

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1827 Disciplinary Docket No. 3  
Petitioner :  
 : No. 94 DB 2011  
v. :  
 : Attorney Registration No. 17300  
WILLIAM JAMES HELZLSOUER, :  
Respondent : (Allegheny County)

ORDER

PER CURIAM:

AND NOW, this 5<sup>th</sup> day of June, 2012, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated February 10, 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

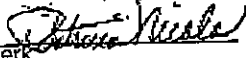
ORDERED that William James Helzlsouer is suspended from the practice of law for a period of three months, the suspension is stayed in its entirety and he is placed on probation for a period of three months, subject to the following conditions:

1. Respondent shall select a practice monitor subject to the approval of the Office of Disciplinary Counsel.
2. The practice monitor shall do the following during the period of Respondent's probation:
  - a. Periodically examine Respondent's law office organization and procedures to ensure that he is maintaining an accept-

able tickler system, filing system, and other administrative aspects of his practice;

- b. Meet with Respondent at least monthly to examine his progress towards satisfactory and timely completion of clients' legal matters and regular client contact;
- c. File a written report on a Board-approved form with the Secretary of the Board at the end of the three-month period; and
- d. Immediately report to the Secretary any violations by Respondent of the terms and conditions of probation.

A True Copy Patricia Nicola  
As Of 6/5/2012

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

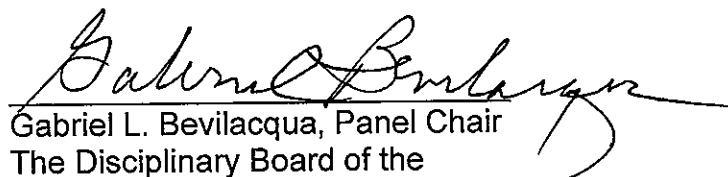
OFFICE OF DISCIPLINARY COUNSEL : No. 94 DB 2011  
Petitioner :  
v. : Attorney Registration No.17300  
WILLIAM JAMES HELZLSOUER :  
Respondent : (Allegheny County)

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 Gabriel L. Bevilacqua, Carl D. Buchholz, III, and Albert Momjian, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on December 16, 2011.

The Panel approves the Petition consenting to a three month suspension to be stayed in its entirety and a three month period probation subject to the conditions set forth in the Joint Petition and recommends to the Supreme Court of Pennsylvania that the attached Joint 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.

  
Gabriel L. Bevilacqua, Panel Chair  
The Disciplinary Board of the  
Supreme Court of Pennsylvania

Date: February 10, 2012

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :  
: Petitioner : No. 94 DB 2011  
: v. :  
WILLIAM JAMES HELZLSOUER, : Attorney Registration No. 17300  
: Respondent : (Allegheny County)

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

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION  
CHIEF DISCIPLINARY COUNSEL

Susan N. Dobbins  
Disciplinary Counsel  
Suite 1300, Frick Building  
437 Grant Street  
Pittsburgh, PA 15219  
(412) 565-3173

and

William James Helzlsouer, Esquire  
302 Euclid Avenue  
Dravosburg, PA 15034  
(412) 469-1992

**FILED**

DEC 16 2011

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



2. Respondent, William James Helzlsouer, was born February 29, 1948. He was admitted to practice law in the Commonwealth of Pennsylvania on October 1, 1973. Respondent's attorney registration mailing address is 302 Euclid Avenue, Dravosburg, PA 15034.

3. Respondent is on active status. He is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

### SPECIFIC FACTUAL ALLEGATIONS ADMITTED

#### CHARGE I: THE SARAH E. EVERETT MATTER

4. In December 2005, Sarah Everett (hereinafter, Ms. Everett) and her son Markle Everett, (hereinafter, Markle) consulted with Respondent about representing them against Round Hill Cemetery.

5. By letter dated December 22, 2005, Respondent informed Markle of his fee arrangement to represent Ms. Everett in a civil action against Round Hill Cemetery. Respondent required an initial retainer of \$1,150, of which \$175 was fees and his hourly rate was to be \$195 per hour and \$495 per day for court appearances and hearings.

6. In January 2006, Ms. Everett's sons, Markle and Jimmy Everett, each issued Respondent a check in the amount of \$1,000 as a retainer for Respondent to represent Ms. Everett in her civil action against Round Hill Cemetery.

