

IN THE SUPREME COURT OF PENNSYLVANIA

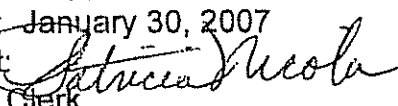
OFFICE OF DISCIPLINARY COUNSEL, : No. 1219 Disciplinary Docket No. 3
Petitioner :
 : No. 141 DB 2006
v. :
 : Attorney Registration No. 85150
ANTHONY NORMAN THOMAS, :
Respondent : (Cumberland County)

ORDER

PER CURIAM:

AND NOW, this 30th day of January, 2007, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated November 22, 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 Anthony Norman Thomas is suspended on consent 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.

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

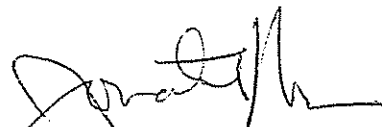
OFFICE OF DISCIPLINARY COUNSEL : No. 141 DB 2006
Petitioner :
v. : Attorney Registration No. 85150
ANTHONY NORMAN THOMAS :
Respondent : (Cumberland County)

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 Jonathan H. Newman, Laurence H. Brown and Min S. Suh, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on August 23, 2006.

The Panel approves the Joint Petition consenting to a One Year & One Day Suspension 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.


Jonathan H. Newman, Panel Chair
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date: November 22, 2006

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

Office of Disciplinary Counsel, Petitioner	:	
	:	
v.	:	No. 41 DB 2006
	:	
Anthony Norman Thomas, Respondent	:	Attorney Registration No. 85150
	:	
	:	(Cumberland County)

JOINT PETITION IN SUPPORT OF DISCIPLINE
ON CONSENT UNDER RULE 215(d), Pa.R.D.E.

Petitioner, Office of Disciplinary Counsel, by Paul J. Killion, Chief Disciplinary Counsel, and Edwin W. Frese, Jr., Disciplinary Counsel, and Respondent, Anthony Norman Thomas, by his counsel, Samuel C. Stretton, Esquire, file this Joint Petition in Support of Discipline on Consent Under Rule 215(d) of the Pennsylvania Rules of Disciplinary Enforcement ("Pa.R.D.E."), and respectfully represent that:

Petitioner, 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 (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

AUG 23 2006

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

Respondent, Anthony Norman Thomas, was born on December 23, 1958, and admitted to practice law in Pennsylvania on April 17, 2000. By Order dated November 29, 2005, Mr. Thomas was transferred to inactive status pursuant to Rule 111(b), Pa.R.C.L.E., effective December 29, 2005, and directed to comply with Rule 217, Pa.R.D.E. He did not comply with Rule 217. His registered addresses of record are Thomas & Associates, 3111 N. Front Street, Harrisburg, PA 17110-1310, and 1000 Chippenham Road, Mechanicsburg, PA 17055. He is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

**SPECIFIC FACTUAL ADMISSIONS AND
RULES OF PROFESSIONAL CONDUCT VIOLATED**

1. Respondent hereby stipulates that the following factual allegations are true and correct and that he violated the Rules of Professional conduct as set forth herein.

**Williamson Matter
C3-05-209**

2. On or about August 7, 2002, Barry D. Williamson was indicted on drug charges in the U. S. District Court for the Middle District of Pennsylvania, Docket No. 1:02-CR-00187.

3. On or about September 26, 2002, Barry Williamson's mother, Patricia Williamson, paid Respondent the sum of \$1,800 of a \$7,500 retainer for Respondent to represent Mr. Williamson.

4. The following day, September 27, 2002, Respondent sent Mrs. Williamson a fee letter relating that she had agreed to pay an initial retainer of \$7,500, that if Respondent expended more than 50 hours on the case, she agreed to pay additional fees at the rate of \$150 per hour, and that the fees did not include appellate work, other actions, or out of pocket costs.
5. On or about October 3, 2002, Mrs. Williamson paid Respondent an additional \$10,000 as Respondent had advised her that if her son's case went to a jury trial and lasted a week, Respondent's total fees would probably be \$11,800 – the amount she had paid. If the case did not go to trial, Respondent advised Mrs. Williamson that she would be due a refund.
6. On October 10, 2002, Respondent entered his appearance for Mr. Williamson.
7. On January 23, 2003, Mr. Williamson entered a plea of guilty to the charges.
8. Over a year later, on January 29, 2004, Mr. Williamson was sentenced to a term of imprisonment for 20 years.
9. At some point after the guilty plea, Mrs. Williamson called Respondent and requested a refund since the case had not gone to trial. Respondent contended that he had earned the entire amount that she had paid. Not knowing what she could do, Mrs. Williamson did not pursue the issue.
10. According to financial records provided by Respondent, he deposited the \$11,800 into his IOLTA account but paid himself a total of \$12,790 relative to Mr. Williamson. It is unknown whose funds were used to pay the \$990 difference.

