

IN THE SUPREME COURT OF PENNSYLVANIA

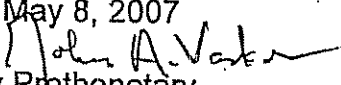
OFFICE OF DISCIPLINARY COUNSEL,	:	No. 1248 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 149 DB 2006
v.	:	
	:	Attorney Registration No. 73688
JAMES GARLAND GILES,	:	
Respondent	:	(Philadelphia)

ORDER

PER CURIAM:

AND NOW, this 8th day of May, 2007, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated March 13, 2007, 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 James Garland Giles is suspended on consent from the Bar of this Commonwealth for a period of two years, and he shall comply with all the provisions of Rule 217, Pa.R.D.E.

A True Copy John A. Vaskov
As of: May 8, 2007
Attest: 
Deputy Prothonotary
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA


OFFICE OF DISCIPLINARY COUNSEL : No. 149 DB 2006
Petitioner :
v. : Attorney Registration No. 73688
JAMES GARLAND GILES :
Respondent : (Philadelphia)

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 Smith Barton Gephart, Sal Cognetti, Jr., and Charlotte S. Jefferies, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on January 16, 2007.

The Panel approves the Joint Petition consenting to a Two Year 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.


Smith Barton Gephart, Panel Chair
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date: March 13, 2007

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 149 DB 2006
Petitioner :
 :
v. :
 : Attorney Reg. No. 73688
JAMES GARLAND GILES, Esquire :
Respondent : (Philadelphia County)

JOINT PETITION IN SUPPORT
OF DISCIPLINE ON CONSENT
PURSUANT TO Pa.R.D.E. 215 (d)

Petitioner, the Office of Disciplinary Counsel (hereinafter, "ODC") by Paul J. Killion, Chief Disciplinary Counsel, and Ramona Mariani, Disciplinary Counsel, and Respondent, James Garland Giles (hereinafter, "Respondent"), by and through his counsel James C. Schwartzman, Esquire, respectfully petition the Disciplinary Board in support of discipline on consent, pursuant to Pennsylvania Rule of Disciplinary Enforcement ("Pa.R.D.E.") 215(d), and in support thereof state:

1. ODC, whose principal office is situated at Suite 1400, 200 North Third Street, Harrisburg, Pennsylvania, is invested, pursuant to Pa.R.D.E. 207, 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 the aforesaid Enforcement Rules.

2. Respondent, James Garland Giles, was born in 1968, and was admitted to practice law in the Commonwealth on December 6, 1994. Respondent is on active status and maintains his office at Suite 200, 420 W. Cheltenham Ave., Philadelphia, PA 19144.

FILED

JAN 16 2007

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

Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

3. Respondent's affidavit stating, *inter alia*, his consent to the recommended discipline is attached hereto as Exhibit A.

SPECIFIC FACTUAL ALLEGATIONS ADMITTED

Complaint of LaVern L. McNear

4. In or around August of 2001, LaVern L. McNear engaged Respondent to represent her in a civil matter against the City of Philadelphia, Board of License and Inspection Review.

5. Ms. McNear paid Respondent approximately \$2,800.00 in cash installments over the next two years.

6. Despite the fact that Respondent had not previously represented Ms. McNear, he failed to provide her with a written fee agreement setting forth the basis and rate of his fee before or within a reasonable time after commencing the representation.

7. On August 23, 2001, Respondent commenced a civil action on Ms. McNear's behalf in the Philadelphia Court of Common Pleas seeking a temporary injunction.

8. The case was listed for a status trial/scheduling conference on November 26, 2001.

9. Despite receiving notice, Respondent failed to appear for the conference.

10. After Respondent's failure to appear at the conference, the Court set a Rule Returnable Hearing date of January 4, 2002.

11. Despite receiving notice of that hearing, Respondent failed to appear.

12. On January 14, 2002, The Honorable Alan Tereshko entered a Judgment of Non Pros due to Respondent's failure to appear at the status trial/scheduling conference held on November 26, 2001, and the Rule Returnable Hearing held on January 4, 2002.

13. Respondent received notice of the judgment of Non Pros.

14. Respondent failed to keep Ms. McNear informed about the status of her matter, in that:

a. he failed to inform her about the conference and hearing dates;

b. he failed to inform her that he had not appeared at either the conference or the hearing; and

c. he failed to inform her that a judgment of Non Pros had been entered in her case due to his failure to appear at the conference and hearing.

