

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1099 Disciplinary Docket No. 3  
Petitioner :  
 : No. 192 DB 2005  
v. :  
 : Attorney Registration No. 83997  
HEATHER L. HARBAUGH, :  
Respondent : (Centre County)

ORDER

PER CURIAM:

AND NOW, this 30<sup>th</sup> day of January, 2007, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated November 28, 2006, the Joint Petition in Support of Discipline on Consent is hereby granted pursuant to Rule 215(g), Pa.R.D.E., and it is

ORDERED that Heather L. Harbaugh is suspended on consent from the Bar of this Commonwealth for a period of four years retroactive to February 7, 2006, and she shall comply with all the provisions of Rule 217, Pa.R.D.E.

A True Copy Patricia Nicola

As of: January 30, 2007

Attest:

Chief Clerk

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

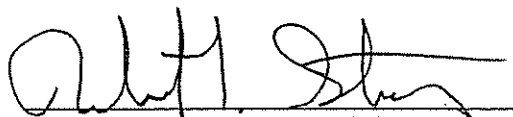
OFFICE OF DISCIPLINARY COUNSEL : No. 1099 Disciplinary Docket No. 3  
Petitioner :  
v. : No. 192 DB 2005  
HEATHER L. HARBAUGH : Attorney Registration No. 83997  
Respondent : (Centre County)

RECOMMENDATION OF THREE-MEMBER PANEL  
OF THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

The Three-Member Panel of the Disciplinary Board of the Supreme Court of Pennsylvania, consisting of Board Members Robert L. Storey, Laurence H. Brown and Carl D. Buchholz, III, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on October 6, 2006.

The Panel approves the Joint Petition consenting to Four Year Suspension retroactive to February 7, 2006 and recommends to the Supreme Court of Pennsylvania that the attached Petition be Granted.

The Panel further recommends that any necessary expenses incurred in the investigation and prosecution of this matter shall be paid by the respondent-attorney as a condition to the grant of the Petition.



Robert L. Storey, Panel Chair  
The Disciplinary Board of the  
Supreme Court of Pennsylvania

Date: November 28, 2006

BEFORE THE DISCIPLINARY BOARD  
OF THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL : No. 1099 Disciplinary Docket No. 3  
Petitioner :  
: No. 192 DB 2005 – Disciplinary Board  
v. :  
: Attorney Registration No. 83997  
HEATHER L. HARBAUGH :  
Respondent: (Centre County)

**JOINT PETITION IN SUPPORT OF DISCIPLINE ON CONSENT**

Petitioner, the Office of Disciplinary Counsel, by Paul J. Killion, Chief Disciplinary Counsel, and Joseph J. Huss, Disciplinary Counsel, and Respondent, Heather L. Harbaugh, file this Joint Petition in Support of Discipline on Consent under Rule 215(d) of the Pennsylvania Rules of Disciplinary Enforcement and respectfully represent that:

1. Petitioner, whose principal office is located at Suite 1400, 200 North Third Street, Harrisburg, Pennsylvania 17101, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement (hereafter "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.

**FILED**

OCT 05 2006

Office of the Secretary  
The Disciplinary Board of the  
Supreme Court of Pennsylvania

2. Respondent, Heather L. Harbaugh, was born on February 27, 1973. She was admitted to practice law in the Commonwealth on October 27, 1999.

3. Respondent's last registered address was 328 East Bishop Street, Bellefonte, Centre County, Pennsylvania 16823, which is her residence. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

4. By Order dated February 7, 2006, the Supreme Court of Pennsylvania placed Respondent on temporary suspension, effective March 9, 2006, pursuant to the submission by Petitioner and Respondent of a *Joint Petition to Temporarily Suspend an Attorney Pursuant to Pa.R.D.E. 208(f) (1)*.

**Specific Factual Admissions and  
Rules of Professional Conduct Violated**

5. Respondent hereby stipulates that the following factual allegations are true and correct and that she violated the Rules of Professional Conduct as set forth herein.

