

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1817 Disciplinary Docket No. 3
Petitioner :
 : No. 142 DB 2011
v. :
 : Attorney Registration No. 48737
STEVEN C. FEINSTEIN, :
Respondent : (Philadelphia)

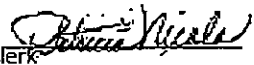
ORDER

PER CURIAM:

AND NOW, this 4th day of May, 2012, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated January 24, 2012, 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 Steven C. Feinstein is suspended on consent from the Bar of this Commonwealth for a period of one year and one day and he shall comply with all the provisions of Rule 217, Pa.R.D.E.

A True Copy Patricia Nicola
As Of 5/4/2012

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

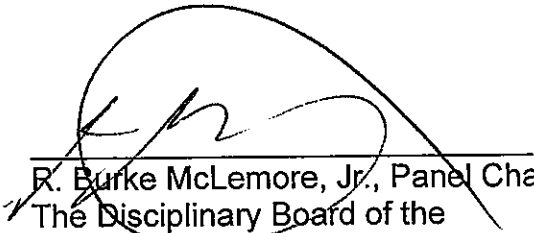
OFFICE OF DISCIPLINARY COUNSEL : No. 142 DB 2011
Petitioner :
v. : Attorney Registration No. 48737
STEVEN C. FEINSTEIN :
Respondent : (Philadelphia)

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 R. Burke McLemore, Jr., Sal Cognetti, Jr. and Gerald Lawrence, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on December 14, 2011.

The Panel approves the Joint Petition consenting to a one year and one day suspension and recommends to the Supreme Court of Pennsylvania that the attached Petition be Granted.

The Panel further recommends that any necessary expenses incurred in the investigation and prosecution of this matter shall be paid by the respondent-attorney as a condition to the grant of the Petition.


R. Burke McLemore, Jr., Panel Chair
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date: January 24, 2012

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :
Petitioner :
: No. 142 DB 2011
:
v. :
: Atty. Registration No. 48737
STEVEN C. FEINSTEIN, :
Respondent : (Philadelphia)

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

Petitioner, Office of Disciplinary Counsel ("ODC"), by Paul J. Killion, Chief Disciplinary Counsel, and Gloria Randall Ammons, Disciplinary Counsel, and by Respondent, Steven C. Feinstein, and Stuart L. Haimowitz, Esquire, Counsel for Respondent, file this Joint Petition In Support of Discipline on Consent under Pennsylvania Rule of Disciplinary Enforcement (Pa.R.D.E.) 215(d) ("Joint Petition"), and respectfully represent that:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Ave., P.O. Box 62485, Harrisburg, Pennsylvania, 17106-2485, is invested, pursuant to Pa.R.D.E. 207, 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 of Disciplinary Enforcement.

FILED

DEC 14 2011

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

2. Respondent, Steven C. Feinstein, was born on January 1, 1960, and was admitted to practice law in the Commonwealth of Pennsylvania on May 4, 1987.

3. Respondent's registered address is Claims Worldwide, LLC, 1617 John F. Kennedy Boulevard, Suite 1270, Philadelphia, PA 19103.

4. Pursuant to Pa.R.D.E. 201(a)(1), Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

5. On August 29, 2011, Petitioner filed a Petition for Discipline against Respondent with the Secretary of the Disciplinary Board, which petition was docketed at No. 142 DB 2011.

6. On September 27, 2011, Respondent filed his Answer to the Petition for Discipline.

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

7. Respondent stipulates that the following factual allegations contained in the within Joint Petition are true and correct, and stipulates that he violated the Pennsylvania Rules of Professional Conduct and New Jersey Rules of Professional Conduct set forth in ¶ 43, *infra*.

8. On August 19, 1991, Respondent was admitted to practice law in the State of New Jersey.

9. By Order dated September 26, 2005, Respondent's license to practice law in New Jersey was administratively revoked due to non-payment of the annual licensing fees to the New Jersey Lawyers Fund for Client Security.

10. In or around September 2005, Respondent received notice that his New Jersey license had been revoked.

11. In March 2007, Respondent became an associate with the firm of Zenstein, Gallant & Parlow, P.C. ("the Zenstein firm"), which firm had offices located in Philadelphia; Bensalem, Bucks County; and Cherry Hill, New Jersey.

a. The firm required that Respondent be licensed to practice in New Jersey.

b. At that time, Respondent was assigned by the Zenstein firm to represent New Jersey clients.