11. On or about February 2, 2004, Mr. Williamson pro se filed a Notice of Appeal.
12. On February 10, 2004, an amended judgment was entered reducing Mr. Williamson's sentence to 16 years incarceration.
13. On or about April 7, 2004, Mr. Williamson filed a CJA Form 23 Financial Affidavit which the Third Circuit Court of Appeals treated as a motion for the appointment of counsel.
14. By Order of June 17, 2004, Respondent was appointed to represent Mr. Williamson in his appeal.
15. On or about July 29, 2004, the Court issued a Rule to Show Cause, returnable August 9, 2004, directing Respondent to show cause why Respondent failed to order the transcript and file the requisite case opening documents. Respondent did not timely respond.
16. On or about August 16, 2004, Respondent filed an appeal on behalf of Mr. Williamson docketed to No. 04-1343, challenging the validity of the sentence.
17. On or about August 8, 2004, Respondent belatedly filed a response to the Court's July 29th Rule and blamed his lack of action upon "an apparent deliberate and malicious attempt to disrupt counsel's business."
18. Subsequently, Respondent filed a request for the transcript and case opening documents and by Order dated November 23, 2004, the Court discharged its July 29th RTSC.
19. Meanwhile, on November 11, 2004, a Briefing Notice was issued directing that Respondent's brief and appendix be filed by December 8, 2004.

20. Respondent failed to file a brief and appendix by December 8, 2004, nor did he seek an extension of time during which to file them.

21. By Order dated December 29, 2004, Respondent was directed to Show Cause in writing on or before January 10, 2005, why he had failed to file Mr. Williamson's brief and appendix. The Order also directed that Respondent file nine copies of his brief and appendix, as well as a motion for permission to file the brief and appendix out of time.

22. Respondent failed to comply with or otherwise respond to the Court's Order of December 29, 2004.

23. By Order dated February 8, 2005, the Court noted that Respondent had failed to comply with its Order of December 29th and directed that if Respondent did not file a brief and appendix by February 28, 2005, an order would be entered directing him to personally appear before the Court in Philadelphia.

24. Respondent did not file a brief and appendix by February 28, 2005.

25. By Order dated March 7, 2005, Respondent was directed to personally appear before the Court in Philadelphia at 9 AM on Tuesday, April 5, 2005.

26. By Order dated March 17, 2005, the date when Respondent was scheduled to appear was changed to April 6, 2005, at 9:15 AM.

27. On April 6, 2005, Respondent appeared before Judge Ambro as scheduled and attempted to explain that his failures were the result of someone hacking into his computer, breaking into his office, interrupting and intercepting his telephone calls, totally disrupting the operation of his law office.

28. At the conclusion of the April 6th proceeding, Judge Ambro removed Respondent from the CJA List of Attorneys and as Mr. Williamson's counsel, and imposed a fine of \$150 to be paid within 10 days as a result of his failure to advise the Court in writing of why he could not comply with its various orders.

29. On or about May 3, 2005, following a call from the Clerk's Office, Respondent belatedly paid the fine of \$150.

**Branch-Dinkins Matter
C3-05-388**

30. On or about September 25, 2004, Patsy A. Branche-Dinkins met with Respondent and a female assistant by appointment to discuss criminal charges she believed would be filed against her son, Cremne Branche, in the near future. Mr. Branche was then incarcerated at SCI Camp Hill on a parole detainer.

31. On or about October 5, 2004, Ms. Branche-Dinkins met with Respondent and Respondent's assistant for the second time and paid Respondent a retainer of \$500. Respondent agreed to meet with her son and asked that he call Respondent at Respondent's office to discuss his case.

32. While Respondent provided a written receipt for the \$500, even though Respondent had not previously represented Ms. Branche-Dinkins or her son, he failed to communicate in writing to either of them the basis or rate of his fees.

