IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, Petitioner	:	No. 1832 Disciplinary Docket No. 3
	:	No. 55 DB 2011
v.	:	
	:	Attorney Registration No. 54506
ALEXANDER Z. TALMADGE, JR., Respondent	:	(Philadelphia)

ORDER

PER CURIAM:

AND NOW, this 14th day of June, 2012, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated March 6, 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 Alexander Z. Talmadge, Jr., be subjected to public censure by the Supreme Court and that he be placed on probation for a period of one year, 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 his 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 quarterly written reports on a Board-approved form with the Secretary of the Board; and

d. Immediately report to the Secretary any violations by Respondent of the terms and conditions of probation.

3. Respondent shall take eight hours of PA Continuing Legal Education credits in the area of law practice management during the period of probation.

4. At least ten days prior to the expiration of the period of probation, Respondent shall provide to the Board his Certificates of Attendance for the courses taken.

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

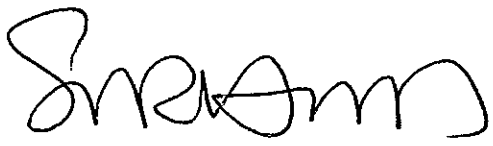
OFFICE OF DISCIPLINARY COUNSEL Petitioner	:	
	:	No. 55 DB 2011
v.	:	
	:	Attorney Registration No. 54506
ALEXANDER Z. TALMADGE, JR. Respondent	:	(Philadelphia)

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 Stephan K. Todd, Mark S. Baer, and Charlotte S. Jefferies, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on August 12, 2011.

The Panel approves the Joint Petition consenting to a Public Censure with Probation for a period of one year subject to the conditions set forth in the Recommendation attached to 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.



Stephan K. Todd, Panel Chair
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date: 3/6/2012

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, Petitioner	:	
	:	No. 55 DB 2011
v.	:	
	:	Atty. Reg. No. 54506
ALEXANDER Z. TALMADGE, Jr., 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 Harriet R. Brumberg, Disciplinary Counsel, and by Respondent, Alexander Z. Talmadge, Jr., Esquire, file this Joint Petition In Support of Discipline on Consent under Pennsylvania Rule of Disciplinary Enforcement (Pa.R.D.E.) 215(d), and respectfully represent that:

I. BACKGROUND

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

2. Respondent, Alexander Z. Talmadge, Jr., was admitted to practice law in the Commonwealth on December 15, 1988.

3. Respondent maintains an office for the practice of law at 7149 Ardleigh Street, Philadelphia, PA 19119.

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.

II. FACTUAL ADMISSIONS AND RULES OF PROFESSIONAL CONDUCT VIOLATED

5. Respondent specifically admits to the truth of the factual allegations and conclusions of law contained in paragraphs 1 through 39.

III. CHARGE

6. On June 13, 2006, Ms. Shariff Roseboro's 1997 Kia Sportage was towed to Value Kia, Philadelphia Auto Mall, 6501 Essington Avenue, Philadelphia, PA 19153 (Value Kia) for repairs; on June 16, 2006, Ms. Roseboro was informed that her car was fixed, paid for the repairs, and retrieved her car.

7. Value Kia failed to properly repair Ms. Roseboro's car, and on June 19, 2006, Value Kia towed her car to its service department for further repairs.

8. Prior to Value Kia's towing her car, Ms. Roseboro rented an automobile.

a. Ms. Roseboro refused to pay for the additional repairs on her car, and as a result, Value Kia refused to return Ms. Roseboro's car to her.

9. On or before September 13, 2006, Ms. Roseboro retained Respondent to pursue claims, and if necessary, to commence and prosecute a lawsuit against Value Kia for its failure to properly repair her car.

a. Respondent failed to provide Ms. Roseboro with a written fee agreement setting forth the basis or rate of his fee.

10. By letter dated September 13, 2006, Respondent wrote to Mark Hopkins at Value Kia:

a. requesting that Value Kia return Ms. Roseboro's car and refund her repair payments or Respondent would sue Value Kia within ten days; and

b. advising Value Kia that Ms. Roseboro also had to incur the cost of a rental car

because Value Kia retained custody of Ms. Roseboro's car.

11. By letter dated March 28, 2007, Respondent wrote to Mr. Hopkins at Value Kia:

a. inquiring about the status of Ms. Roseboro's car;

b. reminding Value Kia that Ms. Roseboro had to rent a car since June 2006; and

c. requesting that Value Kia contact Respondent upon receipt of his letter so that Ms. Roseboro could retrieve her vehicle.

12. By letter dated April 18, 2007, Respondent wrote to Mr. Hopkins:

a. stating that this was Respondent's third letter regarding Ms. Roseboro's vehicle; and

b. requesting that Mr. Hopkins contact Respondent upon receipt of his letter so that Ms. Roseboro could retrieve her vehicle.