12. Thereafter, Respondent attempted to file a petition for reinstatement with New Jersey, which petition was subsequently denied because of the revocation of Respondent's license.

13. On or about December 24, 2007, Respondent applied to take the New Jersey Bar Examination.

14. No later than May 19, 2008, the Zenstein firm letterhead indicated that Respondent was admitted in New Jersey.

15. Respondent was not eligible to practice law in New Jersey.

16. In February 2008, Respondent retook and passed the New Jersey Bar examination.

17. At that time, Respondent's admission to the New Jersey bar was pending due to character and fitness concerns.

18. In December 2008, Respondent provided a copy of the Zenstein firm's letterhead to the New Jersey Committee on Character in response to the Committee's request for proof that Respondent's name and bar license designation correctly appeared on the letterhead.

19. On December 30, 2008, a RG 303 hearing was scheduled before the Committee on Character based on, *inter alia*, Respondent's financial and tax issues as well as Respondent's designation on the Zenstein firm's letterhead that he was licensed in New Jersey.

20. Respondent did not appear for that hearing.

21. By letter dated December 31, 2008, Lisa Dixon, Esquire (Ms. Dixon or Ms. Dixon Rhile), Staff Attorney for the Committee on Character, informed Respondent that, *inter alia*:

- a. due to his failure to appear and the Committee's hearing schedule, a hearing would not be rescheduled until at least Spring 2009;
- b. his application to the New Jersey bar was pending; and
- c. since he was not admitted to practice law in New Jersey, it was unacceptable, misleading,

and inaccurate for the Zenstein firm to represent on its letterhead that Respondent was admitted to practice in New Jersey.

22. In or around February 2009, Respondent was still an associate with the Zenstein firm.

23. On February 2, 2009, the Zenstein firm letterhead still indicated that Respondent was admitted in New Jersey.

24. On September 30, 2009, a RG 303 hearing was held before the Committee on Character.

25. By letter dated October 1, 2009, Ms. Dixon Rhile informed Respondent, *inter alia*, that additional information was required in order to process his matter.

26. On April 19, 2010, Respondent appeared in Superior Court of New Jersey - Gloucester County on behalf of Calvin Nelson and Jacqueline Posey before the Honorable Jean B. McMaster in a case captioned *Nelson and Posey v. State Farm Fire and Casualty Company*, Docket No. L-427-07.

27. During a pre-trial conference, Judge McMaster, *inter alia*, informed Respondent that she could not locate Respondent's name in the "red book," which listed all licensed attorneys in New Jersey.

28. In response, Respondent, *inter alia*:

- a. misrepresented to the Court that Respondent was licensed to practice law in New Jersey;

- b. stated that Respondent's firm must "not have filed the papers" in regard to Respondent's eligibility;
- c. requested that Judge McMaster meet with Respondent in chambers;
- d. admitted in chambers that Respondent was not eligible to practice law in New Jersey; and
- e. requested that Judge McMaster admit Respondent *pro hac vice*.

29. Judge McMaster denied Respondent's request to be admitted *pro hac vice*.

30. Thereafter, Respondent requested that Judge McMaster close the courtroom in order for Respondent's clients not to learn that Respondent was not licensed in New Jersey.

31. Judge McMaster refused Respondent's request.

32. Although a pool of potential jurors was ready to come to the courtroom, Judge McMaster had no choice but to continue the trial.

33. During the course of Respondent's representation of Mr. Nelson and Ms. Posey, Respondent failed to inform Donald R. Chierici, Esquire, counsel for the defendant, that Respondent was not licensed to practice law in New Jersey, and Respondent did not so inform Mr. Chierici until April 19, 2010.

34. While ineligible to practice law in New Jersey, Respondent has represented clients in the following matters in New Jersey Superior Court, Camden County, in which Mr. Chierici was defense counsel:

- a. *Severino and Angelita Aguilar v. State Farm Fire and Casualty Company*, Docket No. L-1504-07; and
- b. *Scott and Monique Sherry v. State Farm Fire and Casualty Company*, Docket No. L-4023-07.

35. Respondent failed to advise Mr. Chierici that Respondent was not eligible to practice law in New Jersey during the course of Respondent's representation of both the Aguilars and the Sherrys.