15. Respondent's claim to have negotiated enforcement relief directly from the city, thus obviating the need for the civil suit, did not absolve Respondent from the responsibility to withdraw the suit rather than allow it to be dismissed by the court for a failure to prosecute.

16. By hearing dated January 22, 2002, Ms. McNear's case was litigated before the Board of Licenses and Inspections.

17. On March 1, 2002, Respondent filed in the Philadelphia Court of Common Pleas a notice of statutory appeal on Ms. McNear's behalf from the adverse decision of the Board of Licenses and Inspections.

18. Thereafter, Respondent sought to negotiate a resolution with the city.

19. Respondent had the appeal relisted for status conferences on a number of occasions.

20. The final status conference was listed for October 14, 2003.

21. Respondent failed to inform Ms. McNear of the date of the status conference.

22. Neither Respondent nor Ms. McNear appeared before the court on October 14, 2003, although Respondent takes the position that he arrived at court late on that day.

23. Consequently, by Order dated October 14, 2003, the Honorable Esther R. Sylvester dismissed the matter due to Respondent's failure to prosecute.

24. Respondent failed to provide a copy of the Order to Ms. McNear or otherwise inform her that her case had been dismissed due to his failure to prosecute.

25. Respondent failed to act with reasonable diligence and promptness in his representation of Ms. McNear in that, among other things, he failed to file a timely Petition to Open the Judgment on her behalf.

26. Respondent saw Ms. McNear by chance in Philadelphia in or around March of 2004, and she questioned him about her case.

27. On March 24, 2004, Respondent filed a Petition to Open the Judgment on behalf of Ms. McNear.

28. By Order dated July 30, 2004, the Honorable Annette Rizzo entered an order denying the Petition to Open the Judgment and for Relief from Judgment of Non Pros

because it was filed beyond the time period in which the court had jurisdiction over the matter.

29. Respondent failed to keep Ms. McNear informed about the status of her matter in that he once again failed to inform her that her case had been dismissed.

Complaint of Office of Disciplinary Counsel

30. By Order of the Pennsylvania Supreme Court dated December 13, 2004, Respondent was transferred to inactive status pursuant to Rule 219, Pa.R.D.E., with the transfer taking effect on January 12, 2005, 30 days after the date of that Order.

31. By letter dated December 13, 2004, sent certified mail, return receipt requested, to Respondent to his then-current address of registration, the law firm of Frank & Rosen located in Elkins Park, Montgomery County, Elaine M. Bixler, Secretary of the Board, wrote to Respondent and, among other things:

- a. enclosed a copy of the Supreme Court's Order dated December 13, 2004;
- b. enclosed a copy of the Standard Guidance of the Disciplinary Board to Lawyers who have been Transferred to Inactive Status, as well as copies of the relevant Rules of Disciplinary Enforcement and forms; and
- c. advised him that he was required to comply with the relevant Rules of Disciplinary Enforcement and Disciplinary Board Rules enclosed.

32. By December of 2004, Respondent was no longer with Frank & Rosen, however, the firm was forwarding all mail addressed to him to one or more addresses he had provided.

33. Respondent failed to return his annual fee form for 2004-2005 or pay the required annual fee in order to maintain an active license to practice law.

34. Respondent failed to comply with the notification and other requirements under Pa. R.D.E. 217 and 219.

35. Instead, Respondent continued to practice law from an office located at 1800 John F. Kennedy Boulevard, Suite 300, Philadelphia, PA 19103, and from his home address, 6143 Wayne Avenue, Philadelphia, PA 19144 in defiance of the Pennsylvania Supreme Court Order.

36. Despite changing his law office location several times, Respondent failed to notify the Office of the Secretary to the Disciplinary Board of his change of address within thirty days of moving as required by D.Board Rule 219(d)(3).

37. Records from the Philadelphia Court of Common Pleas reflect Respondent's appearance in the following cases after January 12, 2005, the effective date of his involuntary transfer to inactive status:

- a. *Harris v. Witherspoon*, Case ID 040306823; and
- b. *Mortgage Electronic Registration Systems v. Karume*, Case ID 041000832.

38. By letter dated February 18, 2005, Mr. Robert McKenney, an Investigator with the Office of Disciplinary Counsel, wrote to Respondent and asked Respondent to call him concerning Respondent's nonpayment of the annual fee.