13. On June 9, 2008, Respondent filed a complaint against Value Kia on behalf of Ms. Roseboro in the Court of Common Pleas of Philadelphia County.

14. On September 17, 2008, the Honorable Allan L. Tereshko entered a Case Management Order informing Respondent that:

a. a mandatory pretrial settlement conference would be scheduled after April 6, 2009;

b. fifteen days prior to the conference, all counsel must serve upon opposing counsel a pretrial settlement conference memorandum; and

c. a copy of the pretrial settlement conference memorandum must be submitted to the Court at the time of the conference.

15. Respondent received a copy of Judge Tereshko's Order.

16. Respondent received notice that the Court set a settlement conference date of April 16, 2009.

17. Respondent failed to submit a completed pretrial settlement conference memorandum to the Court.

18. By Order dated April 16, 2009, the Honorable Sandra Mazer Moss imposed sanctions of $250 upon Respondent for Respondent's failure to provide the Court with a completed pretrial settlement conference memorandum and warned that Respondent's failure to comply with its

sanction Order may result in the imposition of further sanctions.

a. On April 23, 2009, the Court sent to Respondent a copy of the sanction Order.

19. Respondent received notice of the sanction Order.

20. Respondent failed to inform Ms. Roseboro that the Court had imposed sanctions on Respondent.

21. By Order dated May 22, 2009, the Court set a Rule Returnable hearing date of June 9, 2009.

a. On May 26, 2009, the Court provided Respondent with notice of the hearing.

22. Respondent received notice of the Rule Returnable hearing date.

23. Respondent failed to appear for the June 9, 2009 Rule Returnable hearing.

24. On June 9, 2009, Judge Moss entered an Order of "*non pros*" in Ms. Roseboro's case due to Respondent's failure to appear for the Rule Returnable hearing.

a. On June 10, 2009, the Court sent to Respondent a copy of the Order of *non pros*.

25. Respondent received a copy of the Order.

26. Respondent engaged in conduct prejudicial to the administration of justice when Respondent:

a. failed to submit a pretrial conference memorandum to the Court; and

b. failed to appear for the June 9, 2010 Rule Returnable hearing.

27. In or around July 2010, Respondent met with Ms. Roseboro, during which time:

a. Ms. Roseboro asked Respondent the status of her legal matter; and

b. Respondent told Ms. Roseboro, "I got it under control."

28. Respondent's statement to Ms. Roseboro that "I got it under control" was misleading in that Respondent failed to inform Ms. Roseboro that her case had been dismissed on June 9, 2009.

29. Respondent failed to act with reasonable diligence in the handling of Ms. Roseboro's legal matter.

30. Respondent's failure to handle Ms. Roseboro's case with reasonable diligence personally prejudiced Ms. Roseboro in that:

a. on June 10, 2010, FIA Card Services filed a lawsuit against Ms. Roseboro for payment of her car rental; on October 14, 2010 Ms. Roseboro settled the lawsuit for $24,945.28; and

b. as of July 2010, Ms. Roseboro continued to pay car insurance on her Kia Sportage, which was in possession of Kia Value.

31. By his conduct as alleged in paragraphs 6 through 30 above, Respondent violated the following Rules:

a. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;

b. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter;

c. RPC 1.5(b), which states that 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;

d. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation; and

e. RPC 8.4(d), which states that it is professional misconduct for a lawyer to

engage in conduct that is prejudicial to the administration of justice.

III. JOINT RECOMMENDATION FOR DISCIPLINE

32. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a Public Censure and one year of probation subject to the following conditions: Respondent is to select a practice monitor and complete 8 hours of CLE in the area of law practice management during the term of probation.

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

34. ODC and Respondent respectfully submit that there are the following aggravating factors:

a. Respondent has a record of private discipline for engaging in conduct similar to that of the instant matter. On March 14, 2003, Respondent received a Private Reprimand in C1-02-243; on February 11,

2005, Respondent received an Informal Admonition in C1-04-399; and on August 27, 2009, Respondent received an Informal Admonition in C1-09-38.

b. Respondent has numerous open liens and judgments.

1. Respondent has 6 open Court of Common Pleas Court liens totaling $513,015.01; and

2. Respondent has 3 open Municipal Court liens totaling $16,400.

35. ODC and Respondent respectfully submit that there is the following mitigating factor:

a. By virtue of Respondent signing this Discipline on Consent, Respondent has expressed recognition of his violations of the Rules of Professional Conduct.

