

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 1189 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 77 DB 2005
v.	:	
	:	Attorney Registration No. 13582
RONALD S. SKLAR	:	
Respondent	:	(Montgomery 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

On July 5, 2005, Office of Disciplinary Counsel filed a Petition for Discipline against Ronald S. Sklar, Respondent. The Petition charged Respondent with professional misconduct arising out of allegations that he engaged in the unauthorized practice of law, failed to maintain client funds inviolate, and misappropriated and converted funds of a client. Respondent failed to file an Answer to Petition.

A disciplinary hearing was held on November 16, 2005, before a District II Hearing Committee comprised of Chair Karen J. Schular, Esquire, and Members Joseph G. Riper, Esquire and Keith B. McLennan, Esquire. Respondent appeared pro se.

Following the submission of briefs by the parties, the Hearing Committee filed a Report on March 24, 2006 and found that Respondent continued to practice law while on inactive status and failed to maintain inviolate funds of a client, but did not commit any criminal act nor engage in dishonest or deceitful conduct. The Committee recommended that Respondent be suspended for one year and one day.

Petitioner filed a Brief on Exceptions on April 7, 2006.

Respondent filed a Brief Opposing Exceptions on April 21, 2006.

This matter was adjudicated by the Disciplinary Board at the meeting on May 10, 2006.

## II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is situated at Suite 1400, 200 North Third Street, Harrisburg Pennsylvania 17101, 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 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 said Rules.

2. Respondent, Ronald S. Sklar, was born in 1932 and was admitted to practice law in the Commonwealth of Pennsylvania in 1961. He maintains an office at the Benjamin Fox Plaza, Suite 534, 261 Old York Road, Jenkintown PA 19046. Respondent is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has a prior history of discipline consisting of an informal admonition administered in 2001 as a result of his handling of two collection matters on behalf of clients subsequent to his transfer to inactive status by Order of the Supreme Court dated November 9, 1998.

4. By Order dated November 1, 2002, the Supreme Court of Pennsylvania ordered that Respondent was transferred to inactive status pursuant to Rule 217, Pa.R.D.E. effective December 1, 2002.

5. By certified letter dated November 1, 2002, Elaine M. Bixler, Secretary to the Disciplinary Board, provided Respondent with:

- a. a copy of the certified Order, transferring Respondent to inactive status;
- b. standard guidance of the Disciplinary Board to lawyers who have been transferred to inactive status;
- c. Rule 217 and Rule 219 of the Pa.R.D.E.;

d. Subchapter E, Formerly Admitted Attorneys, of the Disciplinary Board Rules; and,

e. Form DB-23(i)(non-litigation notice of disbarment, suspension or transfer to inactive status); Form DB-24(i) (litigation notice of disbarment, suspension or transfer to inactive status); and Form DB-25(i) (Statement of Compliance).

6. On or about November 6, 2002, Respondent received the aforesaid letter and communications which were mailed to him by certified mail.

7. While on inactive status, Respondent continued to operate a law office and to hold himself out to the public as an attorney.

8. While on inactive status, Respondent continuously engaged in the unauthorized practice of law primarily as a result of collection work he performed for the May Company and its department store, Strawbridge's.

9. Respondent failed to advise his client, the May Company, of his transfer to inactive status and his consequent inability to represent the May Company for collection work.

10. On December 17, 2003, Respondent entered into a Collection Services Agreement with the May Company for Respondent to continue his collection work.

11. On January 26, 2004, Respondent faxed a copy of his "Lawyer's Professional Liability Insurance" to the May Company.

12. On May 24, 2004, while on inactive status, Respondent executed his 2004-2005 Annual Registration form which listed arrearages from the years when Respondent had failed to pay his annual fee, and which set forth Respondent's status as "inactive since 12/01/2002".

13. In a failed attempt to regain his active status at that time, Respondent attempted to pay his annual fee and arrearages by use of a check payable on his "Trust Account" at Firstrust Bank.