36. By Respondent's actions and use of false letterhead, Respondent misled Mr. Chierici, other counsel, judicial officials and others to believe Respondent was eligible to practice law in New Jersey.

37. Respondent engaged in the unauthorized practice of law in New Jersey in 31 additional client matters, as follows:

- a. *FisherKeller v. Allstate Insurance* (Gloucester Co.) Dkt. 6529-07;
- b. *Carle v. FMI Insurance* (Camden Co.) Dkt. 4455-08;
- c. *Riggio v. Allstate Insurance* (Gloucester Co.) Dkt. 78-07;

- d. *Massimillo v. Atlantic Mutual Insurance* (Ocean Co.) Dkt. 3233-07;
- e. *George's Place LLC v. Fitchburg Mutual Insurance* (Ocean Co.) Dkt. 2938-06;
- f. *Murray v. State Farm Insurance* (Mercer Co.) Dkt. 542-07;
- g. *Melilli v. Allstate Insurance* (Camden Co.) Dkt. 5599-07;
- h. *McCord & Grasso v. First Trenton Indemnity* (Gloucester Co.) Dkt. 1955-07;
- i. *Townsend v. Mercer Insurance* (Camden Co.) Dkt. 4201-07;
- j. *Abruzzese v. Allstate Insurance* (Camden Co.) Dkt. 4200-07;
- k. *185-187 West 17th Street Condo v. Farmers Insurance* (Cape May Co.) Dkt. 437-07;
- l. *New Atco Diner v. Ohio Casualty* (Camden Co.) Dkt. 1559-09;
- m. *Moline v. USAA Casualty* (Gloucester Co.) Dkt. 1933-07;
- n. *Conti and Ferrizzi v. Allstate New Jersey Insurance* (Gloucester Co.) Dkt. 167-08;
- o. *DeJoseph v. Allstate New Jersey Insurance* (Burlington Co.) Dkt. 3614-07;

- p. *Cortese v. Farm Family Casualty Insurance*
(Camden Co.) Dkt. 5051-07;
- q. *Pantalione v. Allstate New Jersey Insurance*
(Cumberland Co.) Dkt. 1102-07;
- r. *Lother v. Rutgers Casualty Insurance* (Camden
Co.) Dkt. 1563-09;
- s. *Domzalski v. Allstate New Jersey Insurance*
(Camden Co.) Dkt. 8163-06;
- t. *Fuller v. USAA Casualty Insurance* (Somerset
Co.) Dkt. 1499-06;
- u. *McLaughlin v. Liberty Mutual Fire Insurance*
(Middlesex Co.) Dkt. 8253-06;
- v. *Dev Sima LLC v. Certain Underwriters at Lloyds
of London* (Atlantic Co.) Dkt. 2747-07;
- w. *Patel v. New Jersey Manufacturers Insurance*
(Mercer Co.) Dkt. 2398-08;
- x. *Goldberg v. Scottsdale Insurance* (Atlantic
Co.) Dkt. 4149-09;
- y. *Pierce v. State Farm Fire and Casualty
Insurance* (Camden Co.) Dkt. 1366-08;
- z. *Maniscalco v. Allstate New Jersey Insurance*
(Camden Co.) Dkt. 5372-06;
- aa. *Caccesse v. Hartford Underwriter's Insurance*
(Camden Co.) Dkt. 1022-10;

- bb. *DeValerio v. Rutgers Casualty Insurance*
(Camden Co.) Dkt. 9027-05;
- cc. *Robinson v. Allstate New Jersey Insurance*
(Gloucester Co.) Dkt. 1949-07;
- dd. *Berlin and Barro v. Franklin Mutual Insurance*
(Mercer Co.) Dkt. 350-08; and
- ee. *Morton v. Balboa Insurance* (Cape May Co.) Dkt.
728-09.

38. In the aforementioned matters Respondent's representation included one or more of the following activities: attending settlement conferences in New Jersey, attending motions hearings in New Jersey, making telephone calls, and sending letters.

39. By letter dated July 1, 2010, to Steven R. Cocchi, Esquire, of the New Jersey Committee on the Unauthorized Practice of Law, Respondent, *inter alia*, acknowledged his unauthorized practice of law in New Jersey.