33. Thereafter, Cremne Branche tried numerous times to call Respondent but no one was available to take his calls.

34. Respondent did not visit with Mr. Branche at SCI Camp Hill.

35. On or about November 2, 2004, when her son had been unable to communicate with Respondent, Ms. Branche-Dinkins began calling Respondent's office and leaving messages for Respondent to return her calls.

36. On or about November 20, 2004, Respondent finally returned one of Ms. Branche-Dinkins' calls and promised to visit with her son, who at that time had been transferred to SCI Greene in Waynesburg, PA. Respondent advised Ms. Branche-Dinkins that Respondent had to go to SCI Greene on another case and would meet with her son at that time.

37. However, Respondent did not thereafter meet with Mr. Branche.

38. By letter dated January 14, 2005, Ms. Branche-Dinkins indicated that she had been unsuccessfully trying to contact Respondent the past six weeks but that Respondent had failed to return any of her calls. She asked that Respondent contact her as soon as possible and indicated that if she did not hear from Respondent within five business days, she would contact the bar association. Respondent did not respond.

39. On or about April 8, 2005, Ms. Branche-Dinkins was successful in speaking to Respondent's assistant who promised that Respondent would contact her. However, Respondent did not do so.

40. On or about April 13, 2005, a three count Indictment was filed in the U.S. District Court for the Middle District of Pennsylvania captioned United States of America v. Cremne Branch, No. 1:05-CR-00146.

41. By letter dated April 19, 2005, Ms. Branche-Dinkins complained to Respondent about his failure to return her numerous messages, his failure to

ever visit her son, stated that his services were no longer needed, and requested a refund of her \$500. Respondent did not respond.

42. By Order of May 17, 2005, the District Court found that Cremne Branch was unable to afford counsel and appointed a Federal Public Defender to represent him.

43. By letter dated May 18, 2005, Ms. Branche-Dinkins again requested that Respondent refund the \$500 she had paid Respondent.

44. Respondent failed to either refund any portion of the retainer Respondent had been paid in advance or account to Ms. Branch-Dinkins for how Respondent believes he had earned it.

**Harris-Betsill Matter
C3-05-479**

45. In January 2004, Respondent was retained by Mary Harris-Betsill to represent her "in the matter related to a breach of contract action following the non-completion of home improvements by contractor, Dana Wallace," confirmed by engagement letter dated January 5, 2004.

46. Respondent's engagement letter called for payment of an initial retainer of \$1,000, which Ms. Betsill paid in installments.

47. Initially and until he resigned from Respondent's firm on or about July 30, 2004, Attorney Jeffrey John Wood satisfactorily handled Ms. Betsill's legal matter.

48. At the time Mr. Wood resigned from Respondent's firm, the next step to proceed with Ms. Betsill's claim was to file a Complaint against the contractor with a District Justice seeking over \$6,000 in damages. Respondent never

initiated such a suit because he erroneously believed that the claim had been resolved.

49. When Mr. Wood resigned from Respondent's firm, Ms. Betsill's file and representation remained with Respondent.

50. Respondent never advised Ms. Betsill that Mr. Wood had left Respondent's firm and she believed that Mr. Wood was responsible for her legal matter and had been unsuccessfully attempting to contact him since the summer of 2004.

51. Ms. Betsill repeatedly called Respondent's office number and, when she was able, left messages for a return call.

52. Respondent never returned any of Ms. Betsill's calls and has had no communication with her since Mr. Wood left Respondent's firm over a year previously.

53. Respondent took no action to proceed with Ms. Betsill's legal matter since Mr. Wood left Respondent's firm over a year previously.

**Miller Matter
C3-05-747**

54. On March 23, 2001, Gregory Samuels (a/k/a Godfrey Miller, hereafter "Mr. Miller") was convicted of Murder and Possession of Instruments of Crime in the Court of Common Pleas, Philadelphia, No. 0006-0908.

55. On or about November 14, 2002, the Superior Court affirmed Mr. Miller's conviction.

56. On November 7, 2003, Mr. Miller filed a pro se PCRA, and new counsel was appointed.

57. In or about April 2004, Mr. Miller's mother, Ruby D. Gibbs, hired National Legal Professional Associates (hereafter "NLPA") of Cincinnati, Ohio, to assist Mr. Miller in doing legal research in support of his PCRA.