7. On November 30, 2007, Respondent filed a Complaint in Civil Action on behalf of Ms. Everett in the Court of Common Pleas of Allegheny County, Pennsylvania, at docket number GD-07-025180 against various defendants, including Round Hill Cemetery and Rush Funeral Home, Inc.

8. On December 31, 2008, a Motion for Summary Judgment and Brief in Support of the Motion for Summary Judgment were filed on behalf of Carl Rush and Rush Funeral Home, Inc.

9. On January 5, 2009, a Motion for Summary Judgment was filed on behalf of Round Hill Cemetery.

10. On February 11, 2009, Respondent filed a Reply to the Motion for Summary Judgment and a Brief in Opposition thereto on behalf of Ms. Everett.

11. By Order of Court dated February 12, 2008 [sic], Judge Timothy O'Reilly ordered that upon consideration of Defendants' Motions for Summary Judgment that the Motions were granted and all defendants were dismissed with prejudice.

12. Sometime in late February or early March 2009, Janet Cogar, Ms. Everett's daughter, called Respondent about the status of Ms. Everett's civil action.

13. Respondent informed Ms. Cogar that there was another hearing held regarding Ms. Everett's civil action, and she had lost the case.

14. On several occasions during March, April and May 2009, Ms. Cogar called and left messages for Respondent requesting that he call her or Ms. Everett about Ms. Everett's civil action.

15. Respondent did not return any calls in response to Ms. Cogar's messages about Ms. Everett's civil action.

16. By letter dated November 19, 2009 sent to Respondent Ms. Everett:

(a) Informed Respondent that she was requesting some answers as to why Respondent had not returned any of the phone calls concerning her case;

(b) Also asked Respondent why Respondent did not inform her that she had a right to file an appeal;

(c) Asked Respondent why Respondent had not returned her paperwork and deeds to the graves she owned in Round Hill Cemetery; and,

(d) Advised Respondent that she had moved to 2908 Jenny Lind Street, Apt. 4, McKeesport, PA 15132 and her phone number was still the same, (412) 672-4879.

17. Respondent did not respond to Ms. Everett's certified letter dated November 19, 2009.



18. Respondent did not return to Ms. Everett the original deeds to the graves she owned in Round Hill Cemetery which she gave to Respondent when Respondent was originally retained.

CHARGE II: THE DARLA J. PERSHING MATTER

19. In late 2004, Darla J. Pershing retained Respondent to represent her in a medical malpractice action against the Pittsburgh Foot and Hand Center and Dr. Michael W. Bowman, the doctor who performed surgery on her foot to repair a broken bone.

20. Respondent informed Ms. Pershing that Respondent would represent her on a contingent fee basis.

21. Although Respondent did not regularly represent Ms. Pershing, Respondent did not communicate to her in writing the rate or basis of his fee within a reasonable time after commencing the representation.

22. Ms. Pershing provided Respondent with some medical records regarding her surgery and also a computer disk which had her medical records on it. Respondent was not able to read the medical records on the computer disk.

23. Sometime in the latter part of 2006 and throughout 2007, Ms. Pershing called Respondent on numerous occasions and asked Respondent to return the medical records that she had provided Respondent since she did not

believe Respondent was diligently pursuing the medical malpractice action on her behalf as Respondent was retained to do.

24. Respondent did not return to Ms. Pershing the medical records and the computer disk with her medical records on it.

25. By letter dated February 26, 2008 sent to Respondent's attorney registration address, David J. Eckle, Esquire informed Respondent, among other things, that:

(a) He was recently contacted by Ms. Pershing with regard to a medical malpractice action which she indicated Respondent was handling;

(b) Ms. Pershing was extremely upset that she had not been able to get in touch with Respondent and she believed Respondent had been non-responsive to her requests for information;

(c) Therefore, she had requested that he take over her file;

(d) He was unsure as to the status of the case or its viability;

(e) Nevertheless, he requested that Respondent forward Ms. Pershing's file to him at his earliest convenience; and,

(f) He would pay any copying charges and any outstanding costs that Respondent had expended.

26. Respondent did not:

(a) Respond to Attorney Eckle's letter dated February 26, 2008;

or

(b) Forward to Attorney Eckle Ms. Pershing's file regarding her medical malpractice action.

27. Even though his representation was terminated, Respondent did not return to Ms. Pershing:

(a) Her file relating to her medical malpractice action; or,

(b) Her medical records and the computer disk she had provided to Respondent.

