

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : Nos. 1093 and 1161 Disciplinary Docket  
Petitioner : No. 3  
v. : Nos. 93 DB 2003 and 92 DB 2005  
ALLIEN L. FEINGOLD, : Attorney Registration No. 03892  
Respondent : (Philadelphia)

ORDER

PER CURIAM

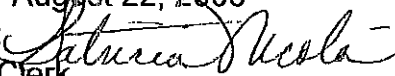
AND NOW, this 22<sup>nd</sup> day of August, 2008, upon consideration of the Report and Recommendations of the Disciplinary Board dated April 4, 2008, the Petition for Review and response thereto, the Request to Present Oral Argument is denied and it is hereby

ORDERED that Allen L. Feingold is disbarred from the Bar of this Commonwealth 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.

A True Copy Patricia Nicola

As of: August 22, 2008

Attest:   
Chief Clerk

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	Nos. 1093 & 1161 Disciplinary
Petitioner	:	Docket No. 3
	:	
v.	:	Nos. 93 DB 2003 & 92 DB 2005
	:	
ALLEN L. FEINGOLD	:	Attorney Registration No. 3892
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 the Order of The Supreme Court of Pennsylvania dated June 1, 2007, 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 matter.

I. HISTORY OF PROCEEDINGS

On October 3, 2006, Office of Disciplinary Counsel filed a Petition for Rule to Show Cause Why Respondent, Allen L. Feingold, Should Not Be Held In Contempt and Related Relief with the Supreme Court of Pennsylvania, for having willfully violated the Court's Orders of March 3, 2006 and August 22, 2006. On February 2, 2007, the Supreme Court issued a Rule to Show Cause. Respondent filed a Response to Rule to Show Cause

on March 15, 2007. On June 1, 2007, the Supreme Court entered an Order holding Respondent in contempt, and referring the matter to the Disciplinary Board for a hearing to recommend the appropriate sanction.

By Disciplinary Board Order of June 6, 2007, a Hearing Committee was appointed to conduct a sanction hearing. A sanction hearing was held on July 10, 2007, before a District I Hearing Committee comprised of Chair Peter Samson, Esquire, and Members Gaetan J. Alfano, Esquire, and Joseph J. Centeno, Esquire. Respondent was represented by Samuel C. Stretton, Esquire. On August 30, 2007, Counsel for Respondent withdrew his appearance.

The Hearing Committee filed a Report on November 15, 2007 and recommended that Respondent be suspended for two years in addition to Respondent's current suspensions. The Committee further recommended that Respondent's suspension should not begin to run until Respondent has demonstrated compliance with Pa.R.D.E. 217 and paid the costs of prosecution or be excused from paying.

This matter was adjudicated by the Disciplinary Board at the meeting on January 30, 2008.

## II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, Office of Disciplinary Counsel, whose principal office is located at Suite 1400, 200 North Third Street, Harrisburg PA 17101, 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 any 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, Allen L. Feingold, was admitted to practice law in the Commonwealth of Pennsylvania in 1966.

3. By Order of the Supreme Court of Pennsylvania dated March 3, 2006, effective April 2, 2006, Respondent was suspended for a period of three years; ordered to comply with the provisions of Rule 217, Pa.R.D.E.; and ordered to pay costs to the Disciplinary Board pursuant to Rule 208(g), Pa.R.D.E.

4. Under cover of a letter dated March 3, 2006, Elaine M. Bixler, Secretary of the Board, forwarded to Respondent a copy of the suspension order.

5. Under cover of a separate letter dated March 3, 2006, Ms. Bixler notified Respondent that the Court ordered that he pay costs, which totaled \$12,348.25, and forwarded to Respondent an itemized statement of expenses.

6. By Order of the Supreme Court of Pennsylvania dated August 22, 2006, Respondent was suspended for a period of two years, to run consecutive to the first suspension Order imposed on March 3, 2006. Respondent was ordered to comply with Rule 217, Pa.R.D.E. and ordered to pay costs to the Disciplinary Board.

7. Under cover of a letter dated August 23, 2006, Secretary Bixler forwarded to Respondent a copy of the second suspension order.

