

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1279 Disciplinary Docket No. 3
Petitioner :
v. : No. 119 DB 2006
FRANK LOUIS CECCHETTI, : Attorney Registration No. 23292
Respondent : (Allegheny County)

ORDER

PER CURIAM:

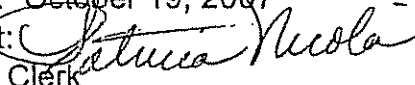
AND NOW, this 19th day of October, 2007, upon consideration of the Report and Recommendations of the Disciplinary Board dated June 29, 2007, it is hereby

ORDERED that Frank Louis Cecchetti be subjected to public censure by the Supreme Court. It is further ORDERED that respondent shall pay costs to the Disciplinary Board pursuant to Rule 208(g), Pa.R.D.E.

Mr. Justice Baer did not participate in this matter.

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. 119 DB 2006
Petitioner	:	
	:	
v.	:	Attorney Registration No. 23292
	:	
FRANK LOUIS CECCHETTI	:	
Respondent	:	(Allegheny County)

REPORT AND RECOMMENDATIONS OF
THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

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

Pursuant to Rule 208(d)(2)(iii) of the Pennsylvania Rules of Disciplinary Enforcement, the Disciplinary Board of the Supreme Court of Pennsylvania ("Board") herewith submits its findings and recommendations to your Honorable Court with respect to the above-captioned Petition for Discipline.

I. HISTORY OF PROCEEDINGS

On July 5, 2006, Office of Disciplinary Counsel filed a Petition for Discipline against Frank Louis Cecchetti, Respondent. The Petition charged Respondent with professional misconduct arising out of his representation of a client. Respondent did not file an Answer to Petition for Discipline. Pursuant to Rule 208(b)(2), Pa.R.D.E., the allegations are deemed admitted.

A disciplinary hearing was held on November 2, 2006, before a District IV Hearing Committee comprised of Chair Timothy J. Geary, Esquire, and Members Laura Cohen, Esquire, and William J. Schaaf, Esquire. Respondent appeared pro se.

The Hearing Committee filed a Report on March 2, 2007, finding that Respondent engaged in ethical misconduct. A majority of the Committee recommended a public censure; the dissenting member recommended private discipline.

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 located at Suite 1400, 200 North Third Street, Harrisburg PA 17101, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, 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.

2. Respondent, Frank Louis Cecchetti, was born in 1949 and admitted to practice law in the Commonwealth in 1976. His attorney registration mailing address is 114 Smithfield Street, Pittsburgh PA 15222. Respondent is subject to the jurisdiction of the Disciplinary Board of the Supreme Court.

3. Respondent has a prior record of discipline. He received a private reprimand in 2004 and an informal admonition in 1998.

4. On June 29, 2004, in the Court of Common Pleas of Butler County while represented by other counsel, Clotilde Guzman was found guilty by a jury of robbery, retail theft, and simple assault.

5. On September 14, 2004, Respondent was appointed to represent Mr. Guzman.

6. On September 22, 2004, while represented by Respondent, Mr. Guzman was sentenced to imprisonment of 28 months to 56 months and a fine, the sentence to run consecutive to any other sentence previously ordered for any "other matters."

7. The "other matters" referred to by the Court were two Butler County criminal cases. On June 19, 2002, Mr. Guzman had been sentenced for drug convictions to incarceration of 32 days time served to be followed by 24 months probation. On July 8, 2003, Mr. Guzman had been sentenced for robbery to 6-23 months incarceration, with credit for time served, which resulted in revocation of his probation on August 19, 2003, and his resentence to four years probation consecutive to his 6-23 months sentence.

8. On September 28, 2004, Mr. Guzman was sentenced to serve a total incarceration of 52 - 104 months. On September 28, 2004, Respondent filed a Notice of Appeal on behalf of his client.

9. On September 29, 2004, the trial court ordered that a Concise Statement of Matters Complained of an Appeal be filed no later than 14 days after the date of that Order.