58. By letter dated April 14, 2004, H. Wesley Robinson of NLPA confirmed a telephone conversation with Respondent during which Respondent had agreed to represent Mr. Miller in his PCRA for a fee of \$4,000. Mr. Robinson provided Respondent with Mr. Miller's and his mother's names, addresses, and phone numbers and suggested that Respondent write to them to confirm his representation. He also provided Respondent with a copy of preliminary research NLPA had prepared.

59. By letter to Respondent dated May 5, 2004, NLPA indicated that it hoped he had been in contact with Ruby Gibbs and finalized his representation; that Mr. Miller's former counsel had failed to file a Petition for Allowance of Appeal; that Mr. Miller wanted Respondent to supplement his PCRA with his issues as well as issues proposed by NLPA; and, offered whatever assistance Respondent might desire.

60. In or about May 2004, NLPA sent Respondent a check for \$2,500 as part of Respondent's total fee of \$4,000. The check was improperly deposited into Respondent's operating or attorney account.

61. On or about September 23, 2004, appointed counsel filed a *Finley* Letter with the Court indicating he felt Mr. Miller's PCRA was without merit.

62. Respondent was sent a copy of that letter.

63. On October 1, 2004, the Court sent out Notice pursuant to Pa.R.Crim.P. 907 that it intended to dismiss the PCRA, giving Mr. Miller 20 days to respond.

64. Respondent was aware of this notice and the need to take prompt action.

65. By letter dated October 14, 2004, NLPA sent Respondent a check for \$1,500 to cover the balance of Respondent's \$4,000 fee, advised Respondent that Mr. Miller was not satisfied with the *Finley* Letter, and that he wanted Respondent to file the supplement that NLPA had prepared as a Supplemental PCRA.

66. Respondent deposited the \$1,500 into his IOLTA account.

67. While Respondent had been paid his entire fee of \$4,000, he believed he had been paid only \$1,500 and took no action on Mr. Miller's behalf and had no communication with him.

68. On November 23, 2004, Mr. Miller's PCRA was dismissed.

69. By letter dated December 13, 2004, Pam Grimm, Case Manager with NLPA, wrote to Respondent and requested that Respondent contact Mr. Miller and his mother as to the status of the PCRA. Respondent failed to do so.

70. Following the dismissal of his PCRA, Mr. Miller and his mother repeatedly complained to NLPA and demanded the refund of the \$4,000 Respondent had been paid.

71. By letter dated February 11, 2005, Ms. Grimm wrote to Respondent advising that she had received additional correspondence from Ruby Gibbs concerning the \$4,000 that she had paid to NLPA which had been forwarded to Respondent, that Mr. Miller and his mother were extremely upset that

Respondent had taken no action on Mr. Miller's behalf, and requesting that Respondent contact Ms. Gibbs directly. Respondent failed to take any action, including refunding the \$4,000 fee Respondent had been paid but did not earn.

72. In March 2005, Mr. Miller filed a claim with the Dauphin County Bar Association. Despite the association's efforts to have Respondent cooperate, Respondent failed to respond or take any action to refund the \$4,000 in unearned fees.

73. By depositing the \$2,500 Respondent received from NLPA on Mr. Miller's behalf into Respondent's operating or attorney account, Respondent improperly commingled Mr. Miller's funds with his own.

74. Respondent failed to maintain accurate records of his receipt and disbursement of the \$4,000 he received from NLPA on behalf of Mr. Miller and converted those funds to his own use or the use of someone other than Mr. Miller.

75. On June 15, 2006, the Lawyers Fund for Client Security granted Ruby Gibbs' application for \$4,000.

**Hawkins Matter
C3-06-48**

76. On or about June 15, 2001, Monroe Hawkins was found guilty by a jury of various drug related offenses in the case of U.S.A. v. Monroe Hawkins, No. 1 : CR-01-025-01, United States District Court, Middle District, PA, the Hon. William W. Caldwell presiding.

77. At the time of trial, Mr. Hawkins was represented by the Federal Public Defender.

78. Respondent was privately retained by Mr. Hawkins and entered his appearance of record on April 18, 2002.

79. Respondent represented Mr. Hawkins at sentencing on July 24, 2002. Mr. Hawkins was sentenced to 240 months imprisonment each on two counts and to 48 months and 60 months on the other two counts, to run concurrently, with supervised release for 10 years thereafter.