39. On March 14, 2005, Respondent telephoned Mr. McKenney, and, in the course of that conversation, stated, among other things, that:

- a. Respondent had paid the annual fee near the end of 2004; and
- b. Respondent had a letter from the Registrar's Office stating that he was not on inactive status.

40. Respondent's statements to Mr. McKenney were false because Respondent had not paid the annual fee.

41. The letter to which Respondent referred indicated that he had not been transferred to inactive status as a result of failure to comply with CLE rather than nonpayment of his annual fee.

42. In or around June of 2005, Respondent received a letter from Office of Disciplinary Counsel alleging, among other things, that he had engaged in the unauthorized practice of law.

43. Shortly after receipt of that letter, Respondent obtained a copy of the Annual Fee Form and remitted the form plus his fee payment to the Office of the Secretary, and was reinstated to active status.

Complaint of Dr. John J. Bowden, Jr.

44. On January 10, 2002, John Lowe sustained injuries as a result of a slip and fall at a Pathmark store.

45. Sometime after the injury Respondent agreed to represent Mr. Lowe in connection with a lawsuit against Pathmark.

46. By letter dated June 11, 2002, Respondent wrote to Dr. John J. Bowden, Jr., and, among other things:

- a. explained that Respondent represented Mr. Lowe in connection with his claim against Pathmark Stores, Inc.;
- b. stated that Respondent had received Dr. Bowden's current invoice of \$9,205.00;
- c. asked Dr. Bowden to continue to forward all invoices to Respondent's attention; and
- d. stated that Respondent would protect Dr. Bowden's interest in the event of settlement or verdict.

47. On January 9, 2004, Respondent filed the complaint in *Lowe vs. Pathmark Stores* in the Philadelphia Court of Common Pleas.

48. *Lowe v. Pathmark Stores* settled in the first quarter of 2004 for the sum of \$22,500.00.

49. Accordingly, check no. 657871 ("the settlement check"), dated April 20, 2004, made payable to John Lowe and J. Garland Giles, was forwarded to Respondent's attention.

50. On April 25, 2004, Respondent telephoned Dr. Bowden's administrator, Hugh Baylinson, and Mr. Baylinson agreed to accept \$7,500.00 as payment in full for all medical services Dr. Bowden provided to Mr. Lowe in connection with his injury.

51. On April 27, 2004, Respondent deposited the settlement check into his personal account with Penn Business Bank.

52. During the spring and summer of 2004, Dr. Bowden's office made repeated attempts to contact Respondent, during which time Respondent apologized for the failure to make payment and promised that payment in full would be made.

53. On November 3, 2004, Respondent personally went to Dr. Bowden's office and made a first "installment" payment of \$1,500.00 cash to Mr. Baylinson.

54. At that time Respondent agreed to make additional payments of \$1,000.00 each week until the full \$7,500.00 was paid.

55. On November 17, 2004, Respondent made a second installment payment of \$1,000.00, and, among other things:

- a. apologized to Mr. Baylinson for skipping a week's payment; and
- b. admitted to having "mingled" funds from the John Lowe matter with Respondent's personal funds.

56. Thereafter, Respondent failed to have any further communication with Dr. Bowden's office or pay the remaining \$5,000.00 owed to Dr. Bowden until after receipt of the Request for a Statement of Respondent's Position letter from the Office of Disciplinary Counsel in November of 2005.

57. Respondent made full repayment plus interest to Dr. Bowden in November or December of 2005.

58. In connection with the investigation into Dr. Bowden's complaint, Respondent was requested to produced bank records from the account into which the funds payable as a result of the Lowe matter had been deposited, from January of 2004 through the present (which at that time was November of 2005).

59. As Respondent did not promptly comply and produce the requested records, two subpoenas were issued in January of 2006 – one to Respondent seeking production of his entire file in the John Lowe matter, and one to Pennsylvania Business Bank seeking bank records for the account in question from January of 2004 through the present.

60. After issuance of the subpoena, Disciplinary Counsel learned that the Pennsylvania Business Bank account was not an IOLTA account, but rather a “sweep account” which is an interest bearing savings account that was attached to a non-interest bearing checking account.

61. Accordingly, Disciplinary Counsel sought records for both bank accounts.

62. The bank records reveal that the sweep account and checking account were regularly utilized by Respondent for both business and personal use.

63. Respondent commingled funds by placing client funds and his own personal funds in the same account.

64. Respondent falsely certified on his PA Attorney’s Annual Fee Form for the year 2003-2004 that Pennsylvania Business Bank account 100007061 (the sweep account) was an IOLTA account.