### CHARGE III: THE JOSEPH R. SKORICH MATTER

28. On September 5, 2007, a jury returned a verdict in favor of the defendants, Gregory and Cheryl Giacomino (hereinafter, Defendants), against the plaintiff, Joseph R. Skorich (hereinafter, Mr. Skorich) in his civil action that was filed in the Court of Common Pleas of Allegheny County, Pennsylvania at docket number GD-03-17114.

29. In about the end of September 2007, Mr. Skorich met with Respondent about representing him in regard to an appeal of the September 5, 2007 verdict against him.

30. At that time, Mr. Skorich provided Respondent with various documents and a copy of the verdict that was entered against him in his civil action.

31. Respondent informed Mr. Skorich that Respondent would review his matter and let him know if Respondent would represent him in appealing the jury verdict entered against him.

32. On October 17, 2007, Respondent filed in the Court of Common Pleas of Allegheny County, Pennsylvania a Motion to Enlarge the Time in Which to File Post-Trial Brief on behalf of Mr. Skorich in the civil action.

33. By Order of Court dated October 18, 2007, the Honorable Timothy P. O'Reilly ordered that Mr. Skorich had until November 19, 2007 to file a brief and Defendants had 30 days after receipt of Mr. Skorich's brief to file a responsive brief.

34. On November 7, 2007, Mr. Skorich again met with Respondent about Respondent representing him in his case.

35. At that time, Respondent provided Mr. Skorich with a written fee agreement which indicated, among other things, that:

(a) His hourly rate to represent him would be \$195.00;

(b) His fees for court appearances and hearings were normally charged at the rate of \$495.00 per day; and,

(c) Respondent would require an initial retainer of \$1,200 as a minimum fee.

36. At that time, Mr. Skorich paid Respondent \$600 in cash and an additional \$400 that was charged to his Bank of America credit card.

37. Thereafter, Respondent did not file a brief on behalf of Mr. Skorich in the civil action.

38. In about February 2008, Mr. Skorich called and left a message for Respondent to call him about the status of his case.

39. Respondent did not:

(a) Return Mr. Skorich's phone call; or,

(b) Advise Mr. Skorich about the status of his case.

40. On February 19, 2008, Robert A. Loch, Esquire, on behalf of Defendants, filed a Motion to Dismiss for Failure to File Brief in Support of Post-Trial Motions.

41. By Memorandum and Order of Court dated March 24, 2008, Judge O'Reilly granted Defendants' Motion to Dismiss for Failure to File Brief in Support of Post-Trial Motion, dismissed the Post-Trial Motion of Mr. Skorich, and affirmed the jury's verdict.

42. Respondent did not advise Mr. Skorich that the Court had dismissed his Post-Trial Motion and affirmed the jury's verdict in his civil action.

43. In about April 2008, Mr. Skorich visited Respondent's office, but Respondent was not there.

44. On May 1, 2008, Defendants, through their counsel, filed a Praecipe for Entry of Judgment against Mr. Skorich.

45. Respondent did not inform Mr. Skorich of the Praecipe for Entry of Judgment that was filed against him.

46. In the Summer of 2008, Mr. Skorich called and left a message on Respondent's answering machine requesting that Respondent call him about the status of his case.

47. Respondent did not:

(a) Return Mr. Skorich's phone call; or,

(b) Advise him about the status of his case.

48. In the Fall of 2008, Mr. Skorich again stopped by Respondent's office, but there was no answer when he knocked on the locked door.

49. In about January 2009, Mr. Skorich called Respondent's office and left a message requesting that Respondent call him about the status of his case.

50. Respondent did not:

(a) Return Mr. Skorich's phone call; or,

(b) Advise him about the status of his case.

51. In the Summer of 2009, Mr. Skorich called and left a message for Respondent to call him about the status of his case.

52. Respondent again did not:

(a) Return Mr. Skorich's phone call; or,

(b) Advise him about the status of his case.

53. On or about October 29, 2009, Mr. Skorich:

(a) Again went to Respondent's office to speak with Respondent about his case; and,

(b) Requested from Respondent the return of his retainer and his case file.