8. Under cover of a separate letter dated August 23, 2006, Ms. Bixler notified Respondent that the Court ordered that he pay costs, which totaled \$2,435.00, and forwarded to Respondent an itemized statement of expenses.

9. Respondent received the suspension Orders and the letters from the Disciplinary Board.

10. Upon entry of the first suspension Order Respondent became a "formerly admitted attorney", as defined by Pa.R.D.E. 102(a).

11. As a formerly admitted attorney, Respondent was required to comply with Pa.R.D.E. 217.

12. The Rules required Respondent to notify clients and other persons with whom he may have professional contacts of his suspension and file with the Board, within ten days after the effective date of the suspension Order, a verified statement of compliance.

13. The Rules specifically prohibited Respondent from representing himself as a lawyer and rendering legal consultation to clients, appearing on behalf of clients in hearings or judicial proceedings, appearing on behalf of a client at depositions or other discovery matters, and negotiating or transacting any matter on behalf of clients or third persons, and handling client funds.

14. Since the effective dates of his suspensions, Respondent failed to notify all of his clients of his suspension.

15. Respondent failed to pay costs of prosecution to the Disciplinary Board. He was informed of the availability of payment plans but did not pursue that option.

16. During part of the time that Respondent was engaging in the acts that formed the basis of the first suspension Order, and on the date that Respondent engaged in the acts that formed the basis of the second suspension Order, through and including the effective date of the first suspension Order, Respondent was professionally associated with Attorney Dora Garcia, his wife.

17. Three months after the entry of the first suspension Order, Respondent continued to maintain a business association with Ms. Garcia.

18. Respondent was specifically prohibited from performing any law-related activity for Ms. Garcia.

19. Petitioner filed a Contempt Petition for Rule to Show Cause with the Supreme Court on December 15, 2006, based on Respondent's violation of the Court's Orders of March 3, 2006 and August 22, 2006.

20. Following the Rule to Show Cause issued by the Supreme Court on February 20, 2007, Respondent filed a Response on March 15, 2007.

21. The Supreme Court entered an Order on June 1, 2007 holding Respondent in contempt for willful violation of the Court's Orders of March 3, 2006 and August 22, 2006. The Court referred the matter to the Board for a sanction hearing.

22. A sanction hearing was held on July 10, 2007.

23. Respondent appeared with counsel and testified on his own behalf. He was the sole witness.

24. Respondent admitted that he received the Court Orders of suspension and notices from the Disciplinary Board as to his obligations as a formerly admitted attorney.

25. Respondent admitted that he failed to timely comply with Rule 217, Pa.R.D.E. He justified this failure to comply due to what he termed the extremely large volume of his caseload, which he estimated numbered 200 to 400 active cases.

26. Respondent believes he has sent letters to clients in some 50 cases, leaving approximately 150 to 200 cases where letters must still be sent. (N.T. 73, 74) He offered no evidence to support a finding that he sent letters to any clients.

27. At the time and date of hearing, Respondent stated that he would file his certificate of compliance with the Board within 60 days showing that he properly notified all of his clients of his suspension. (N.T. 54)

28. The Hearing Committee held the record open to afford Respondent the opportunity to show compliance with Rule 217. As of the date of the Hearing Committee Report filed on November 15, 2007, more than three months after the hearing, Respondent had not complied with Rule 217.

29. Respondent owes a total of \$17,783.25 to the Disciplinary Board for costs of prosecution. He excused his failure to pay costs by stating that he was financially unable to do so.

30. Respondent acknowledged receiving notice of the availability of a payment plan, but stated he did not pursue it as he owns nothing and has no money. (N.T. 94)

31. Respondent maintained that his relationship with Attorney Dora Garcia, who is his wife, was as a secretary or legal assistant to her, but he did not provide particulars as to his activities.

32. Respondent admitted at the hearing that he still assisted Ms. Garcia by answering questions about clients he previously represented.

33. Respondent claims he has ceased the practice of law but for one case. He explained that he and a Mr. Smith are both pro se plaintiffs in a case against Travelers and he was helping Mr. Smith.

