

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1274 Disciplinary Docket No. 3
Petitioner :
v. : No. 39 DB 2006
PAUL CHARLES QUINN, : Attorney Registration No. 58765
Respondent : (Philadelphia)

ORDER

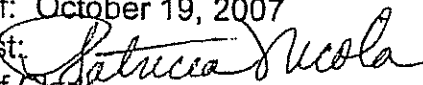
PER CURIAM:

AND NOW, this 19th day of October, 2007, upon consideration of the Report and Recommendations of the Disciplinary Board and Dissenting Opinion dated June 14, 2007, the Petition for Review and response thereto, it is hereby

ORDERED that Paul Charles Quinn is suspended from the Bar of this Commonwealth for a period three months 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: October 19, 2007

Attest: 
Chief Clerk

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 39 DB 2006
Petitioner	:	
	:	
v.	:	Attorney Registration No. 58765
	:	
PAUL CHARLES QUINN	:	
Respondent	:	(Philadelphia)

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 March 8, 2006, Office of Disciplinary Counsel filed a Petition for Discipline against Paul Charles Quinn, Respondent. The Petition alleged that Respondent violated the Rules of Professional Conduct and Rules of Disciplinary Enforcement by engaging in the unauthorized practice of law. Respondent filed an Answer to Petition for Discipline on April 24, 2006.

A disciplinary hearing was held on June 20, 2006, before a District I Hearing Committee comprised of Chair Dennis T. Kelly, Esquire, and Members Debra Schwaderer Dunne, Esquire, and Ellen Green-Ceisler, Esquire. Petitioner introduced 22 joint stipulations and 12 exhibits, as well as the testimony of one witness. Respondent appeared pro se. He offered nine exhibits and his own testimony as it related to mitigation of the sanction to be imposed.

The Committee filed a Report on October 30, 2006, finding that Respondent violated the Rules as charged in the Petition for Discipline and recommending that he be suspended from the practice of law for six months.

No Briefs on Exception were filed by the parties.

This matter was adjudicated by the Disciplinary Board at the meeting on March 20, 2007.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, Office of Disciplinary Counsel, whose principal office is located at Suite 1400, 200 North Third Street, Harrisburg, Pennsylvania, 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 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.

2. Respondent, Paul Charles Quinn, was born in 1959 and was admitted to practice law in the Commonwealth of Pennsylvania in 1990. At the time of the disciplinary hearing, his attorney registration address was 105 Rodney Circle, Bryn Mawr, PA 19010. Respondent's current registration address is Oscar S. Schermer & Assoc. P.C., 1635 Market St., Suite 300, Philadelphia PA 19103. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

3. Respondent has no prior history of discipline.

4. Prior to March 2003, Respondent was employed as an attorney for the firm of Marvin Barrish & Associates in Philadelphia. Mr. Barrish retired from his firm which resulted in the loss of the firm's main client. Respondent was laid off and subsequently unemployed for approximately 14 months.

5. During 1998, 2001, 2002, 2003, and 2004 Respondent was delinquent in obtaining the required annual Continuing Legal Education (CLE) credits within the mandated time frame.

6. By Order dated March 19, 2004, the Supreme Court of Pennsylvania transferred Respondent to inactive status pursuant to Rule 111(b) of the Pennsylvania Rules for Continuing Legal Education, for failure to comply with Continuing Legal Education requirements.

7. By letter dated March 19, 2004, sent by certified mail, return receipt requested, Elaine M. Bixler, Secretary of the Disciplinary Board, enclosed a copy of the March 19, 2004 Order advising Respondent he would be transferred to inactive status

effective April 18, 2004 and advising Respondent that he was required to comply with Rule 217 of the Pa.R.D.E. and Sections 91.91 - 91.99 of the Disciplinary Board Rules.

8. Respondent received the letter on March 22, 2004.

9. Respondent was transferred to inactive status April 18, 2004.

10. Respondent knew that he was transferred to inactive status and was thereafter ineligible to practice law in Pennsylvania.