40. By letter dated July 1, 2010, Ms. Dixon Rhile, *inter alia*, informed Respondent to contact her if he no longer wished to continue the bar admission process and wanted to withdraw his application for admission to the New Jersey Bar.

41. By e-mail dated July 2, 2010, to Ms. Dixon Rhile, Respondent withdrew his application for admission to the New Jersey Bar.

42. Because Respondent's unauthorized practice and other misconduct occurred before a New Jersey "tribunal," as defined by PA RPC 1.0(m), or within the geographical boundaries of the State of New Jersey, Respondent's misconduct, under PA RPC 8.5(b) (Choice of Law), implicates the New Jersey Rules of Professional Conduct.

43. Respondent has violated the following Rules of Professional misconduct:

- a. NJ RPC 1.4(b) and PA RPC 1.4(b), which state that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation;
- b. NJ RPC 3.3(a)(1), which states that a lawyer shall not knowingly make a false statement of material fact or law to a tribunal;
- c. PA RPC 3.3(a)(1), which states that a lawyer shall not knowingly make a false statement of material fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;
- d. NJ RPC 3.3(a)(5), which states that a lawyer shall not knowingly fail to disclose to the tribunal a material fact with knowledge that

the tribunal may tend to be misled by such failure;

- e. NJ RPC 4.1(a)(1), which states that in representing a client a lawyer shall not knowingly make a false statement of material fact or law to a third person;
- f. PA RPC 4.1(a), which states that in the course of representing a client a lawyer shall not knowingly make a false statement of material fact or law to a third person;
- g. NJ RPC 5.5(a), which states that a lawyer shall not practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction;
- h. PA RPC 5.5(a), which states that 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;
- i. NJ RPC 7.1(a)(1), which states that a lawyer shall not make false or misleading communications about the lawyer, the lawyer's services, or any matter in which the lawyer has or seeks a professional involvement. 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;

- j. PA RPC 7.1, which states that 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;
- k. NJ RPC 7.5(a) and PA RPC 7.5(a), which state, in pertinent part, that a lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1;
- l. NJ RPC 8.4(a) and PA RPC 8.4(a), which state that it is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

- m. NJ RPC 8.4(c) and PA RPC 8.4(c), which state that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation; and
- n. NJ RPC 8.4(d) and PA RPC 8.4(d), which state that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

44. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a suspension of one year and one day.

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

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

- a. Respondent has admitted engaging in misconduct and violating the charged Rules of Professional Conduct;
- b. Respondent has cooperated with Petitioner, as is evidenced by: Respondent's providing Petitioner with a list of cases of his unauthorized practice of law as itemized in ¶ 37, *supra*; Respondent's admissions herein; and Respondent's consent to receiving a suspension of one year and one day;
- c. Respondent does not have a record of discipline; and
- d. Respondent is remorseful for his misconduct and understands he should be disciplined, as is evidenced by his consent to receiving a suspension of one year and one day.

47. In addition, if this matter were to proceed to a hearing, Respondent would present mitigation evidence, under *Office of Disciplinary Counsel v. Braun*, 520 Pa. 157, 553 A.2d 894 (1989), that he was suffering from a mental infirmity, namely - Adjustment Disorder with Mixed Anxiety and Depressed Mood, which was a causal factor in his misconduct. (See letter from Steven E. Samuel, Ph.D., attached hereto as "Exhibit A").

48. Although there is no per se rule for discipline in this jurisdiction, a suspension of one year and one day is

within the range of discipline imposed on attorneys who have no record of discipline but who engaged in the unauthorized practice of law and who made affirmative or passive misrepresentations about their eligibility to practice. See, e.g., *Office of Disciplinary Counsel v. Stephen H. Griffiths*, 191 DB 2006 (S.Ct. Order 8/29/08) (respondent, who was on inactive status, received a suspension of one year and one day for engaging in the unauthorized practice of law in not less than 50 matters, which consisted of representing parties in civil actions in the Court of Common Pleas of Philadelphia County and performing other legal services; and for engaging in misrepresentation by holding himself out as an attorney eligible to practice law); *Office of Disciplinary Counsel v. Robert Mark Unterberger*, 14 DB 2007 (S.Ct. Order 6/18/08) (respondent, who was on inactive status, received a suspension of one year and one day for engaging in the unauthorized practice of law by entering his appearance in approximately 294 cases in the Court of Common Pleas of Luzerne County, and representing himself to clients, judges, attorneys and third parties that he was eligible to practice law; respondent also rendered legal consultation and advice to clients); *Office of Disciplinary Counsel v. Nathaniel M. Davis*, 71 DB 2005 (S.Ct. Order 8/22/06) (respondent was suspended for one year and one day when he engaged in the unauthorized practice of law in one client matter and falsely

