

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1270 Disciplinary Docket No. 3
Petitioner :
 : No. 138 DB 2006
v. :
 : Attorney Registration No. 44269
JAMES RICHARD HALL, :
Respondent : (Montgomery County)

ORDER

PER CURIAM:

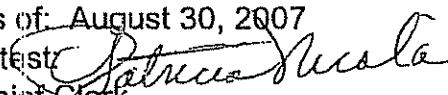
AND NOW, this 30th day of August, 2007, upon consideration of the Report and Recommendations of the Disciplinary Board dated June 1, 2007, it is hereby

ORDERED that James Richard Hall is suspended 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.

It is further ORDERED that respondent shall pay costs to the Disciplinary Board pursuant to Rule 208(g), Pa.R.D.E.

A True Copy Patricia Nicola

As of: August 30, 2007

Attest: 
Chief Clerk

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 138 DB 2006
Petitioner	:	
	:	
v.	:	Attorney Registration No. 44269
	:	
JAMES RICHARD HALL	:	
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 August 18, 2006, Office of Disciplinary Counsel filed a Petition for Discipline against James Richard Hall, Respondent. The Petition charged Respondent with engaging in the unauthorized practice of law, as well as engaging in neglect, incompetence and deceit with respect to his handling of a client's personal injury matter.

Respondent failed to file an Answer to the Petition for Discipline and therefore, in accordance with Pa.R.D.E. 208(b)(3), all allegations are deemed admitted.

A disciplinary hearing was held on December 14, 2006, before a District II Hearing Committee comprised of Chair James K. Fetter, Esquire, and Members Peter J. Hart, Esquire, and Mason Avrigian, Sr., Esquire. Respondent did not appear.

The Hearing Committee filed a Report on March 21, 2007, finding that Respondent violated the Rules as charged in the Petition for Discipline, and recommending that he be suspended for a period of two years.

This matter was adjudicated by the Disciplinary Board at the meeting on May 10, 2007.

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, James Richard Hall, was born in 1958 and was admitted to practice law in the Commonwealth in 1985. He maintains his office at Post Office Box 904,

Skippack, Montgomery County, Pennsylvania 19474. He is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

3. Respondent has a prior history of discipline consisting of an informal admonition administered in 2000.

4. On or around July 31, 1998, Emma Bowman was involved in an automobile accident.

5. The accident occurred when a Ford Explorer, after being hit by a recycling truck, rear-ended the vehicle being operated by Ms. Bowman.

6. Ms. Bowman sustained serious injuries and her vehicle sustained approximately \$12,000.00 in property damage as a result of the impact.

7. Ms. Bowman sustained and continues to sustain a loss of earnings and impairment of earning capacity as a result of the accident and her injuries and medical treatment. She was employed as a full-time nanny, taking care of two young children. She was completely disabled from that employment for a period of time following the accident. Even after she recovered in part from her injuries, she could not resume her work as a nanny because she had been taking narcotic medications to control the pain from the injuries.

8. Most of Ms. Bowman's medical expenses were covered by her automobile insurance, but her insurance did not cover a \$5,000 bill for physical therapy. She was unable to pay the bill because she was not working and the therapist obtained a judgment against her.

9. Ms. Bowman and her husband were ultimately forced to declare bankruptcy.

10. By way of a contingent fee agreement dated August 27, 1998, Respondent agreed to represent Ms. Bowman in connection with her personal injury claim.

11. On or around July 28, 2000, Respondent filed a Summons in Civil Action in the Court of Common Pleas of Montgomery County on behalf of Ms. Bowman against defendants Solid Waste Serv. Inc, and Brian J. Levy.

12. The docket entries reflect that on or around August 11, 2000, defendant Brian Levy was served.

13. Respondent failed to serve defendant Solid Waste.

14. Respondent never took any steps to move the litigation forward, despite the fact that liability was clearly in Ms. Bowman's favor and despite the substantial injuries and damages she sustained.

15. On January 23, 2003, the court served a Notice to Terminate the Bowman lawsuit as there had been no docket activity in the case for over two years.

16. Respondent filed an Active Status Certification on February 20, 2003. However, he did not notify Ms. Bowman of this action, and he failed to take any steps of any kind to move the case forward or to competently represent his client.

17. On March 14, 2005, the Court filed another Notice to Terminate the litigation because there had been no activity of record for over two years. Respondent failed to take any action in response to the Notice to Terminate, and on September 29,

2005, the case was closed after advertising. On November 1, 2005, the case was removed from the active files in Montgomery County.

18. Periodically Ms. Bowman contacted Respondent to inquire about the status of her case, and Respondent always assured her that the case was progressing and that the matter would conclude.

19. In 2005, Ms. Bowman attempted to reach Respondent by telephone and learned that his telephone had been disconnected. She went to his office and saw that his name had been removed from the outside sign. Other individuals at the office told her that he no longer worked there.

20. Respondent never provided Ms. Bowman with a new address or telephone number at which she could reach him.

21. Respondent never advised Ms. Bowman of either Notice to Terminate served upon him by the Court, and she therefore did not retain any other attorney to protect her interests in the litigation arising from the motor vehicle accident.