11. Respondent failed to file a Statement of Compliance within ten days of the effective date of the transfer order, as required by Pa.R.D.E. 217(e). Respondent was notified of his obligation to file such Statement by the March 19, 2004 letter of the Secretary.

12. During May 2004, approximately one month after being placed on inactive status, Respondent was hired as an attorney for Jacobs Law Group in Philadelphia.

13. Respondent failed to advise his employer of his ineligibility to practice law.

14. While on inactive status, Respondent entered his appearance or allowed his firm to enter his appearance in the following two cases in the Court of Common Pleas of Philadelphia County:

a. On June 9, 2004, in Schnader Harrison Segal & Lewis LP v. Carpenter; and

b. On August 17, 2004, in Curtis et. al. v. Rob Child & Associates, Inc, et. al.

15. In connection with the Carpenter matter, Respondent:

- a. filed pleadings and other legal documents;
- b. represented himself to clients, judges, court personnel and third parties as a lawyer;
- c. had contact with clients or their representatives either in person, by telephone or in writing;
- d. rendered legal consultation or advice to a client; and
- e. negotiated or transacted a matter for or on behalf of a client with third parties regarding such negotiation or transaction.

16. On September 7, 2004, in the Carpenter matter, a Stipulation for Judgment was filed with the court, signed by Respondent as "Attorney for Defendant".

17. In connection with the Rob Child matter, Respondent's name appeared in the court docket entry indicating his entry of appearance in that matter.

18. This entry of appearance included the names of two other attorneys who were employed by the Jacobs Law Group.

19. Respondent's signature did not appear on the Entry of Appearance Form and he was not otherwise involved in the case.

20. Respondent was not aware that his appearance had been entered by the firm.

21. Six months after being placed on inactive status, on October 21 and 22, 2004, Respondent attended CLE courses.

22. By letter to the Pennsylvania Continuing Legal Education Board, Respondent enclosed two completed Special Attendance Verification Forms for the CLE courses.

23. Respondent believed that this act ensured that he had fulfilled his CLE requirements and would be placed on active status.

24. Respondent's submission of these forms was not sufficient to accomplish his return to active status. The CLE credits earned on October 21 and 22, 2004 were credited to prior years in which Respondent had failed to obtain proper credits.

25. After obtaining the CLE credits in October 2004, Respondent made no effort to contact the Disciplinary Board to verify that he was transferred back to active status.

26. Respondent did not file his annual attorney registration form or pay his annual fee for 2003-2004 or 2004-2005.

27. On May 27, 2005, on the website of the Jacobs Law Group, Respondent was listed as an attorney licensed to practice law in Pennsylvania.

28. Respondent had no knowledge of the misleading information on the website.

29. On June 7, 2005, Robert M. Rancitelli, Investigator for the Office of Disciplinary Counsel, met with Respondent and informed Respondent that he was there as a result of a complaint stating that Respondent was practicing law while on inactive status.

30. Mr. Rancitelli testified credibly at the disciplinary hearing. He described Respondent as being shocked and unaware that he was not in compliance with CLE.

31. Despite being notified by Investigator Rancitelli in June 2005 that he was still on inactive status, Respondent took no further action to resolve the matter until March 8, 2006, when he received the Petition for Discipline.

32. Respondent attributed his inaction to the fact that he believed Investigator Rancitelli was going to handle the matter. When he did not hear back from the Investigator, he misguidedly thought the matter had been resolved.

33. Respondent was reinstated to active status on May 26, 2006, after fulfilling his CLE credits and paying his registration fees.

34. Respondent testified credibly at the disciplinary hearing.

35. Respondent does not deny that he violated the Rules of Professional Conduct and Rules of Disciplinary Enforcement and expressed remorse for his misconduct.

36. When Respondent received the notice from the Disciplinary Board of his transfer to inactive status and its effective date in 30 days, he did not take any action to regain active status as he could not afford to take the CLE courses.

37. Respondent is married with two young sons. One son has ADHD with an auditory processing deficit and attends a private school to address these problems. The younger son has been diagnosed as autistic and also attends a special school.