80. On or about August 26, 2002, Mr. Hawkins was delivered to FCI-Rat Brook, New York, to serve his sentence.

81. No post-trial motions or direct appeal was filed.

82. On July 24, 2003, Respondent filed a motion for an extension of time during which to file a §2255 Motion.

83. The Court granted Respondent until August 22, 2003 to file a §2255 Motion.

84. Respondent failed to file such a motion and failed to communicate that fact to his client.

85. Despite requests for information from Mr. Hawkins, Respondent had no further communication with him.

86. By letter to Judge Caldwell dated October 27, 2005, Mr. Hawkins asked the Court for a copy of the §2255 Motion Mr. Hawkins believed Respondent had filed.

87. By Order of November 3, 2005, Respondent was directed to file a response within 10 days as to why no §2255 Motion had been filed.

88. As it appeared to the Court that Respondent did not receive a copy of its Order of November 3, 2005, by Order of November 30, 2005, Respondent was granted another ten days during which to state why no §2255 Motion had been filed and to provide any other information Respondent believed relevant to Mr. Hawkins' letter.

89. Respondent failed to file a response.

90. By Order dated January 6, 2006, Judge Caldwell directed that Respondent personally appear before him on Tuesday, January 17, 2006, to show cause why he should not be held in contempt.

91. On January 17, 2006, Respondent personally appeared before Judge Caldwell and offered "a number of unspecific and unsatisfactory excuses," which caused Judge Caldwell to remove Respondent as counsel and appoint Dennis E. Boyle, Esquire.

Robertson and Haines Matters
C3-06-469

92. On December 1, 2003, Respondent was appointed to represent Justin J. Robertson to pursue a direct appeal of his first degree murder conviction in Dauphin County, Commonwealth v. Robertson, CP-22-CR-0004038-202.

93. The appeal was docketed in the Superior Court to No. 1902 MDA 2003.

94. By Order dated December 15, 2003, Respondent was given until December 29, 2003, to file a concise statement of matters complained of on appeal.

95. On December 29, 2003, Respondent filed a Motion for Continuance.

96. By Order dated January 7, 2004, Respondent was given until February 1, 2004, to file a concise statement of matters complained of on appeal.
97. Respondent filed the Statement of Matters Complained of on Appeal on February 3, 2004.
98. On April 6, 2004, the Superior Court dismissed the appeal for failure of the Respondent to file a brief and directed Respondent to certify that he had notified the Appellant of the dismissal within ten days.
99. On April 16, 2004, the Superior Court received the Respondent's certification that he had notified Appellant of the dismissal of his appeal due to Respondent's failure to file a brief.
100. On May 6, 2004, an Application to Reinstate Appeal was filed; but it was denied by the Superior Court on May 11, 2004, without prejudice to Appellant's rights under the Post Conviction Relief Act.
101. On November 23, 2005, Mr. Robertson filed a PCRA pro se and new counsel was appointed for him on December 2, 2005.
102. On March 20, 2006, new counsel filed an Amended Petition for Post Conviction Relief seeking to have Mr. Robertson's direct appeal rights reinstated.
103. The Commonwealth conceded that Respondent had been ineffective in failing to file a brief with the Superior Court.
104. By Order of the Dauphin County Court dated May 25, 2006, Mr. Robertson's direct appeal rights were reinstated.
105. On April 22, 2004, Respondent was appointed conflicts counsel for the defendant in the Dauphin County case captioned Commonwealth v. Christopher

T. Haines, No. CP-22-CR-0001001-2004. Mr. Haines was charged with first degree murder, criminal conspiracy, and carrying a firearm without a license.

106. Following a jury trial, Mr. Haines was found guilty of all charges and was sentenced on March 11, 2005, to life imprisonment on the first degree murder count and imprisonment of 10 to 20 years on the firearms charge.

107. Despite the fact that Respondent knew that Mr. Haines desired to appeal his convictions, as Respondent had resigned his position as conflicts counsel, Respondent did not file a direct appeal nor insure that the Court appointed other counsel to do so.

108. On August 18, 2005, Mr. Haines filed a PCRA petition pro se and new counsel was appointed August 22, 2005.

109. On November 21, 2005, new counsel filed a Motion for Reinstatement of Appellate Rights, Nunc Pro Tunc, Pursuant to the Post Conviction Relief Act.