54. Respondent advised Mr. Skorich that he would look into the matter and call him back the next day.

55. Thereafter, Respondent did not have any communication with Mr. Skorich.

56. By letter sent to Respondent by certified mail return receipt requested, dated November 24, 2009, Mr. Skorich informed Respondent that:

(a) The letter was a written follow-up to the face-to-face verbal request he made to Respondent on October 29, 2009 for return of his retainer monies and case file;

(b) Zero effort had been made by Respondent in regard to representation of Mr. Skorich;

(c) He wanted Respondent to refund to him the sum of \$1,000.00 and return his case file in its entirety;

(d) Arrangements could be made for return of his case file and pickup of the retainer refund within 10 days of receipt of the written and certified request; and,

(e) Respondent should call (412) 567-8450 or contact Mr. Skorich via email to arrange for him to pick up the file and the check.

57. Respondent did not:

(a) Respond to Mr. Skorich's certified letter dated November 24, 2009;

(b) Refund to Mr. Skorich any portion of the \$1,000 that he paid to Respondent; and,

(c) Return to Mr. Skorich his case file.



## SPECIFIC RULES OF PROFESSIONAL CONDUCT VIOLATED

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

(a) Rule of Professional Conduct 1.3 – "A lawyer shall act with reasonable diligence and promptness in representing a client."

(b) Rule of Professional Conduct 1.4(a)(2) – "A lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished."

(c) Rule of Professional Conduct 1.4(a)(3) – "A lawyer shall keep the client reasonably informed about the status of the matter."

(d) Rule of Professional Conduct 1.4(a)(4) – "A lawyer shall promptly comply with reasonable requests for information."

(e) Rule of Professional Conduct 1.5(b) - "When the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, in writing, before or within a reasonable time after commencing the representation."

(f) Rule of Professional Conduct 1.5(c) - "A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (d) or other law. A contingent fee agreement shall be

in writing and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal, litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination."

(g) Rule of Professional Conduct 1.16(d) - "Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment or other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law."

(h) Rule of Professional Conduct 8.4(d) – "It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice."

### SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

59. Office of Disciplinary Counsel and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct in this matter is a **three-month suspension, stayed in its entirety, and that Respondent be placed on probation for that period of time with a condition of the probation being the appointment of a practice monitor, pursuant to §89.291, Disciplinary Board Rules.** Attached to the Petition is Respondent's executed Affidavit required by Rule 215(d)(1) through (4), Pa.R.D.E.

60. Respondent received a Private Reprimand with condition in December 2010 for his lack of diligence and communication in handling an estate matter. However, the misconduct in the three within matters occurred prior to his receiving that Private Reprimand.

61. In support of Petitioner and Respondent's joint recommendation, it is respectfully submitted that there is case law precedent relevant to this matter:

(a) There are many cases concerning lawyers who have committed similar misconduct, particularly for violating Rules of Professional Conduct 1.3, 1.4(a), 1.16(d) and 8.4(d) by neglecting cases and failing to adequately communicate with clients. The sanctions in those cases have ranged from private discipline in cases where the attorney had no history of discipline to a short suspension in cases where the attorney had previous contact with

the disciplinary system (see *In Re Anonymous No. 32 DB 1990*, 11 Pa. D. & C.4<sup>th</sup> 372 (1991), and *In Re Anonymous No. 36 DB 1997*, No. 408 Disciplinary Docket No. 3 (1998)).

(b) In *Office of Disciplinary Counsel v. Allan G. Gallimore*, No. 17 DB 2006, No. 1289 Disciplinary Docket No. 3, (November 2007), the Supreme Court suspended the attorney from the practice of law for a period of three months, followed by a period of probation for six months, which included completion of continuing legal education classes. In that matter, Mr. Gallimore was found to have violated Rules of Professional Conduct 1.1, 1.3, 1.4(a), 1.4(b), and 1.16(d) in his representation of a client in an immigration case. Mr. Gallimore had a prior disciplinary history of an Informal Admonition and a Private Reprimand.

(c) In *In Re Anonymous, No. 109 DB 2001*, No. 818 Disciplinary Docket No. 3, (April 2003), the respondent-attorney received a one-year stayed suspension for violating Rules of Professional Conduct 1.3, 1.4(a), 1.4(b), 1.16(d), and 8.4(d) in four separate matters. The attorney had a disciplinary history consisting of two Informal Admonitions and a Private Reprimand for substantially the same type of conduct.