34. Respondent is involved as a pro se litigant in ten cases.

35. Respondent described his post – suspension status as being in semi-compliance with the Rules, as he was withdrawing his appearance, transferring files, and doing summaries on files after the effective date of his first suspension. (N.T. 42)

36. Respondent believes it was physically and mentally impossible to wrap up his practice in 30 days time. He further explained that he knew it was technically wrong to continue his law practice after the effective date of suspension, but if he walked away from the cases there would have been more disciplinary complaints filed against him. (N.T. 42)

37. Respondent indicated that he does not intend to return to the practice of law.

38. Respondent did not express sincere remorse for his actions.



III. DISCUSSION

This matter is before the Disciplinary Board for recommendation of the appropriate sanction to address Respondent's contempt of court adjudication by the Supreme Court of Pennsylvania for willful violation of the Court's Orders of March 3, 2006 and August 22, 2006. The Order of March 3<sup>rd</sup> suspended Respondent from the practice of law for a three year period. The Order of August 22<sup>nd</sup> suspended Respondent from the practice of law for a period of two years, consecutive to the March 3<sup>rd</sup> Order. Respondent received notice of the suspension Orders, his obligations as a suspended attorney to notify clients and to cease the practice of law pursuant to Rule 217, Pa.R.D.E., and the costs of prosecution due and owing to the Board, pursuant to Rule 208(g), Pa.R.D.E.

Respondent failed to promptly notify clients by registered or certified mail of his suspension and failed to withdraw his appearance from cases. Respondent continued to engage in law-related activities subsequent to the effective date of the suspension Orders. Respondent failed to pay any of the costs of prosecution to the Disciplinary Board. Respondent's explanations for his actions were stated in an unapologetic manner and amounted to his belief that it was impossible for him to comply due to his voluminous caseload. When pressed for details as to how many clients had been notified, if any, Respondent estimated that perhaps 50 clients had been notified, but he had no copies of the letters or return receipts to offer as evidence of his efforts. Respondent estimated that perhaps 150 to 200 clients had yet to be notified of his suspension. The Hearing Committee willingly permitted the record to remain open for 30 days in order that Respondent could complete the notification process, yet Respondent did not take

advantage of this opportunity and did not demonstrate his compliance within that time frame, nor at any point prior to November 15, 2007, the date of the Hearing Committee Report. Respondent's complaints as to his inability to provide proper notice due to his large caseload ring false, as he has had well over one year since his original suspension to provide such notice to clients and has failed to do so. The Board must conclude that Respondent has no intention of ever notifying the balance of his clients.

Respondent's explanation as to his failure to pay costs to the Board was perhaps even more cavalier. He abruptly stated that he owed nothing, he had nothing and the Board was welcome to any part of nothing. He expressed no interest in devising a payment plan.

Respondent's testimony as to his law-related activities post - suspension again demonstrated his arrogant attitude. He admitted that he was not in compliance with Rule 217, and explained that while he knew he was not permitted to practice law, he believed if he did not continue to work on his cases there would be more disciplinary complaints filed against him. He continued to assist Attorney Dora Garcia, his wife. Respondent described this assistance in particular as answering questions in cases, and in general as helping Ms. Garcia with secretarial and legal assistant functions. The specifics of these activities are not clear.<sup>1</sup>

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<sup>1</sup>Dora Garcia was suspended from the practice of law for 15 months by Order of the Supreme Court dated October 25, 2007. Her suspension was based on her acts of assisting Respondent in the unauthorized practice of law while he was a suspended attorney.

Respondent offered no genuine expression of remorse for his unprofessional conduct, either to the Court or to his clients. Respondent stated clearly his desire to quit the practice of law.

The Hearing Committee recommended a two year period of suspension, to commence after Respondent has demonstrated compliance with Rule 217 and either paid the costs of prosecution or been excused from doing so. The Board is doubtful that this sanction would be effective, as there is simply no evidence that Respondent will ever comply with the Rules. Hinging a two year suspension period on Respondent's ability to comply is not feasible. Respondent continues to be in violation of Supreme Court Orders, despite numerous opportunities given to him to become compliant. Respondent deserves no more opportunities. The Board is persuaded that disbarment is an appropriate sanction for Respondent's lengthy and willful violation of the Orders of Court.

IV. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Allen L. Feingold, be Disbarred from the practice of law in this Commonwealth.

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:   
Marc S. Raspanti, Board Member

Date: April 4, 2008

Board Member Jefferies did not participate in the adjudication.