10. Respondent did not at any time file a Concise Statement of Matters Complained of on Appeal on behalf of Mr. Guzman.

11. The appeal on behalf of Mr. Guzman was docketed in the Superior Court of Pennsylvania.

12. A briefing schedule was issued by the Superior Court, by which Respondent's brief and the reproduced record were required to be prepared and submitted to the Court on or before August 16, 2005.

13. On August 19, 2005, Respondent filed a Motion to Expand Briefing Schedule on behalf of Mr. Guzman, for a period of 20 days.

14. By Order dated August 22, 2005, the Superior Court granted Respondent's Motion to Expand Briefing Schedule, and stated that the brief was due on or before September 6, 2005.

15. Respondent did not file a brief or the reproduced record on behalf of his client.

16. Respondent took no action to obtain any further extension of time for the filing of the brief.

17. By Order dated November 3, 2005, the Superior Court dismissed Mr. Guzman's appeal for failure to file a brief.

18. The Superior Court's November 3, 2005 Order required Respondent to file with the Court, within ten days, a certification that the client was notified of the dismissal. The Order further stated that failure to comply might result in referral to the Disciplinary Board.

19. Respondent did not file the certification required by the Superior Court in its Order of November 3, 2005, and he did not inform Mr. Guzman of the dismissal.

20. After other counsel was appointed to represent Mr. Guzman, the trial court reinstated his appellate rights.

21. Respondent admitted that he did not properly represent his client.

III. CONCLUSIONS OF LAW

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

1. RPC 1.3 - A lawyer shall act with reasonable diligence and promptness in representing a client.

2. RPC 1.4(a)(3) - A lawyer shall keep the client reasonably informed about the status of the matter.

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

IV. DISCUSSION

This matter is before the Disciplinary Board for consideration of a Petition for Discipline which contains allegations that Respondent committed professional misconduct in handling his client's case. Respondent did not file an Answer to Petition for Discipline; the allegations are deemed admitted, pursuant to Pa.R.D.E. 208(b)(2). Respondent offered no testimony as to degree of discipline.

The majority of the Hearing Committee recommends that Respondent be publicly censured. The dissenting Member recommends private discipline. The majority recommendation rests primarily on the fact that Respondent has a prior history of misconduct similar to that of the instant matter, and such history serves to aggravate the instant misconduct. The Committee suggests that the instant misconduct is relatively minor, consisting of Respondent's failing to file a brief concerning his client's appeal, which resulted in the dismissal of the appeal; and failing to comply with the Superior Court's Order that he certify that he notified his client of the dismissal of the appeal. In ordinary circumstances such misconduct in all probability would result in private discipline. However, Respondent's history of similar misconduct requires pause for deliberation, as it exhibits a pattern of lack of diligence in pursuing client matters.

Respondent received an informal admonition in 1998 and a private reprimand in 2004. In the 1998 matter, Respondent initiated a Quo Warranto action in the Court of Common Pleas on behalf of a client. Other than to file a response to an Answer and New Matter, Respondent did nothing to further the matter after it was remanded by a decision of the Supreme Court. Respondent did not communicate with his client. In the 2004

discipline matter, Respondent was court-appointed to represent a client in a criminal matter. Respondent failed to timely file a docketing statement with the Superior Court, which resulted in dismissal of the appeal. Respondent failed to notify his client of the dismissal.

The Board agrees with the majority's assessment of the nature of the instant misconduct, as well as its reasoned view that Respondent's prior history of misconduct compels a stronger sanction in order to deter him from committing these types of violations in the future. For the above reasons, the Board recommends that Respondent be publicly censured by the Supreme Court.


V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania recommends that the Respondent, Frank Louis Cecchetti, be subjected to a Public Censure.

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: 
Francis X. O'Connor, Board Member

Date: June 29, 2007

Board Member Pietragallo dissented and would recommend a Private Reprimand.

Board Member Cohen did not participate in the adjudication.