36. A Public Censure is often imposed on attorneys who have received private discipline for neglecting client matters and then continue to engage in similar misconduct in one or two additional client matters. *See, e.g.*, ***Office of Disciplinary Counsel v. Canuso***, 167 DB 2007, D.Bd. Rpt. 4/11/2008 (S.Ct. Order 7/29/2008)(attorney who failed to file appellate briefs in two client matters and had received an Informal Admonition and Private Reprimand for

similarly neglecting client matters received a Public Censure on Consent); ***Office of Disciplinary Counsel v. Wentworth D. Vedder***, No. 161 DB 2007, D.Bd. Rpt. 12/13/2007 (S.Ct. Order 3/26/2008)(attorney who had received two Informal Admonitions and one Private Reprimand for failing to diligently handle client matters received a Public Censure on consent for neglecting one appellate matter); ***Office of Disciplinary Counsel v. Edward C. Meehan***, No. 26 DB 2006, D.Bd. Rpt. 6/27/06 (S.Ct. Order 9/18/06)(attorney who had received an Informal Admonition and Private Reprimand for neglecting appellate matters received a Public Censure on consent for failing to diligently pursue two appellate cases).

See also, ***Office of Disciplinary Counsel v. Scott DiClaudio***, No. 522 DB 2010, D.Bd. Rpt. 12/21/11 (S.Ct. Order 4/28/2011)(Supreme Court imposed a three-month stayed suspension and one year of probation with a practice monitor on an attorney who did not testify candidly at his disciplinary hearing, neglected one client matter, and had a record of two Informal Admonitions involving three client matters); ***Office of Disciplinary Counsel v. Edward James McIntyre***, No. 68 DB 2010 (D.B. Rpt. June 27, 2011) (Disciplinary Board recommended that an attorney with no record of discipline who neglected two client matters

receive a Public Censure and one year of probation, take the Bridge the Gap course, and take 8 hours of PA CLE in the area of Law Practice Management).

37. Respondent has received private discipline for neglecting both his clients and his license to practice law. In C1-02-243, Respondent received a Private Reprimand for failing to provide a written fee agreement, diligently pursue his client's EEOC matter, and communicate with his client. Respondent's neglect resulted in the EEOC judge dismissing Respondent's client's case and his client losing her right to a hearing. In C1-04-399, Respondent received an Informal Admonition for failing to diligently handle another client's EEOC matter, communicate with his client, and refund his unearned fee upon the termination of the litigation.

In C1-09-38, Respondent received his second Informal Admonition. In this matter, Respondent failed to communicate with his client and engaged in the unauthorized practice of law while he was on inactive attorney status. Respondent also neglected to send written notices to his clients advising his clients that he was on inactive status, advise the clients with whom he spoke that he was no longer eligible to practice law in Pennsylvania, and discontinue the operation of his law office.

Finally, Respondent has neglected his personal finances. He has nine open liens and judgments against him. As a result of these liens and judgments, Respondent owes his creditors $529,415.

38. Given that Respondent is a serial neglector and has failed to heed the advice he received during the course of private discipline, more serious discipline is warranted herein. It is appropriate to increase the quantum of discipline imposed when an attorney who has received private discipline fails to conform his conduct to the Rules of Professional Conduct. *See, supra.* Accordingly, consistent with established precedent cited above, ODC and Respondent jointly recommend that Respondent receive a Public Censure and one year of probation subject to the following conditions: Respondent is to select a practice monitor and complete 8 hours of CLE in the area of law practice management during the term of probation.

39. Mandating that Respondent receive a Public Censure with one year of probation and a practice monitor and take 8 hours of CLE in the area of law practice management should protect the public and the court system and deter Respondent from engaging in future 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 that Respondent receive a Public Censure, be placed on one year of probation with a practice monitor, and be required to take 8 hours of CLE in the area of law practice management during the term of probation; and

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

7/28/11
Date

By _____
Harriet R. Brumberg
Disciplinary Counsel

8/11/11
Date

_____
Alexander Z. Talmadge, Jr.
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
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OFFICE OF DISCIPLINARY COUNSEL, Petitioner	:	
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ALEXANDER Z. TALMADGE, Jr., 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.

7/28/11
Date

Harriet R. Brumberg
Disciplinary Counsel

8/11/11
Date

Alexander Z. Talmadge, Jr.
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
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OFFICE OF DISCIPLINARY COUNSEL, Petitioner	:	
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AFFIDAVIT UNDER RULE 215(d), Pa.R.D.E.

Respondent, Alexander Z. Talmadge, Jr., hereby states that he consents to the imposition of a Public Censure and one year of probation subject to the condition that he select a practice monitor and complete 8 hours of CLE in the area of law practice management during the term of probation, 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 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 knows that if the charges pending against him continue to be prosecuted in the pending proceeding, he could not successfully defend against them.

Alexander Z. Talmadge, Jr.

Sworn to and subscribed
before me this 11th
day of August, 2011.

Notary Public

NOTARIAL SEAL
DARNELL S GEATHERS
Notary Public
PHILADELPHIA CTY, PHILADELPHIA CNTY
My Commission Expires Dec 17, 2011