38. The cost of educating the children is approximately \$68,000 per year.

39. At the time Respondent lost his job, his wife was not working so that she could care for the children.

40. The family struggled financially as Respondent was unable to find employment for fourteen months. When Respondent took the job with the Jacobs law firm, he was making about half of what he had been making at his previous firm and his family was facing a financial crisis.

41. Respondent and his wife filed for bankruptcy because they were unable to maintain their bills.

42. Respondent's financial condition remains tenuous.

43. Respondent left his employment with the Jacobs Law Group in December 2005.

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 5.5(a) – A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction.

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

3. Pa.R.D.E. 203(b)(3) – It is grounds for discipline for a lawyer to willfully violate any other provision of the Enforcement Rules, via the Enforcement Rules charged below.

4. Pa.R.D.E. 217(c)(2) – A formerly admitted attorney shall promptly notify, or cause to be notified, of the ...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.

5. Pa.R.D.E. 217(d) – The formerly admitted attorney, after entry of the...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.

6. Pa.R.D.E. 217(e) – Within ten days after the effective date of the ...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 the rule have been fully complied with.

7. Pa.R.D.E. 217(j)(1) – A formerly admitted attorney may not engage in any form of law related activities in this Commonwealth except under the direct supervision of a member in good standing of the Bar of the Commonwealth who shall be responsible for ensuring that the formerly admitted attorney complies with the requirements of this subdivision.

8. Pa.R.D.E. 217(j)(2) – The only law-related activities that may be conducted by a formerly admitted attorney are legal work of a preparatory nature, such as legal research, assembly of data and other necessary information, and drafting of transactional documents, pleadings, briefs, and other similar documents; and accompanying a member of good standing of the Bar of the Commonwealth at a deposition or other discovery matter or to a meeting regarding a matter that is not currently in litigation.

9. Pa.R.D.E. 217(j)(3) – A formerly admitted attorney may not engage in any form of law related activities in the Commonwealth except that 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 or receipt or sending of correspondence and messages, and the formerly admitted attorney shall clearly indicate in any such communication that he or she is a legal assistant and identify the supervising attorney.

10. Pa.R.D.E. 217(j)(4)(iv)-(ix) – Without limiting the other restrictions in this subdivision (j), a formerly admitted attorney is specifically prohibited from engaging in any of the following activities: (iv) representing himself or herself as a lawyer or person of similar status; (v) having any contact with clients either in person, by telephone, or in writing, except as provided in paragraph (3); (vi) rendering legal consultation or advice to a client; (vii) appearing on behalf of a client in any hearing or proceeding or before any

judicial officer, arbiter, mediator, court, public agency, referee, magistrate, hearing officer or any other adjudicative person or body; (viii) appearing as a representative of the client at a deposition or other discovery matter; and (ix) negotiating or transacting any matter for or on behalf of a client with third parties or having contact with third parties regarding such a negotiation or transactions.

IV. DISCUSSION

This matter is before the Board on a Petition for Discipline charging Respondent with violations of the Rules of Professional Conduct and Rules of Disciplinary Enforcement arising out of allegations that Respondent engaged in the unauthorized practice of law. Respondent has admitted that he engaged in the unauthorized practice of law while he was on inactive status for CLE non-compliance. The facts of record support a finding that Respondent's activities in the Carpenter matter, undertaken while ineligible to practice law, constitute professional misconduct in the form of the unauthorized practice of law. Respondent filed pleadings and other documents; represented himself to others, including the court, as a lawyer; had contact with a client; rendered legal advice to a client; and negotiated a matter on behalf of client. These activities constitute the practice of law and as such are prohibited activities for attorneys on inactive status.