**Theresa J. Poletti Matter  
C3-05-108**

6. Between October 2003 and August 2004 Respondent converted \$33,951.82 belonging to her client, Theresa J. Poletti, and to Ms. Poletti's estranged husband, Michael Poletti. These funds had been generated by the sale of the parties' former marital domicile in September 2003. Respondent deposited the funds into her IOLTA account on September 9, 2004. They were turned over to Respondent to hold, in a fiduciary capacity, until the property

aspects of the parties' divorce were resolved. However, by the time such a resolution was reached, Respondent had converted all of these funds to her personal use and benefit, without the knowledge or permission of either of the Polettis, or Mr. Poletti's counsel.

7. Commencing in November 2004, Mrs. Poletti, as well as Mr. Poletti's counsel, made repeated efforts to obtain an accounting from Respondent in connection with these funds. Moreover, Respondent's client, Theresa J. Poletti, repeatedly attempted to communicate with Respondent about the status of this matter and about when she would receive her portion of the escrowed funds.

8. From November 2004 through March 2005, Respondent was non-responsive to these requests for information.

9. Subsequent to Respondent's receipt of a DB-7 Letter of Inquiry from Disciplinary Counsel, dated March 30, 2005, Respondent undertook efforts to make restitution. She did, in fact, make full restitution to her client, as well as to Mr. Poletti, in August 2005.

10. By virtue of the aforesaid conduct as described in paragraphs 6 through 9, Respondent violated Rules of Professional Conduct 1.3, 1.4(a), 1.15(a), 1.15(b), and 8.4(c).

**Jeffrey S. Andrews Matter**  
**C3-05-612**

11. Respondent commenced the representation of this client, Jeffrey S. Andrews, in connection with a multifaceted domestic relations case, in May 2004.

12. During the period June to September 2004, Respondent and Mr. Andrews maintained contact, primarily via e-mail. He repeatedly requested that Respondent file a Petition for Modification of Custody, and a petition seeking to have his estranged wife held in contempt for violating the terms and conditions of the existing custody arrangement.

13. By e-mail sent to Mr. Andrews on August 9, 2004, Respondent falsely claimed that "as for the custody modification, that Petition has been sent to the court." In fact, no such Petition was filed by Respondent at any time during the course of her representation. At some unknown point-in-time after September 2004 Respondent told Mr. Andrews that she had not filed his Petition.

14. Following the resolution in February 2005 of a Petition for Emergency Relief filed by opposing counsel, based upon Mr. Andrews' improper entry into the parties' former marital domicile in September 2004, no further action was taken in this matter by Respondent.

15. Mr. Andrews sent Respondent numerous requests for information and action during the period February 2005 through July 2005. Respondent failed to answer any of these requests. As a result, he discharged her in July 2005.

16. By virtue of the aforesaid conduct as described in paragraphs 11 through 15, Respondent violated Rules of Professional Conduct 1.3, 1.4(a), 1.4(b), and 8.4(c).

#### **Mitigating/Aggravating Circumstances**

17. Respondent has no prior history of professional discipline.

18. Respondent has cooperated with the investigation and prosecution of this matter by Petitioner.

19. In the Poletti matter:

- (a) Respondent made no effort to make restitution until contacted by the Office of Disciplinary Counsel. Restitution was not actually paid until five months after this contact, by which time Respondent was aware that Ms. Poletti had retained counsel to assist her in recovering restitution, and that Ms. Poletti had contacted the Dauphin County District Attorney's Office, as well as the Lawyers Fund for Client Security, about this matter.
- (b) Respondent's conversion of these funds took place notwithstanding Respondent's knowledge that her client was suffering from depression, and was financially destitute.
- (c) Respondent's conversions occurred between October 2003 and August 2004, by which time her IOLTA account had a negative balance. She converted these funds in increments, approximately twenty in number, in amounts ranging from approximately \$350 to \$3100.

19. In an unrelated matter, Respondent received a letter of concern from Disciplinary Counsel dated January 20, 2005. This letter was sent as a result of Disciplinary Counsel's receipt of a complaint involving allegations of a lack of diligence and failure to communicate. Disciplinary Counsel's letter put Respondent on notice as to her professional duties pursuant to Rules of Professional Conduct 1.3 and 1.4.

20. Respondent was sporadically involved in mental health counseling prior to 2004. Since October 2004 she has more consistently participated in

counseling for depression, anxiety, and co-dependency, related to an abusive domestic situation.