(d) In the very recent case of *Office of Disciplinary Counsel v. Dennis Joseph Spyra*, No. 216 DB 2009, No. 1735 Disciplinary

Docket No. 3 (October 2011), the Supreme Court suspended the attorney from the practice of law for a period of six months. In that matter, Mr. Spyra was found to have violated Rules of Professional Conduct 1.3, 1.4(a)(3), 1.4(a)(4), 1.16(d), 5.1(a), 5.1(b), and 8.4(d) in his handling of two separate client matters. The attorney had a disciplinary history of an Informal Admonition for violations of Rules of Professional Conduct 1.5(b) and 1.16(d), and had received a Private Reprimand for violating Rules of Professional Conduct 1.3 and 1.4(a). The attorney offered no mitigation and failed to express remorse for his conduct.

62. The proposed discipline herein is well within the range of discipline set forth in similar cases.

63. Respondent has participated in and cooperated with Disciplinary Counsel in the prosecution of the within matter.

64. Respondent, through the filing of this joint Petition, expresses great regret and accepts responsibility for his actions.

65. Respondent is in the process of returning to his former clients files at issue herein.

66. Respondent recognizes the need to make changes in his law practice and has already begun to implement same, including using an office management computer software program.

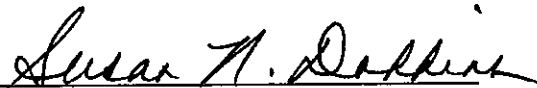
67. For the reasons set forth above, Petitioner and Respondent believe that a **three-month suspension, stayed in its entirety, and that Respondent be placed on probation for that period of time with a condition of the probation being the appointment of a practice monitor, pursuant to §89.291, Disciplinary Board Rules**, is appropriate considering all of the facts and circumstances herein.

WHEREFORE, Petitioner and Respondent respectfully request that, pursuant to Rules 215(d) and 215(f), Pa.R.D.E., the three-member panel of the Disciplinary Board review and approve this Joint Petition In Support of Discipline on Consent Under Rule 215(d), Pa.R.D.E. and file its recommendation with the Supreme Court of Pennsylvania, in which it is recommended that the Supreme Court enter an Order imposing upon Respondent a stayed three-month suspension.

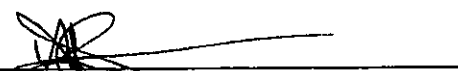
Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION  
CHIEF DISCIPLINARY COUNSEL

By   
Susan N. Dobbins  
Disciplinary Counsel

and

By   
William James Heizlsouer, Esquire  
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE  
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OFFICE OF DISCIPLINARY COUNSEL, :  
: Petitioner :  
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: Attorney Registration No. 17300 :  
WILLIAM JAMES HELZLSOUER, :  
: Respondent : (Allegheny County)

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.

12/14/11  
Date

Susan N. Dobbins  
Susan N. Dobbins  
Disciplinary Counsel

12/14/11  
Date

William James Helzlsouer  
William James Helzlsouer, Esquire  
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE  
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WILLIAM JAMES HELZLSOUER, :  
: Respondent : (Allegheny County)

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

Respondent, William James Helzlsouer, hereby states that he consents to the imposition of a **three-month suspension, stayed in its entirety, and that he be placed on probation for that period of time with a condition of the probation being the appointment of a practice monitor, pursuant to §89.291, Disciplinary Board Rules**, jointly recommended by Petitioner, Office of Disciplinary Counsel, and Respondent in the Joint Petition In Support Of Discipline On Consent and further states that:

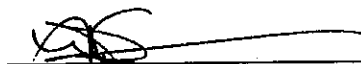
1. His consent is freely and voluntarily rendered; he is not being subjected to coercion or duress; he is fully aware of the implications of submitting the consent; and, he has not consulted with counsel in connection with the decision to consent to discipline;



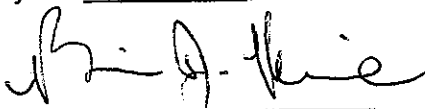
2. He is aware that there is presently pending an investigation into allegations that he has been guilty of misconduct as set forth in the Joint Petition;

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

4. He consents because he knows that if charges predicated upon the matter under investigation were filed, he could not successfully defend against them.

  
\_\_\_\_\_  
William James Helzlsouer, Esquire  
Respondent

Sworn to and subscribed  
before me this 14<sup>th</sup>  
day of December, 2011.



Notary Public