110. At the PCRA Hearing held on December 23, 2005, the Respondent testified that he did not file an appeal even though he knew Mr. Haines wanted to appeal his convictions.

111. The Court concluded that Respondent had provided ineffective assistance of counsel in failing to pursue his client's appellate rights and granted the PCRA.

112. By his conduct as set forth in Paragraphs 1 through 110, the Respondent has violated the following Rules of Professional Conduct:

- a. RPC 1.1 A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation necessary for the representation.

- b. RPC 1.3 A lawyer shall act with reasonable diligence and promptness in representing a client.
- c. RPC 1.4(a)[after 1/1/05 (a)(3)] A lawyer shall keep a client informed about the status of a matter and promptly comply with reasonable requests for information.
- d. PRC 1.4(b)[after 1/1/05 (a)(4)] A lawyer shall explain a matter to the extent necessary to permit the client to make informed decisions regarding the representation.
- e. 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.
- f. 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. Funds shall be kept in a separate account maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be preserved for a period of five years after termination of the representation.
- g. RPC 1.15(b) Upon receiving property of a client or third person in connection with a client-lawyer relationship, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise

permitted by law or by agreement with the client or third person, a lawyer shall promptly deliver to the client or third person any property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

h. RPC 1.15(d) Notwithstanding Paragraphs (a), (b) and (c), and except as provided below in paragraph (e), a lawyer shall place all funds of a client or of a third person in an interest bearing account. All qualified funds received by the lawyer shall be placed in an Interest On Lawyer Trust Account in a depository institution approved by the Supreme Court of Pennsylvania. All other funds of a client or a third person received by the lawyer shall be placed in an interest bearing account for the benefit of the client or third person or in an other investment vehicle specifically agreed upon by the lawyer and the client or third party.

i. RPC 1.16(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, 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. The lawyer may retain papers relating to the client to the extent permitted by other law.

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

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

SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

113. Petitioner and Respondent jointly recommend that the appropriate discipline for the Respondent's admitted misconduct is a suspension from the practice of law for a period of one year and one day.

114. Respondent hereby consents to that discipline being imposed upon him by the Supreme Court of Pennsylvania. Attached to this Petition is Respondent's executed Affidavit required by Rule 215(d), Pa.R.D.E., stating that he consents to the recommended discipline, including the mandatory acknowledgements contained in Rule 215(d)(1) through (4), Pa.R.D.E.

115. In support of Petitioner's and Respondent's joint recommendation, it is respectfully submitted that there are several mitigating circumstances:

- a. Respondent has no prior disciplinary record;
- b. Respondent has admitted engaging in misconduct and violating the cited Rules of Professional Conduct;
- c. Respondent has cooperated with the Petitioner throughout its investigation;

d. During the period of time involved in his misconduct, Respondent's office computers and phones had been tampered with by person or persons unknown which significantly interfered with his ability to manage his practice;

e. The disruption in his practice resulted in significant financial problems and marital discord; and,

f. Respondent is remorseful for his misconduct and understands he should be disciplined, as is evidenced by his consent to receiving a suspension of one year and one day.

116. Respondent's misconduct in these seven disciplinary matters primarily involves neglect, incompetence, and lack of communication. However, in the Branch-Dinkins and Miller Matters, Respondent was paid advanced fees of \$500 and \$4,000, respectively, for which he did no work, and which he has not refunded because of lack of financial resources to do so. [A claim for reimbursement of the \$4,000 has been approved by the Lawyers Fund for Client Security.] Further, the Williamson Matter involved the apparent conversion of \$990 from his IOLTA account over and above the \$11,800 he had been paid in advance and apparently earned. Additionally, his misconduct is aggravated by his failure to comply with Rule 217, Pa.R.D.E., following his transfer to inactive status.

117. There are numerous cases involving multiple counts of incompetence, lack of diligence, and failure to communicate. Some involve misrepresentations

and/or a prior disciplinary record, which are not present here. Others involve misuse of client funds, which is involved here.