21. Respondent was transferred to inactive status by Order of Pennsylvania Supreme Court dated November 26, 2005 for failure to comply with Pennsylvania Rule of Disciplinary Enforcement 219, which requires, in pertinent part, the payment of registration fees.

22. Respondent relocated to Bellefonte, Centre County, in August 2005. She has obtained employment as an instructor at a business college, where she teaches legal studies classes.

**Specific Joint Recommendation for Discipline and Supporting Authority**

23. Petitioner and Respondent jointly recommend the appropriate aggregate discipline is a four (4) year suspension, computed from February 7, 2006, the date Respondent was temporarily suspended in this matter by the Pennsylvania Supreme Court.

24. The parties believe, and therefore aver, that their recommendation is consistent with relevant disciplinary case law, including *Office of Disciplinary Counsel v. Monsour*, 701 A2d 556 (1997), *Office of Disciplinary Counsel v. Weaver*, 56 DB 2004, 74 Pa. D & C 4<sup>th</sup> 439 (2005), and *Office of Disciplinary Counsel v. Kear*, 10 DB 2004.

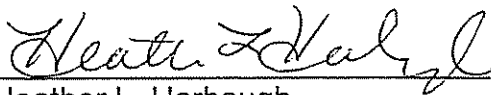
WHEREFORE, the Petitioner and Respondent respectfully request that pursuant to Pennsylvania Rules of Disciplinary Enforcement 215(e) and 215(g), that the three member panel of the Disciplinary Board review and approve the Joint Petition in Support of Discipline on Consent and order a four (4) year



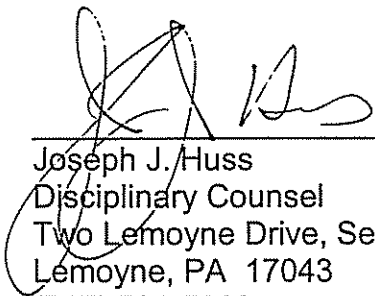
suspension, retroactive to February 7, 2006, for violations of Rules of Professional Conduct 1.3, 1.4(a), 1.4(b), 1.15(a), 1.15(b) and 8.4(c). Further, it is requested that the three member panel order the Respondent to pay the necessary expenses incurred in the investigation in this matter as a condition of the grant of the Petition, and that all expenses be paid by the Respondent before imposition of discipline under Pennsylvania Rules of Disciplinary Enforcement 215(g).

Respectfully submitted,

9/28/06  
DATE

  
Heather L. Harbaugh  
Respondent  
328 E. Bishop Street  
Bellefonte, PA 16823

10/4/06  
DATE

  
Joseph J. Huss  
Disciplinary Counsel  
Two Lemoyne Drive, Second Floor  
Lemoyne, PA 17043  
(717) 731-7083  
Attorney I.D. No. 27751

BEFORE THE DISCIPLINARY BOARD  
OF THE SUPREME COURT OF PENNSYLVANIA

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

I, Heather L. Harbaugh, Respondent in the above-captioned matter, hereby consent to the imposition of a suspension from the practice of law for a period of four years retroactive to February 7, 2006, 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, and am fully aware of the implications of submitting this *Joint Petition*.

2. I am presently without representation, but I previously and extensively consulted with Robert H. Davis, Jr., Esquire, about the matters which are the subject of this *Joint Petition*.

3. I am aware there is presently an investigation into allegations that I am guilty of misconduct as set forth in the *Joint Petition*;


4. I acknowledge that the material facts set forth in the *Joint Petition* are true; and

5. I consent to the imposition of discipline because I know that if the charges against me were prosecuted I could not successfully defend against them.

The statements contained in the foregoing *Affidavit Under Rule 215(D) of the Pennsylvania Rules of Disciplinary Enforcement*, are true and correct to the best of my knowledge, information and belief, and are subject to penalties of 18 Pa.C.S.A. 4904 relating to unsworn falsification to authorities.

Respectfully submitted,

9/28/06  
Date

  
Heather L. Harbaugh  
Respondent  
328 East Bishop Street  
Bellefonte, PA 16823  
Attorney I.D. No. 83997