65. By letter dated November 10, 2005, addressed to Respondent at 6143 Wayne Avenue, Philadelphia, PA, Alfred Azen, Executive Director of the Pennsylvania Interest on Lawyers Trust Account Board (“IOLTA Board”) wrote to Respondent and informed him that the Pennsylvania Business Bank account was not an IOLTA account and enclosed an IOLTA enrollment form for Respondent’s convenience.

66. Respondent failed to take any corrective action upon receipt of Mr. Azen's letter.

67. Respondent failed to list any bank account on his PA Attorney's Annual Fee Form for the year 2005-2006, despite the fact that Respondent had failed to seek any exemption from the requirement that he maintain an IOLTA account as required by RPC 1.15(h).

68. Respondent opened an IOLTA account on February 9, 2006, after Disciplinary Counsel discussed the matter with him on February 8, 2006.

69. On February 8, 2006, Respondent appeared at the Office of Disciplinary Counsel in response to the subpoena issued seeking production of the John Lowe file.

70. Respondent was unable to produce the Lowe file, stating that it, along with other documents, had been destroyed due to a flood in his basement.

Complaint of Denise Owens

71. In or around April or early May of 2005 Respondent met with Denise C. Owens and Brigitte M. Reeves-Jones to discuss his potential engagement to represent them with respect to a caveat they had filed against the probate of the will of their deceased aunt, Gladys M. Tomas: (New Jersey Docket No. CP-0013-05).

72. Respondent has been ineligible to practice law in New Jersey since the year 2000 for failure to pay the annual fee.

73. During the time Respondent represented Ms. Owens and Ms. Reeves-Jones he was also ineligible to practice law in Pennsylvania, as he was on inactive status in Pennsylvania from December of 2004 until July of 2005.

74. Despite being ineligible to practice law in New Jersey, Respondent told Ms. Owens and Ms. Reeves-Jones that he could represent them.

75. By check dated May 17, 2005, Ms. Reeves-Jones paid Respondent \$500.00 for the representation.

76. Respondent failed to enter into a written fee agreement with Ms. Reeves-Jones and Ms. Owens at or within a reasonable time of commencing the representation despite the fact that Respondent had not previously represented either of them.

77. On May 23, 2005, Respondent filed an Answer, New Matter and Counterclaim to Complaint in Action for Probate of Will in the Superior Court of New Jersey, Camden County Chancery Division, on behalf of Ms. Reeves-Jones and Ms. Owens.

78. Respondent listed a New Jersey address of 4115 Hermithee Court, Voorhees, NJ 08043 on the Answer, New Matter and Counterclaim.

79. The New Jersey address Respondent provided was not a bona fide law office address.

80. The Voorhees Post Office confirmed that there is no address of 4115 Hermithee Court, Voorhees, NJ 08043.

81. There is, however, a 4115 Hermitage Court address in Voorhees, which is the home address of a personal friend of Respondent.

82. Respondent used the New Jersey address in an effort to mislead the Court and opposing counsel into believing he maintained a bona fide law office in New Jersey.

83. Respondent failed to promptly inform the Court or opposing counsel that he was not eligible to practice in New Jersey.

84. On June 13, 2005, Respondent appeared before Judge Vogelson.

85. At that hearing Respondent advised Judge Vogelson that he had resigned as counsel for Ms. Reeves-Jones and Ms. Owens because:

- a. the caveat he had filed was groundless; and
- b. it had been brought to his attention by opposing counsel Daniel M. Kurtzman that he was administratively suspended from the practice of law in New Jersey.

86. Immediately after the June 13, 2005 hearing, Respondent telephoned Ms. Owens and informed her, among other things, that:

- a. the case had been decided in favor of the defendant;
- b. she could appeal the decision; and
- c. Respondent would file the appeal on her behalf.

87. Respondent failed to inform Ms. Owens or Ms. Reeves-Jones that he had told the court that their position was groundless.

88. Respondent failed to inform Ms. Owens or Ms. Reeves-Jones that he had withdrawn from the representation.

89. Thereafter, Ms. Owens and Ms. Reeves-Jones attempted, unsuccessfully, to reach Respondent in July and August of 2005.