verified to the CLE Board that he was not practicing law in the Commonwealth of Pennsylvania as a non-resident active attorney); and *Office of Disciplinary Counsel v. Sharon Goldin-Didinsky*, 87 DB 2003 (S.Ct. Order 12/13/04) (respondent, who was on inactive status, received a suspension of one year and one day for practicing law in two matters and engaging in additional misconduct involving dishonesty and making numerous knowing false statements to the court and court officials regarding her eligibility to practice law).

The majority of the aforementioned cases involve the practice of law in Pennsylvania when the attorney was ineligible due to inactive status for failure to pay the annual fee (Pa.R.D.E. 219(d)) or to complete the requisite number of CLE credits on an annual basis (Pa.C.L.E. 111(b)), while in the case at bar Respondent Feinstein was not admitted generally to practice in the jurisdiction of practice (New Jersey). Nonetheless, the cases are similar in that all involve misconduct that is prejudicial to the administration of justice and the courts.

In one matter that involved an attorney, who like Respondent Feinstein, engaged in the unauthorized practice of law in a state where he was not admitted to practice law generally before the Bar of that state's highest court and who made misrepresentations to a trial court when questioned about his status as counsel, our Supreme Court imposed the maximum

term of suspension—five years. *Office of Disciplinary Counsel v. Brian P. Raney*, No. 22 DB 2004 (S.Ct. Order 4/6/05). In *Raney*, the respondent had been admitted to practice law in Pennsylvania in 2001 and was transferred to inactive status in 2002, the same year he filed an application to sit for the July 2002 bar examination in Virginia, which he did not pass. In December 2002, the respondent applied to sit for the February 2003 Virginia bar examination, which he also failed. Thereafter, in June 2003, the respondent, who was identified in pleadings as "Special Counsel," appeared in a Virginia circuit court on behalf of a third party in an estate matter, at which time the circuit court judge questioned the respondent about his eligibility to appear without having filed a motion for admission *pro hac vice*, as required by Virginia law. In response to the court's questions, the respondent made multiple statements that misrepresented his license status in Pennsylvania and his bar application status in Virginia.

Raney is distinguishable on the basis of the *multiple* false and misleading statements that Respondent Raney made to the court. In addition, Respondent Raney's misconduct was aggravated by the fact that Respondent Raney made misrepresentations on his sworn questionnaire in connection with his application for admission to the Virginia bar, did not notify the Virginia Board of Bar Examiners when his

licensing status in Pennsylvania changed to "inactive," applied to retake the Virginia bar examination without appending a certificate of good standing from the Pennsylvania Supreme Court Prothonotary because he had been unable to obtain one due to his inactive status, submitted a sworn supplemental questionnaire that repeated false statements contained in the previous questionnaire, misrepresented on an annual fee form filed with the Pennsylvania Disciplinary Board that he was covered by professional liability insurance, permitted another attorney who was admitted in Virginia to file with the Virginia circuit court a *pro hac vice* motion that contained a misleading statement, and failed to promptly reveal to the Virginia Board of Law Examiners the existence of proceedings in Virginia to sanction him for the unauthorized practice of law. **Raney** is also distinguishable because Respondent Raney failed to cooperate with Pennsylvania disciplinary authorities, in that Respondent Raney did not answer the Petition for Discipline and failed to participate in the disciplinary proceedings, which participation and attendance at the disciplinary hearing would have given him the opportunity to explain his motives and express remorse.

In the matter at hand, Respondent Feinstein has expressed remorse and has accepted responsibility for his actions. In addition, Respondent Feinstein, unlike Respondent Raney, has presented **Braun** evidence, which mitigates his misconduct.