22. On October 27, 2005, the Supreme Court of Pennsylvania entered an Order directing that Respondent be transferred to inactive status effective November 26, 2005.

23. By letter dated October 27, 2005, the Disciplinary Board forwarded to Respondent a copy of the Supreme Court's Order of that date, together with the Disciplinary Board's standard guidance to lawyers who have been transferred to inactive

status, copies of applicable Rules of Disciplinary Enforcement and Board Rules, and forms to be utilized and completed by Respondent.

24. Respondent received the Disciplinary Board's letter with its enclosures and attachments.

25. Respondent failed to comply in any respect with the applicable requirements of Pa.R.D.E. 217, in that he failed to notify all clients being represented in pending matters of his transfer to inactive status and his inability to act as an attorney, and he failed to file a verified statement of compliance.

26. Respondent improperly remained counsel of record in at least two cases pending in the Court of Common Pleas of Montgomery County; Cook v. Jones Brothers Contracting, Inc. and Rommel-Liebler v. Derstine.

27. Respondent remained actively involved in those cases without notifying his clients, opposing counsel, or the Court of his transfer to inactive status and his inability to continue in the representation of his clients.

28. By remaining counsel of record and actively participating in the above matters, Respondent improperly held himself out as eligible to practice law in Pennsylvania.

29. Respondent failed to appear and participate in the disciplinary proceedings.

30. Respondent received notice of all levels of the disciplinary proceeding, in that he was personally served with the Petition for Discipline and he received notice by mail

of the pre-hearing conference, the order entered at the pre-hearing conference, and the disciplinary hearing itself.

III. CONCLUSIONS OF LAW

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

1. RPC 1.1 - A lawyer shall provide competent representation to a client.
2. RPC 1.3 - A lawyer shall act with reasonable diligence and promptness in representing a client.
3. RPC 1.4(a) (prior to January 1, 2005) - A lawyer shall keep a client informed about the status of a matter and promptly comply with reasonable requests for information.
4. RPC 1.16(d) - upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interest, 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 expenses that has not been earned or incurred.
5. RPC 3.2 - A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.
6. RPC 5.5(a) - 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.

7. RPC 7.1 - 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.

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

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

10. Pa.R.D.E. 203(b)(3) via Pa.R.D.E. 217(a) - A willful violation of any other provision of the Enforcement Rules is a ground for discipline.

11. 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.

12. Pa.R.D.E. 217(c)(2) - 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.

13. Pa.R.D.E. 217(e) - 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 addresses of the formerly admitted attorney where communications to such person may thereafter be directed.

14. Pa.R.D.E. 217(j)(4)(iv) - a formerly admitted attorney is specifically prohibited from representing himself or herself as a lawyer or person of similar status.

15. Pa.R.D.E. 217(j)(4)(vii) - 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.

16. Pa.R.D.E. 217(j)(4)(viii) - a formerly admitted attorney may not appear as a representative of a client at a deposition or other discovery matter.

IV. DISCUSSION

This matter is before the Board for consideration of a Petition for Discipline filed against Respondent charging him with neglecting a client matter and engaging in the

unauthorized practice of law following his transfer to inactive status. Respondent did not participate in any part of these disciplinary proceedings: he did not file an Answer to Petition for Discipline, nor did he appear at the pre-hearing conference or the disciplinary hearing. The record is clear that Respondent was personally served with the Petition for Discipline and received notice of the hearings by mail. Petitioner met its burden of proof, by clear and satisfactory evidence, that Respondent's actions constitute professional misconduct. Office of Disciplinary Counsel v. Surrick, 749 A.2d 441 (Pa. 2000).

With respect to the Emma Bowman matter, the evidence clearly established that Ms. Bowman sustained substantial injuries and damages as a result of an accident; she retained Respondent for the specific purpose of pursuing a claim for compensation for her injuries and damages; Respondent took an initial step to pursue and preserve the claim by filing a praecipe for writ of summons; he thereafter failed to pursue the claim and the litigation he had initiated and utterly failed to represent Ms. Bowman in a competent manner; he was deceitful in telling Ms. Bowman that he was pursuing her claim; and he failed to protect her interests and keep her informed in failing to properly respond to the notices of termination served by the Court and in failing to inform his client of the impending dismissal of her case. As a result of Respondent's incompetent, neglectful and deceitful actions, Ms. Bowman's lawsuit was dismissed.

Respondent engaged in the unauthorized practice of law following his transfer to inactive status by Order of the Supreme Court dated October 27, 2005. He

continued to hold himself out as eligible to practice law, and failed to comply with the requirements of the rules applicable to formerly admitted attorneys.

The appropriate discipline takes into account the nature and gravity of the misconduct, as well as any aggravating or mitigating factors. Herein, Respondent's unauthorized practice of law and his significant neglect of Ms. Bowman's case, his informal admonition in 2000 and his failure to appear at the hearing, warrant a suspension of two years. The goals of protecting the public from unfit attorneys and maintaining the integrity of the legal profession can best be achieved by a suspension.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, James Richard Hall, be suspended from the practice of law for a period of two years.

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: 
Robert E. J. Curran, Board Member

Date: June 1, 2007