Petitioner alleged that Respondent's activities in the Rob Child matter also constituted the unauthorized practice of law; the Board finds that Petitioner did not meet its burden of proof by a preponderance of clear and satisfactory evidence. Office of

Disciplinary Counsel v. Grigsby, 425 A.2d 730 (Pa. 1981). Per this allegation, Respondent's name appeared in the Philadelphia Court of Common Pleas docket entry indicating his entry of appearance in that matter. The entry of appearance also included the names of two other attorneys in the law firm. Respondent's signature did not appear on the entry of appearance form. There is no evidence of record to show that Respondent was in any way involved in the case. Petitioner alleged that Respondent violated RPC 7.1 by his "false and misleading communication" about his legal qualifications on the website of his former employer, Jacobs Law Group; the Board finds that Petitioner did not meet its burden of proof. No evidence was presented to demonstrate that Respondent had knowledge of the misleading information on the firm's website.

Respondent testified on his own behalf and presented mitigating circumstances for the Board's consideration. Respondent lost his legal employment with Marvin Barrish & Associates in March 2003 following the retirement of the principal partner, Mr. Barrish. The firm lost its main client and, as explained by Respondent, the firm folded. Respondent was without employment for approximately 14 months, at which time he obtained employment with the Jacobs Law Group at half the salary of his former position with the Barrish firm. This was a difficult financial period for Respondent and his wife, who have two young sons with special needs; one child has ADHD with auditory processing deficits, and the younger child is autistic. Respondent's wife stopped working to care for the children, particularly the autistic child. Both children attend private schools to address their special learning needs. Respondent testified that the cost of educating the children is

\$68,000 per year. Respondent and his wife filed for bankruptcy. He described his family's financial situation as tenuous. Respondent attributes his failure to pay the fees necessary to fulfill CLE to his financial crisis, and candidly admits he was more concerned about losing his house at the time.

The Board and the Supreme Court have considered many times in the past the issue of attorneys who engage in the unauthorized practice of law while on inactive status. The Hearing Committee in the instant matter set forth a concise analysis of recent cases, comparing the length of the unauthorized practice and the amount of occurrences, as well as any aggravating and mitigating factors. In the cases wherein the attorney was suspended for one year and one day or more, additional aggravating circumstances and other serious misconduct were factored into the disciplinary sanction.

For example, in the matter of Office of Disciplinary Counsel v. Stephen W. Simpson, No. 6 DB 2004, 74 Pa. D. & C. 4th 206 (2005), the respondent, while on inactive status, handled over 100 client matters and commingled personal funds in an IOLTA account. He was suspended for two years. In the matter of Office of Disciplinary Counsel v. Stephen Clark Forman, 70 DB 2001, Disciplinary Docket No. 3 (Pa. Jan. 31, 2003), the respondent continued to practice law for 12 years while on inactive status, which included dozens of jury trials. He was suspended for one year and one day. In the matter of Office of Disciplinary Counsel v. Sharon Goldin – Didinsky a.k.a Sharon Goldin Ciborowski, No. 87 DB 2003, 969 Disciplinary Docket No. 3 (Pa. Dec. 13, 2004), the respondent was inactive for nearly six years, during which time she practiced law in two matters. She also

engaged in intentional misconduct involving dishonesty, and made numerous and deliberate false statements to the court and court officials, disciplinary counsel, and others regarding her eligibility to practice law. She showed no remorse for her actions. The respondent was suspended for one year and one day. In the matter of Office of Disciplinary Counsel v. Harry Curtis Forrest, 72 Pa. D. & C. 4th 339 (2005), the attorney continued to practice law in two matters after being transferred to inactive status. There were no aggravating factors and the respondent expressed remorse. He was suspended for one year and one day.

In the lower range of discipline are two recent cases. In the matter of Office of Disciplinary Counsel v. John V. Buffington, 45 DB 2004, 1050 Disciplinary Docket No. 3 (Pa. Sep. 20, 2005), the respondent handled three client matters and served as an arbitrator in Philadelphia County on numerous occasions over a three year period even though he was no longer eligible to serve in that capacity. He had no history of discipline and received a six month suspension. In the matter of Office of Disciplinary Counsel v. Nicholas R. Perrella, 66 Pa. D. & C. 4th 19 (2003), the respondent was suspended for three months after he handled one case while on inactive status.