WHEREFORE, Petitioner and Respondent respectfully request that:

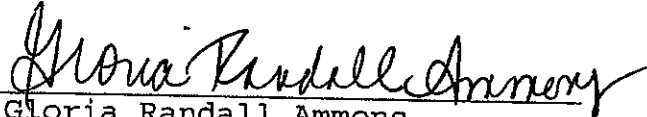
- a. Pursuant to Pa.R.D.E. 215(e) and 215(g), the three-member panel of the Disciplinary Board review and approve the Joint Petition in Support of Discipline on Consent and file its recommendation with the Supreme Court of Pennsylvania recommending that the Supreme Court enter an Order suspending Respondent from the practice of law for a period of one year and one day.
- b. Pursuant to Pa.R.D.E. 215(i), the three-member panel of the Disciplinary Board enter an order for Respondent to pay the necessary expenses incurred in the investigation and prosecution of this matter as a condition to the grant of the Petition, and that all expenses be paid by

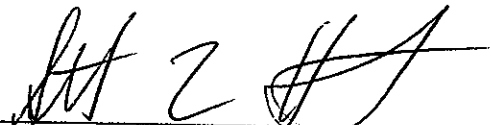
Respondent before the imposition of discipline
under Pa.R.D.E. 215(g).

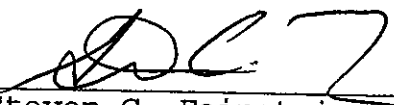
Respectfully and jointly submitted,

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION
CHIEF DISCIPLINARY COUNSEL

By 
Gloria Randall Ammons
Disciplinary Counsel

By 
Stuart L. Haimowitz, Esquire
Counsel for Respondent

By 
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March 21, 2011

Stuart L. Haimowitz, Esquire
1910 Land Title Building
100 South Broad Street
Philadelphia, PA 19110

Re: Steven C. Feinstein, Esquire

Dear Mr. Haimowitz:

Pursuant to your request, I conducted a psychological evaluation of Steven C. Feinstein, Esquire, in my downtown Philadelphia office on November 15, 2010 and March 18, 2011. It is my understanding that you are Mr. Feinstein's privately retained attorney who will represent him before the Disciplinary Board of the Supreme Court of Pennsylvania. It is also my understanding that, in referring him for this evaluation, you were interested in my opinion regarding his psychological condition at the time he was conducting the practice of law in the State of New Jersey without a license.

Mr. Feinstein's evaluation consisted of interviews with him, a review with him of the materials provided by your office, the administration of the Structured Clinical Interview for the DSM-IV Axis I Disorders (SCID-I), and the administration of the Minnesota Multiphasic Personality Inventory-2 (MMPI-2) on November 15, 2010 and March 18, 2011. The SCID-I is a semi-structured clinical interview designed to assess the presence of Axis I disorders. The MMPI-2 is an objective, self report psychological test that provides information regarding test-taking attitudes, the nature and extent of psychopathology, and diagnosis.

The materials sent by your office that were reviewed by this examiner with Mr. Feinstein included the following:

1. Your November 15, 2010 letter to Gloria Randall Ammons.
2. The Disciplinary Board of the Supreme Court of Pennsylvania letter to Mr. Feinstein dated August 16, 2010.

Mr. Feinstein was informed of my role at the onset of his evaluation. He was told that there was no traditional doctor-patient relationship and that, as a result, our interactions and the information he provided on the testing administered to him were not confidential. I informed Mr. Feinstein that he had the right to have you present during his evaluation. I informed Mr. Feinstein that I would prepare a written report of my findings that I would send to you and which would be made available to the individuals reviewing his matter. Mr. Feinstein stated that he understood what I had told him, and he agreed to participate in the evaluation without any apparent hesitation.

Mr. Feinstein's presentation on November 15, 2010 differed significantly compared to his presentation on March 18, 2010. Mr. Feinstein presented on November 15, 2010 as an agitated and anxious man whose conversation frequently went in the direction of unrelated tangents. He became so agitated that he left his seat during the evaluation session. He stated that he was not sleeping well. He stated that he had begun taking antidepressant and anti-anxiety medication approximately three weeks prior to the evaluation session, but had not experienced any changes in his psychological status and sleep pattern. He stated that he was experiencing physical pain, that he had problems sustaining concentration and attention, and that he was overwhelmed with life. He stated that he has a child in college and that he worried about being able to support the expense. He stated that he needed medical attention to diagnose his sleeping problems. He stated that his doctor had told him in April, 2010 that it appeared that he had experienced a heart attack and that his thyroid was "out of whack." He stated that his cardiologist subsequently told him that he had not had a heart attack. He stated that he was advised to lose weight.