14. While on inactive status, Respondent filed a civil complaint on March 1, 2005, on behalf of Strawbridge's, against a defendant in a civil proceeding.

15. Notwithstanding his transfer to inactive status, at various times, from at least January 1, 2003, through at least November 19, 2003, Respondent performed collection work on behalf of the May Company.

16. At various times from at least January 1, 2003 through at least November 19, 2004, Respondent was required to maintain funds inviolate on behalf of clients and/or third persons as a result of his collection work for the May Company.

17. Respondent failed to maintain fiduciary funds inviolate. Respondent commingled funds belonging to him with fiduciary funds belonging to others, such as, for example:

- a) Checks payable to the Pa.C.L.E. Board;
- b) Checks payable to Rita Oller, an employee;
- c) Checks payable to DES Tobacco Shop;

d) Checks payable to 1996 Pavilion Associates, Respondent's landlord; and,

e) Checks deposited into Respondent's Trust Account from the May Company, which represented Respondent's fees.

18. Notwithstanding his transfer to inactive status, from on or about November 2, 2003, through on or about May 21, 2004, Respondent used his Firsttrust IOLTA Account for his collection work on behalf of the May Company.

19. Respondent's practice was to make collections on behalf of the May Company, deposit them into his IOLTA Account, and then write a check on that account, payable to the May Company, indicating on the memo line of the check the period for which the collections had been made.

20. Respondent commingled funds, such as checks deposited into the IOLTA Account which represented fees for services, as well as payments to various District Courts and Prothonotary Offices.

21. There is no testimony or evidence regarding Respondent's Firsttrust IOLTA Account or his Sovereign Bank Trust Account, which would establish that Respondent converted, misappropriated, or otherwise misused funds.

22. There is no evidence that any client, including the May Company, ever complained that it was deprived of funds properly due and owing to it.

23. The nature of Respondent's collection practice was that he was entitled, as a fee, to a percentage of the funds he collected on behalf of the May Company, and

that, as a result, at any given point in time, the funds in the Sovereign Trust Account and the Firstrust IOLTA Account were partly funds to which Respondent was entitled.

24. Respondent regained active status on June 1, 2005.

### III. CONCLUSIONS OF LAW

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

1. RPC 1.15(a) – A lawyer shall hold property of clients or third persons that is in a lawyer’s possession in connection with a representation separate from the lawyer’s own property.

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

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

4. Pa.R.D.E. 217(c) – A formerly admitted attorney shall promptly notify of the transfer to inactive status, 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 a lawyer in good standing.

5. Pa.R.D.E. 217(d) – A formerly admitted attorney is prohibited from accepting any new retainer or engaging as an attorney in any legal matter of any nature after the effective date of the transfer to inactive status.

6. Pa.R.D.E. 217(j) – A formerly admitted attorney is prohibited from engaging in any form of any law-related activities, except in accordance with the requirements set forth therein.

Petitioner failed to meet its burden of proof by clear and satisfactory evidence, that Respondent violated RPC 1.15(b), RPC 8.4(b), and RPC 8.4(c).

#### IV. DISCUSSION

This matter is before the Disciplinary Board on a Petition for Discipline charging Respondent with multiple violations of the Rules of Professional Conduct and Rules of Disciplinary Enforcement arising out of allegations that he practiced law while on inactive status, and that he commingled and converted client funds. Respondent did not file an Answer to Petition for Discipline, and as a result, the factual allegations are deemed admitted, pursuant to Rule 208(b)(3), Pa.R.D.E.

The factual allegations in the Petition for Discipline, as well as evidence adduced at the disciplinary hearing, establish that Respondent was transferred to inactive status, and that, notwithstanding that status, he continued to operate his law practice and to engage in the practice of law, primarily handling collection work for his client, the May



Company, and its department store, Strawbridge's. Respondent actively pursued the collection work and engaged in regular communications with his client. The May Company was unaware of Respondent's inactive status. Respondent formalized his attorney-client relationship in December 2003 when he entered into a "Collections Services Agreement" with the May Company, setting forth in detail the legal relationship, including Respondent's contingent fees. Respondent acknowledged his wrongdoing.