**SPECIFIC RULES OF PROFESSIONAL CONDUCT AND
RULES OF DISCIPLINARY ENFORCEMENT VIOLATED**

90. Respondent violated the following RPCs and Pa.R.D.E.s:

A. RPC 1.1, which states 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, which states a lawyer shall act with reasonable diligence and promptness in representing a client;

C. RPC 1.4(a) (for conduct occurring before January 1, 2005), which states a lawyer shall keep a client informed about the status of a matter and promptly comply with reasonable requests for information;

D. RPC 1.4(a)(3) (for conduct occurring after December 31, 2004), which states a lawyer shall keep the client reasonably informed about the status of the matter;

E. RPC 1.4(a)(5) (for conduct occurring after December 31, 2004) which states a lawyer shall consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law;

F. RPC 1.5(b), which states that 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;

G. RPC 1.15(a), which states a lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a client-lawyer

relationship separate from the lawyer's own property. Such property shall be identified and appropriately safeguarded. Complete records of the receipt, maintenance and disposition of such property shall be preserved for a period of five years after termination of the client-lawyer relationship or after distribution or disposition of the property, whichever is later.

H. RPC 1.15(b), which states that 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.

I. RPC 1.15(h), which states in pertinent part that a lawyer shall be exempt from the requirement that all Qualified Funds be placed in an IOLTA Account only upon exemption requested and granted by the IOLTA Board;

J. RPC 1.16(a)(1), which states that, except as stated in paragraph (c), 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;

K. RPC 1.16(d), which states that, 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 or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law;

L. RPC 5.5(a), which states a lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so;

M. RPC 7.1, which states a lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;

N. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

O. RPC 8.4(d), which states that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice;

P. Pa.R.D.E. 203(b)(3) which states that wilful violation of any other provision of the enforcement Rules shall also be grounds for discipline.

Q. via Pa.R.D.E. 217(b), which states, in pertinent part, that 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 or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of the disbarment, suspension or transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension or transfer to inactive status;

R. Pa.R.D.E. 217(c)(2), which states that a formerly admitted attorney shall promptly notify, or cause to be notified, of the disbarment, suspension or transfer to inactive status, by registered or certified mail, return receipt requested, 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 an attorney in good standing;

S. Pa.R.D.E. 217(d), which states in pertinent part that orders imposing suspension, disbarment or transfer to inactive status shall be effective 30 days after entry. The formerly admitted attorney, after entry of the disbarment, suspension or 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;

T. Pa.R.D.E. 217(e), which states that within ten days after the effective date of the disbarment, suspension or transfer to inactive status order, the formerly admitted attorney shall file with the Board a verified statement showing that the provisions of the order and these rules have been fully complied with and 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;

U. Pa.R.D.E. 217(j)(1), which states that 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);

V. Pa.R.D.E. 217(j)(3), which states a formerly admitted attorney may have direct communication with a client or third party regarding a matter being handled by the attorney or firm for which the formerly admitted attorney works only if the communication is limited to ministerial matters such as scheduling, billing, updates, confirmation of receipt or sending of correspondence and messages. The formerly admitted attorney shall clearly indicate in any such communication that he or she is a legal assistant and identify the supervising attorney;

W. Pa.R.D.E. 217(j)(4)(ii) which states that a formerly admitted attorney is specifically prohibited from performing any law-related services from an office that is not staffed, on a full time basis, by a supervising attorney;

X. Pa.R.D.E. 217(j)(4)(iii) which states that a formerly admitted attorney is specifically prohibited from performing any law-related services for any client who in the past was represented by the formerly admitted attorney;

Y. Pa.R.D.E. 217(j)(4)(iv), which states that a formerly admitted attorney is specifically prohibited from representing himself or herself as a lawyer or person of similar status;

Z. Pa.R.D.E. 217(j)(4)(v), which states that a formerly admitted attorney may not have any contact with clients either in person, by telephone, or in writing except for ministerial matters;

AA. Pa.R.D.E. 217(j)(4)(vi), which states that a formerly admitted attorney may not render legal consultation or advice to a client;

BB. Pa.R.D.E. 217(j)(4)(vii), which states that a formerly admitted attorney may not appear on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, hearing officer or any other adjudicative person or body;

CC. Pa.R.D.E. 217(j)(4)(viii), which states that a formerly admitted attorney may not appear as a representative of the client at a deposition or other discovery matter; and

DD. Pa.R.D.E. 217(j)(4)(ix), which states that a formerly admitted attorney may not negotiate or transact any matter for or on behalf of a client with third parties or have any contact with third parties regarding such a negotiation or transaction.