The facts of the instant matter are significantly different from the above cited cases which resulted in suspensions for more than one year. Respondent engaged in one instance of unauthorized practice during a two year period on inactive status. He offered credible evidence of difficult personal circumstances and was candid about the fact that his priorities were focused on issues other than his CLE credits. Respondent's

situation does not excuse or justify his lack of attention to the administrative details of his law license. However, the Board has sympathy for Respondent and views his difficulties as extenuating circumstances. It is a challenging task during the best of times to balance the competing demands of the professional and personal sides of life. The upheaval that occurs when these facets of life are in turmoil can lead to regrettable consequences. Respondent is remorseful for his actions. He has no history of discipline. There is no evidence that he mishandled or mistreated clients or that his actions harmed clients. He was honest in his dealings with Petitioner and the Hearing Committee.

The Hearing Committee has recommended that Respondent be suspended for a period of six months. Respondent's failure to properly maintain his professional license for nearly two years and to practice law in one instance while on inactive status is troubling, yet the Board does not find that he deliberately disregarded his legal status. The Board agrees with the Hearing Committee's assessment that Respondent's actions indicate carelessness and sloppiness, but not intentional or deceitful behavior. Respondent has put forth compelling mitigating evidence, and in light of the fact that there was a single incident of unauthorized practice, the Board is persuaded that a three month suspension is appropriate.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania recommends that the Respondent, Paul Charles Quinn, be suspended from the practice of law for a period of three (3) months.

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: 

William A. Pietragallo, Board Member

Date: June 14, 2007

Board Members Saidis and O'Connor dissent and would recommend a six (6) month suspension.

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL : No. 39 DB 2006
Petitioner :
v. :
: Attorney Registration No. 58765
PAUL CHARLES QUINN :
Respondent : (Philadelphia)

DISSENTING OPINION

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES
OF THE SUPREME COURT OF PENNSYLVANIA:

Attorney Quinn, a lawyer practicing since 1990, for some reason believed that the CLE requirements did not apply to him. For five out of seven years, between 1998 and 2004, counsel was delinquent in his obligation. In March of 2004 Mr. Quinn received notice he would be inactive as of April 18, 2004 due to his failure to complete his CLE requirement.

Knowing he was on inactive status, the Respondent took a job as an attorney with a Philadelphia law firm. While inactive, he signed documents as attorney for at least one matter and was noted on the court file as attorney for another.

Six months after being listed inactive and five months after beginning employment with his new firm, Mr. Quinn decided to attend to his CLE obligation but did not complete it.

Despite not filing his annual attorney registration for 2003-2004 and 2004-2005, Mr. Quinn felt he could be both employed as and practice as an attorney.

It was only after a petition for discipline was filed that Mr. Quinn in March of 2006 gave this matter proper attention and was reinstated in May of 2006.

While the Respondent has family and financial problems that does not explain his failure to honestly report his inactive status.

Honesty is a cornerstone of being an attorney. By deciding to mislead his employer and continue to act as an attorney knowing he was not licensed to do so, the Respondent betrayed the trust he undertook wherein he swore on his admission to the Bar to "use no falsehood" (42 P.S.C.S.A. §2522).

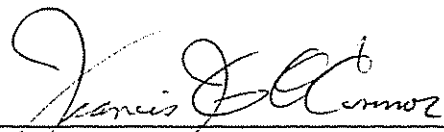
In the past this Board has generally recommended suspensions of a year and a day or more for this type of behavior.

The Hearing Committee has recommended a six-month suspension and showed great restraint in dealing with this situation.

Had there not been a pattern of disregard for attending to his CLE requirement, a lack of reporting to his employer of his inactive status, a failure to file his registration for two years and a two year period of being inactive but holding himself out as an attorney I may have been persuaded to go along with the majority's recommendation. However, there is too much here and I respectfully dissent and endorse the recommendation of the Hearing Committee of a six month suspension.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: 
Francis X. O'Connor, Member

Date: June 14, 2007