The evidence establishes that Respondent failed to maintain funds inviolate on behalf of clients and/or third persons in Respondent's trust account and IOLTA account. Funds collected by Respondent on behalf of the May Company were commingled with Respondent's funds in his Sovereign Bank Trust Account and Firstrust IOLTA Account. Though the funds in both accounts were collected on behalf of the May Company, the evidence establishes that Respondent issued checks sent to the PACLE Board, an employee, a tobacco shop, his landlord, and payments to district courts and the prothonotary.

The averments as to Respondent's conversion and misappropriation of funds of his client were admitted, pursuant to Pa.R.D.E. 208(b)(3). In support of the averments, Petitioner introduced exhibits to demonstrate that the end-of-day balances were below the aggregate amounts he was required to maintain on behalf of his clients. Petitioner also introduced the testimony of Robert McKenney, a former auditor/investigator for the Office of Disciplinary Counsel, who corroborated the factual averments. Respondent was permitted to testify in mitigation of the charges and to provide an explanation regarding the

claims of conversion and misuse of funds. Respondent's testimony adduced at the hearing was not in direct contradiction of any averment and showed that he was entitled to a percentage of the monies collected on behalf of the May Company. At virtually all times, some percentage of the monies in the accounts was Respondent's. Furthermore, no complaint was ever made by the May Company or any other entity claiming that Respondent deprived such entities of monies. Respondent's clear error was a failure to have separately drawn fee payments to which he was entitled from the Sovereign Bank Trust Account and/or the Firstrust IOLTA Account, and to have deposited such funds into a separate account in Respondent's name before issuing checks thereon. The averments and testimony support a failure to maintain client funds inviolate, rather than the criminal act of misappropriation of funds.

The purpose of the disciplinary system is to protect the public from unfit attorneys and to maintain the integrity of the legal system. Office of Disciplinary Counsel v. Costigan, 584 A.2d 296 (Pa. 1990). Respondent's actions have shown him to be unfit to practice law at this time. Despite his inactive status, Respondent continued to practice law by actively pursuing collection work on behalf of his client. Respondent has been previously admonished by Office of Disciplinary Counsel for similar behavior occurring when he was on inactive status in 1998. Respondent engaged in commingling of funds in his accounts, a fundamental and grievous mistake not to be expected from a practitioner of 45 years. Respondent's difficulties stem from a failure to abide by both administrative and ethical rules and regulations.

For some time the Supreme Court of Pennsylvania has dealt with the pernicious problem of attorneys who engage in the unauthorized practice of law by suspending such persons for at least one year and a day, thus requiring them to petition for reinstatement and prove their fitness. Office of Disciplinary Counsel v. Harry Curtis Forrest, Jr., 134 DB 2003, (Pa. March 24, 2005), Office of Disciplinary Counsel v. Chauncey Harris, 150 DB 2002, 930 Disciplinary Docket No. 3 (Pa. July 15, 2004). The instant matter warrants similar discipline, notwithstanding the Petitioner's recommendation in its Brief that the Respondent be suspended for a period of not less than four years. While the Board is cognizant of the fact that Respondent is 74 years of age and such a sanction might result in the end of his career, the record supports the fact that Respondent is simply not grasping the concept of separate accounts, nor does he seem aware of his obligation to maintain active attorney status if he wishes to practice law. The conduct involved herein is serious enough to warrant a suspension of one year and one day.

V.           RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania recommends that the Respondent, Ronald S. Sklar, 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: \_\_\_\_\_  
Louis N. Teti, Board Member

Date: August 3, 2006

Board Members Pietragallo and Cognetti dissented for probation with a practice monitor.

Board Members Brown and Suh recused.

ORDER

PER CURIAM:

AND NOW, this 14<sup>th</sup> day of November, 2006, upon consideration of the Report and Recommendations of the Disciplinary Board dated August 3, 2006, it is hereby

ORDERED that Ronald S. Sklar 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.