of the client.

IV. DISCUSSION

Before this Board for consideration is a Petition for Discipline against Victor P. Goldberg, who is alleged to have practiced law while on inactive status and engaged in client misconduct. Respondent and Petitioner entered into a detailed stipulation of facts and law. Respondent fully admits that he engaged in professional misconduct as charged

in the Petition for Discipline. At the disciplinary hearing Respondent made a brief statement acknowledging his mistakes and the need for sanction.

The evidence of record demonstrates that Respondent failed to attend sufficient CLE courses to meet his requirements during the compliance year April 2001 through April 2002. Respondent was transferred to inactive status effective December 14, 2002 and had notice of his inactive status. Following his transfer, Respondent did not comply with rules relating to termination of his law practice, and he continued to represent clients in their legal matters.

In January 2002 Respondent assumed representation of Brenda Harris in a property damage and personal injury claim. Respondent failed to complete settlement of the property damage claim, to promptly obtain insurance coverage documentation necessary to pursue the matter, to timely file suit on Ms. Harris' behalf, and to communicate with Ms. Harris. Respondent led Ms. Harris to believe that he was pursuing her claim, when in fact the claim had expired.

Respondent was consulted by the Hendersons in July 2002 concerning visitation with their grandchildren. Respondent initially took appropriate action, but after October 2002 he ceased to communicate with them again until April 2003. At that time, Respondent provided forms for their execution in order to file a Petition for Modification of Custody, and asked for a further retainer of \$1,000, which the Hendersons paid. Respondent negotiated the check but did not retain the funds in escrow pending delivery of the services. He abandoned the case and ceased communicating with his clients.

Respondent did not refund the fee until nearly one year after the Hendersons first requested a refund, which was also within one week of the instant disciplinary hearing.

Respondent represented Nancy Williams commencing in September 2002 and continuing until he was removed as counsel in May 2004. This is perhaps the most egregious of the three client matters at hand, in that not only did Respondent continue to represent Ms. Williams in a pending case while he was on inactive status, but after notice of such status he filed a new case, appeared before a settlement master, and communicated with opposing counsel, ultimately discontinuing representation only after court order.

It has often been stated that the primary goal of the disciplinary process is the protection of the public from unfit attorneys. Office of Disciplinary Counsel v. Keller, 506 A.2d 872 (Pa. 1986). An attorney who knowingly practices law while ineligible to do so is flouting an order of the Supreme Court, and such act reflects adversely upon an attorney's fitness to practice law.

The most commonly imposed sanction for unauthorized practice of law while on inactive status has been a suspension for one year and one day, a period requiring that the attorney meet the burden of proving fitness to practice in a reinstatement proceeding before being readmitted. See, In re Harry Forrest, Jr., 966 Disciplinary Docket No. 3 (Pa. March 24, 2005); In re Steven Clark Forman, 799 Disciplinary Docket No. 3 (Pa. Jan. 31, 2003); In re Anonymous No. 73 DB 1995, 286 Disciplinary Docket No. 3 (Pa. Dec. 30, 1996).

In this matter, Respondent fully cooperated in the disciplinary process after service of the Petition for Discipline. He entered into extensive stipulations and appeared at his hearing, where he elected to make a short statement admitting his misconduct. Respondent has no prior history of discipline.

In consideration of this mitigation, the Board recommends that Respondent be suspended for one year and one day.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Victor Paul Goldberg, be suspended from the practice of law for a period of one year and one day.

It is further recommended that the expenses incurred in the investigation and prosecution of this matter are to be paid by the Respondent.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: _____
C. Eugene McLaughlin, Board Member

Date September 9, 2005

Board Members Newman, Suh and Nordenberg did not participate in the July 16, 2005 adjudication.

PER CURIAM:

AND NOW, this 16th day of December, 2005, upon consideration of the Report and Recommendations of the Disciplinary Board dated September 9, 2005, it is hereby

ORDERED that Victor Paul Goldberg be and he is suspended from the Bar of this Commonwealth for a period of one year and one day, and he shall comply with all the provisions of Rule 217 Pa.R.D.E.

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