118. In the case of *Office of Disciplinary Counsel v. Margot S. Jones*, No. 1084 Disciplinary Docket No. 3, No. 167 DB 2004 (January 5, 2006), the respondent-attorney was suspended for two years for incompetence, neglect and failure to communicate in two immigration cases, in one of which she knowingly deposited \$1,570 which had been advanced for filing fees into her operating account and promptly misappropriated them to her own use. She also lied to the client about having paid the fee when she had not done so. She was found to have violated Rules 1.1, 1.3, 1.4, 1.15(a) and (b), 1.16(d), and 8.4(c), all of which Rules are admitted by the Respondent to have been violated here. Aggravating the *Jones* case, however, are the facts that she did not answer the Petition for Discipline, or attend either the Pre-Hearing Conference or the disciplinary hearing. Here, the Respondent has fully cooperated and admitted his misconduct. While misuse of client funds is involved, it is more the result of faulty record keeping, exacerbated by the tampering of his computer programs.

119. In the case of *Office of Disciplinary Counsel v. Michael G. Bowen*, No. 960 Disciplinary Docket No. 3, No. 10 & 28 DB 2003 (October 22, 2004), the respondent-attorney was suspended for a year and one day for incompetence, neglect, failure to communicate, and failure to account or refund unearned fees in six separate bankruptcy or tax matters in violation of Rules 1.1, 1.3, 1.4, 1.15(b), and 1.16(d), all of which are admitted in the instant case. However, unlike this Respondent, Mr. Bowen did not stipulate to the misconduct and had received a

private reprimand for similar misconduct. The amount of fees unaccounted for and not refunded to the six clients totaled \$10,745.

120. In the case of *Office of Disciplinary Counsel v. Howard Goldman*, No. 1040 Disciplinary Docket No. 3. No. 157 DB 2003 (August 30, 2005), the respondent attorney was suspended for a year and one day for failing to act with reasonable diligence and communication in four client matters (three domestic and one PCRA) during a four year period of time. In two of the matters, he misrepresented the status of the cases to disguise his neglect. He was found to have violated Rules 1.1, 1.3, 1.4, 1.5(b), 1.16(d), 3.2, 8.4(c) and (d), all but 3.2 are involved here. As the Respondent here, Mr. Goldman had no prior record, admitted most of the misconduct and expressed remorse. Similar to the Respondent here, Mr. Goldman had significant financial and marital difficulties during the period of his misconduct.

121. A one year and one day suspension was also imposed upon the respondent-attorney in the case of *In re Anonymous No. 42 DB 1999 (Charles Elias Siegler, Jr.)*, 60 Pa.D.&C.4th 522 (May 8, 2001). Basically, after initially taking appropriate action, Mr. Siegler neglected, failed to communicate and made misrepresentations in three separate matters resulting in their eventual dismissal in violation of Rules 1.1, 1.3, 1.4, and 8.4(c). The case was aggravated by the fact that he had a prior record of three informal admonitions. While the Disciplinary Board recommended a six month suspension, the Court imposed a suspension of one year and one day. While this Respondent does not have a prior record and did not misrepresent the status of the cases to his clients, his

misconduct involved six separate matters and included misappropriations of unearned fees.

122. The respondent-attorney in the case of *Office of Disciplinary Counsel v. Anonymous (John C. Fekety)*, No. 541 Disciplinary Docket No. 3, No. 95 DB 1998 (October 15, 1999), was also suspended for one year and one day. The misconduct occurred over a two year period of time and involved five separate matters where Mr. Fekety provided incompetent representation, neglected the cases despite frequent contacts from his clients, failed to respond to their communications, failed to turn over files, and in one matter, failed to distribute \$10,000 for six months during which time the balance in his IOLTA account fell below that amount. He was found to have violated Rules 1.1, 1.3, 1.4, 1.15(b), 1.16(d), and 3.2, all but the last of which are involved here. As the Respondent here, Mr. Fekety admitted his misconduct and the Rule violations. During the period of misconduct, he suffered from depression for which he was seeking treatment and admitted at the time of the disciplinary hearing that he was not mentally fit to practice. Like the Respondent here, Mr. Fekety was transferred to inactive status for his failure to take the required CLE courses.

123. Finally, a one year and one day suspension was imposed upon the respondent-attorney in the case of *Office of Disciplinary Counsel v. Eric M. D. Levande*, No. 658 Disciplinary Docket No. 3, No. 72 DB 1999 (April 2, 2001), which involved incompetence, neglect, and failure to communicate in seven bankruptcy or divorce matters. Mr. Levande also failed to segregate payments for advanced fees and costs in a trust account and commingled the funds with his

own, allowed his trust account to be overdrawn on several occasions, and failed to keep accurate financial records. Mr. Levande had a prior record of two informal admonitions and was found to have violated Rules 1.1, 1.3, 1.4(a), 1.15(a), (b) and (d), 1.16(d), and 8.4(d), all of which the Respondent here also violated.