EE. Pa.R.D.E. 217(j)(4)(x), which states that a formerly admitted attorney may not receive, disburse or otherwise handle client funds.

FF. Pa.R.D.E.219(d)(1)(iii), which states that on or before July 1 of each year all persons required by this rule to pay an annual fee shall file with the Administrative Office a signed statement on the form prescribed by the Administrative Office in accordance with the following procedure: said statement shall set forth the name of each financial institution in this Commonwealth in which the attorney on May 1 of the current year or at any time during the preceding 12 months held funds of a client or a third person subject to Rule 1.15 of the Pennsylvania Rules of Professional Conduct. The

statement shall include the name and account number for each account in which the lawyer holds such funds, and each IOLTA Account shall be identified as such.

GG. Pa.R.D.E. 221(f), which states that the responsibility for identifying an account as a Trust account shall be that of the attorney in whose name the account is held;

HH. Pa.R.D.E. 221(g), which states that the following books and records shall be maintained for each Trust account: (1) bank statements and check registers (which shall include the payee, date, amount and the client matter involved); (2) all transaction records returned by the financial institution, including cancelled checks in whatever form and records of electronic transactions; and (3) records of deposits and a ledger separately listing each deposited item and the client or third person for whom the deposit is being made; and

II. New Jersey Rule of Court R. 1:21-1(a), which states in pertinent part that, except as provided below, no person shall practice in this state unless that person is an attorney holding a plenary license to practice in this State, has complied with the Rule 1:26 skills and methods course requirement in effect on the date of the attorney's admission, is in good standing, and, except as provided in paragraph (d) of the Rule, maintains a *bona fide* office for the practice of law. For the purpose of this section, a *bona fide* office is place where clients are met, files are kept, the telephone is answered, mail is received and the attorney or a responsible person acting on the attorney's behalf can be reached in person and by telephone during normal business hours to answer questions posed by the courts, clients or adversaries and to ensure that competent advice from the attorney

can be obtained within a reasonable period of time. For the purpose of this section, a *bona fide* office may be located in this or any other state, territory of the United States, Puerto Rico, or the District of Columbia (hereinafter “a United States jurisdiction”). An attorney who practices law in this state and fails to maintain a *bona fide* office shall be deemed to be in violation of RPC 5.5(a).

**SPECIFIC RECOMMENDATION FOR DISCIPLINE OF A TWO YEAR
SUSPENSION**

In this case Respondent engaged in multiple acts of misconduct. These include practicing law while on inactive status in both Pennsylvania and New Jersey, engaging in commingling and conversion of entrusted funds, and the failure to adequately communicate with his clients as well as enter into written fee agreements. Respondent makes several claims in defense of the charges which relate to his state of mind. For example, Respondent claims that he intended the representation of Ms. McNear and Ms. Owens and Reeves-Jones to be, at least in part, pro bono. Respondent states that he mistakenly believed a fee agreement was not necessary under the circumstances, although he now acknowledges that one should have been prepared. Similarly, Respondent states with respect to the New Jersey matter that he believed that time was of the essence and that he entered into the representation in order to preserve the clients' claim. However, the record is clear that Respondent failed to inform the Court of his status until confronted with it by his opposing counsel. Further, scienter is simply not an element of the rules charged as a result of this misconduct. Consequently, Respondent's state of mind is irrelevant. With respect to the conversion of funds, as noted, Respondent did voluntarily make repayment plus interest upon

receipt of notification from the Office of Disciplinary Counsel. Respondent's bank records, while they do reveal co-mingling of funds, do not reveal any other instance of conversion.

Considering the totality of the misconduct, a two year suspension is warranted. The unauthorized practice of law, standing alone, has frequently resulted in discipline of one year and one day. *See Office of Disciplinary Counsel v. Forman*, No. 70 DB 2001 (2003), *Office of Disciplinary Counsel v. Forrest*, No. 134 DB 2003 (2005). Respondent was on inactive status for a relatively short period of time in Pennsylvania. However, the record reveals that Respondent had been administratively suspended for several years in New Jersey when he entered into the representation on behalf of Ms. Owens and Ms. Reeves-Jones. Moreover, while Respondent claims that he erroneously believed it proper for him to utilize the New Jersey address in his court filing, as he had the permission of a friend to use the home for business purposes, there was little reason to utilize the address if not to mislead the Court. Further, in this case the unauthorized practice is accompanied by multiple other rule violations relating to entrusted funds and to client matters. Under similar circumstances, lengthier periods of suspension have generally been imposed. *See Office of Disciplinary Counsel v. Simpson*, 6 DB 2004 (2005) (imposing a two year suspension where the attorney engaged in the unauthorized practice of law along with commingling client funds); *Office of Disciplinary Counsel v. James*, 120 DB 2005 (2006) (imposing a suspension of eighteen months where Respondent engaged in the unauthorized practice of law and neglect in several client matters).