Mr. Feinstein stated on November 15, 2010 that his level of energy was variable and that there were times when it was difficult to make it through the day without feeling that he would fall asleep. He stated that he lacked self-confidence, that his future seemed hopeless, and that he thought something was "wrong" with his mind. He stated that he felt depressed, but denied being suicidal. He stated that he felt like smashing things, that he perseverated about his problems, and that he experienced blank spells in which his attempts to complete day-to-day tasks at work and at home were interrupted by confusion.

Mr. Feinstein stated on November 15, 2010 that he was also experiencing family-related stress. He stated that his family was worrying about him because he appeared agitated and out of sorts much of the time.

Mr. Feinstein's presented on March 18, 2011 as a relatively relaxed, focused, and articulate man. He stated that he had lost about 20 pounds since our meeting in November 2010. His speech was of normal rate, tone, volume, and amount. He denied feeling anxious or depressed. He stated that he was taking thyroid replacement medication. He stated that the anti-anxiety and antidepressant medication he had begun taking in October 2010 took effect in late November, 2010. He stated that his dosage was increased twofold thereafter. He stated that he had no history of taking psychotropic medication prior to October 2010. He stated that he had not been very attentive to his physical health; however, after he began taking psychotropic medication in October 2010 he started treating more regularly with his internist and other

medical specialists.

Mr. Feinstein stated that he fell and injured himself badly in February, 2007, at a time when he had left one job and was to begin another. He stated that he was out of work for five or six weeks after his fall. He stated that he began work at his new job in a wheelchair. He stated that he became depressed and anxious in response to his physical pain. He stated that he is the breadwinner for his family, because although his wife also works, she does not make very much money. He stated that they went into debt and were late in paying their taxes as a result. He stated that his financial circumstances increased his level of anxiety and depression as he moved forward in working as an attorney for his new employer. He stated that he was the sort of person who tried to ignore physical pain and emotional difficulties in order to maintain his personal equilibrium.

Mr. Feinstein stated that his level of depression, anxiety, physical pain, and financial problems were evident in him during the period of time when he practiced law in New Jersey without a license. He stated that he has "never had the ability to say no" to completing projects and taking on work assignments, because he thinks people will reject him if he does. He stated that is driven by a desire to be accepted, and that he thought that he would be replaced if he told his employer that he was unable to practice in New Jersey. He stated, "I had a kid in college; I was depressed and overweight; I would be replaced easily. I can't let my family down."

Structured Clinical Interview for the DSM-IV Axis I Disorders (SCID-I)

The results of the SCID-I administered to Mr. Feinstein on November 15, 2010 support the conclusion that his Axis I diagnosis at that time was Adjustment Disorder with Mixed Anxiety and Depressed Mood. It is my conclusion, based upon my evaluation of him at that time, that he experienced symptoms of Adjustment Disorder at some point shortly after he injured his ankle and was out of work for five weeks beginning in February 2007. It is my opinion, based upon the information provided by Mr. Feinstein, that he did not present himself for medication treatment for his anxiety and depression between February 2007 and October 2010, despite experiencing symptoms of an Adjustment Disorder with Mixed Anxiety and Depressed Mood on a recurrent basis at pertinent times while he was practicing law in New Jersey without a license. It is also my conclusion, based upon the information provided by Mr. Feinstein, that the type of depression and anxiety he experienced during the aforementioned period resulted in his manifesting deficits in his decision-making capacities, examples of which included not participating in psychiatric treatment and practicing law in New Jersey without a license.

The results of Mr. Feinstein's March 18, 2011 SCID-I are within normal limits. It is my conclusion that his Adjustment Disorder is in remission as result of medication treatment.

Psychological Testing Results

The results of the MMPI-2 that Mr. Feinstein was administered in November 2010 indicate that he was experiencing significant levels of depression and anxiety. The profile contained a number of atypical and rarely given responses. This atypical profile could be the result of a

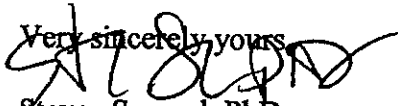
number of factors, including intentional malingering, severe pathology, panic, or an extreme plea for help. As a result of discussing these possibilities with Mr. Feinstein, it is my conclusion that the best explanation for Mr. Feinstein's November 2010 MMPI-2 profile is that he was in a state of depression and anxiety at the time he complete the inventory, and that his diagnosis at the time was Adjustment Disorder with Mixed Anxiety and Depressed Mood. It is my conclusion, stated with reasonable psychological certainty, that Mr. Feinstein's Adjustment Disorder substantially contributed to and was a fundamental cause of his decision to practice law without a license in New Jersey. It is also my conclusion that Mr. Feinstein's current psychological status is such that he can practice law, on the condition that he continue involvement with medication treatment for his Adjustment Disorder.