124. Petitioner and Respondent respectfully submit that the above cases are sufficiently similar to the present matter as to support the imposition of a suspension of one year and one day on the Respondent in this case.

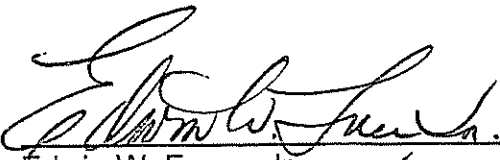
WHEREFORE, Petitioner and Respondent respectfully request that, pursuant to Rule 215(e) and 215(g), Pa.R.D.E., the three-member panel of the Disciplinary Board review and approve the above Joint Petition In Support of Discipline On Consent and file its recommendation with the Supreme Court of Pennsylvania in which it is recommended the Supreme Court enter an Order suspending Respondent from the practice of law for a period of one year and one day and directing him to comply with all of the provisions of Rule 217, Pa.R.D.E.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

Paul J. Killion
Chief Disciplinary Counsel
Attorney Registration No. 20955

Date: 8/21/06

By: 
Edwin W. Frese, Jr.
Disciplinary Counsel
Attorney Registration No. 09828
Two Lemoyne Drive, Second Floor
Lemoyne, Pennsylvania 17043

Telephone (717) 731-7083

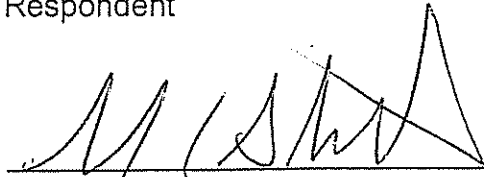
and

Anthony Norman Thomas
Respondent

Date: _____

7/29/06

By: _____



Samuel C. Stretton
Counsel for Respondent
Attorney Registration No. 18491
301 South High Street
P.O. Box 3231
West Chester, PA 19381-3231
Telephone (610) 696-4243

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

Office of Disciplinary Counsel, Petitioner	:	
	:	
v.	:	No. DB 2006
	:	
Anthony Norman Thomas, Respondent	:	Attorney Registration No. 85150
	:	(Cumberland County)

AFFIDAVIT PURSUANT TO RULE 215(d), Pa.R.D.E.

Respondent, Anthony Norman Thomas, hereby states that he consents to the imposition of a suspension from the practice of law for a period of one year and one day as jointly recommended by Petitioner, Office of Disciplinary Counsel, and Respondent, in the Joint Petition in Support of Discipline on Consent pursuant to Rule 215(d), Pennsylvania Rules of Disciplinary Enforcement, and further states that:

1. His consent is freely and voluntarily rendered: he is not being subjected to coercion or duress; he is fully aware of the implications of submitting the consent; and, he has consulted with counsel in connection with the decision to consent to discipline;

2. He is aware that there are presently pending proceedings involving allegations that he is guilty of misconduct as set forth in the Joint Petition;

3. He acknowledges that the material facts set forth in the Joint Petition are true; and,

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

Office of Disciplinary Counsel,
Petitioner

v.

Anthony Norman Thomas,
Respondent

:
:
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No. DB 2006

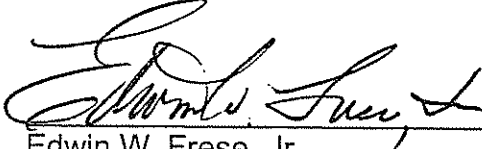
Attorney Registration No. 85150

(Cumberland County)

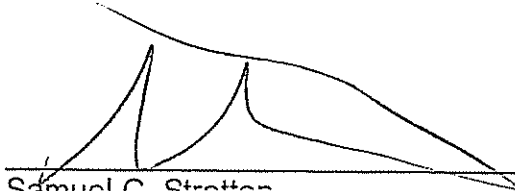
VERIFICATION

The statements contained in the foregoing Joint Petition in Support of Discipline on Consent Pursuant to Rule 215(d), Pa.R.D.E. are true and correct to the best of our knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

Date: 8/21/06


Edwin W. Frese, Jr.
Disciplinary Counsel

Date: 11/29/06


Samuel C. Stretton
Counsel for Respondent