Respondent's answers, both to the letters sent by Disciplinary Counsel and to the Petition for Discipline, express little remorse for or understanding of the gravity of his

actions. However, arguably by entering into this Consent Petition Respondent is acknowledging the misconduct and accepting the consequences thereof. Finally, while the rule violations span a period of several years, Respondent has no history of prior discipline.

WHEREFORE, Joint Petitioners respectfully pray that your Honorable Board:

- a. Approve this Petition; and
- b. File a recommendation for a two year suspension and this Petition

with the Supreme Court of Pennsylvania.


Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL
PAUL J. KILLION,
Attorney Reg. No. 20955,
Chief Disciplinary Counsel

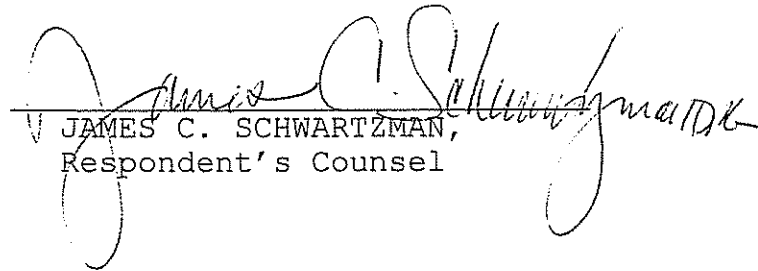
Date: 1/9/07

By: 
RAMONA MARIANI,

Disciplinary Counsel
Attorney Registration Number 78466
Suite 170, 820 Adams Avenue
Trooper, PA 19403
(610) 650-8210


JAMES GARLAND GILES,
Respondent


Date: _____


JAMES C. SCHWARTZMAN,
Respondent's Counsel

VERIFICATION

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

1/12/07
Date


RAMONA MARIANI
Disciplinary Counsel


JAMES GARLAND GILES

Respondent
Date 9/09/07

Date

JAMES C. SCHWARTZMAN,
Respondent's Counsel

**BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 149 DB 2006
Petitioner	:	
	:	
v.	:	
	:	Attorney Reg. No. 73688
JAMES GARLAND GILES,	:	
Respondent	:	(Philadelphia County)

AFFIDAVIT OF JAMES GARLAND GILES

James Garland Giles hereby tenders this affidavit in support of the Joint Petition in Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d), and further states as follows:

1. He freely and voluntarily consents to the proposed discipline; he is not being subjected to coercion or duress; he is fully aware of the implications of submitting the consent; and he has consulted and followed the advice of counsel in connection with the decision to consent to discipline.


2. He is aware that there is presently pending a proceeding involving allegations that he has been guilty of misconduct as set forth in the Petition;

3. He acknowledges that the material facts set forth in the Petition are true.

4. He consents because he knows that if charges continued to be prosecuted in the pending proceeding,

he could not successfully defend against them.

Signed this 11th day of January 2007.


James Garland Giles, Esquire
Attorney Reg. No. 73688

Sworn to and subscribed
Before me this 11th day
of January 2007


Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Linda L. Campbell, Notary Public
City Of Philadelphia, Philadelphia County
My Commission Expires Nov. 23, 2008
Member, Pennsylvania Association Of Notaries

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 149 DB 2006
Petitioner :
: :
: :
: Attorney Reg. No. 73688
JAMES GARLAND GILES, :
Respondent : (Philadelphia County)

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 204 Pa. Code §89.2e (relating to service upon counsel).

First Class Mail Service. as follows:

James C. Schwartzman, Esquire
Stevens & Lee
1818 Market Street
29th Floor
Philadelphia, PA 19103

Dated:

1/12/07


RAMONA MARIANI,

Disciplinary Counsel
Office of Disciplinary Counsel
Suite 170, 820 Adams Avenue
Trooper, PA 19403
(610) 650-8210
Attorney Reg. No. 78466