The results of the MMPI-2 that Mr. Feinstein was administered on March 18, 2011 indicate the following: the profile is within normal limits within the context of his presenting a positive image of himself. His March 18, 2011 MMPI-2 results indicate that he is not experiencing any significant psychological problems at this time. He appears to have no unmanageable conflicts or threatening stressors at this time. In contrast to his presentation and testing results in November 2010, he does not appear nor test as anxious or depressed. His response content reflects a high degree of self-confidence and ability to deal with life. It is my conclusion that these results reflect the positive effects that medication has had on Mr. Feinstein's Adjustment Disorder.

Conclusion

Based upon my evaluation of Mr. Feinstein, it is my conclusion, stated with a reasonable psychological certainty, that he was diagnosed with Adjustment Disorder with Mixed Anxiety and Depressed Mood. It is my conclusion that the Disorder emerged at some point shortly after he injured his ankle in February 2007 and was out of work for 5 weeks thereafter. It is my conclusion that he was symptomatic of this Disorder at the time of his first evaluation with this examiner on November 15, 2010. It is my conclusion that the medication treatment he is currently undergoing for his Adjustment Disorder is appropriate and necessary. It is also my conclusion that Mr. Feinstein's Adjustment Disorder was a causal factor in his misconduct.

Thank you for referring Mr. Feinstein for this evaluation. Please contact me if you have any questions about his evaluation report.

Very sincerely yours


Steven Samuel, PhD.
Associate Clinical Professor
Department of Psychiatry and Human Behavior
Thomas Jefferson University Hospital

SES:ses

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :

Petitioner :

: No. 142 DB 2011

:

v. :

: Atty. Registration No. 48737

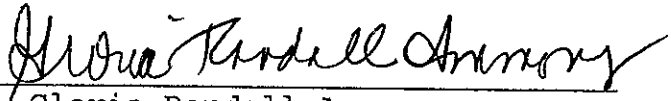
STEVEN C. FEINSTEIN, :

Respondent : (Philadelphia)

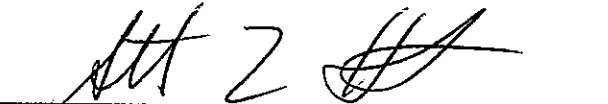
VERIFICATION

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

12/12/11
Date


Gloria Randall Ammons
Disciplinary Counsel

12/12/11
Date


Stuart L. Haimowitz, Esquire
Counsel for Respondent

12/12/11
Date


Steven C. Feinstein
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :
Petitioner :
: No. 142 DB 2011
:
v. :
: Atty. Registration No. 48737
STEVEN C. FEINSTEIN, :
Respondent : (Philadelphia)

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

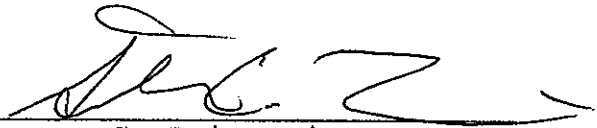
Respondent, Steven C. Feinstein, hereby states that he consents to the imposition of a suspension of one year and one day, as jointly recommended by the Petitioner and Respondent in the Joint Petition in Support of Discipline on Consent, and further states that:

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

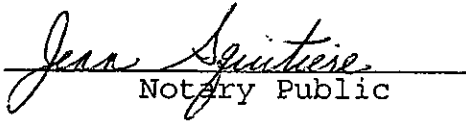
2. He is aware that there is presently pending a proceeding at No. 142 DB 2011 involving allegations that he has been guilty of misconduct as set forth in the Joint Petition;

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

4. He consents because he knows that if the charges against him continue to be prosecuted in the pending proceeding, he could not successfully defend against them.


Steven C. Feinstein
Respondent

Sworn to and subscribed
before me this 12th
day of December 2011.


Notary Public

