BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, Petitioner	:	No. 334 Disciplinary Docket No. 3
v.	:	No. 36 DB 1995
[ANONYMOUS] Respondent	:	Attorney Registration No. [ ] ([ ] 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 March 15, 1995, a Petition for Discipline was filed by Office of Disciplinary Counsel against Respondent, [ ]. The Petition contained twelve charges, each alleging multiple violations of the Rules of Professional Conduct and the Disciplinary Rules (due to the older nature of the charges). One charge was subsequently withdrawn by Petitioner. The Petition alleged

that Respondent's misconduct began in 1987 and consisted of misappropriation of and continued failure to properly administrate past and present escrow funds; fabrication of court orders wherein Respondent signed a judge's conformed signature and attempted to pass the documents to his client as authentic; repeated misrepresentation to clients, counsel, and third parties; representing clients in a jurisdiction in which Respondent was not admitted; and failure from 1991 until 1996 to have an escrow account. Respondent did not file an Answer to the Petition.

Hearings were held on June 15, August 30, and October 26, 1995, and April 11, 1996, before Hearing Committee [ ] comprised of Chairperson [ ], Esquire, and Members [ ], Esquire, and [ ], Esquire. Respondent was represented at the hearings by [ ], Esquire. Petitioner was represented by [ ], Esquire. The Committee filed its Report on September 27, 1996 and recommended a four year period of suspension. Petitioner filed a Brief on Exceptions on October 16, 1996 and contends that Respondent should be disbarred. Respondent filed a Brief on Exceptions and Contra Petitioner's Exceptions on November 4, 1996 and contends that the appropriate sanction is a period of probation. Petitioner filed a Brief Opposing Respondent's Brief on November 19, 1996.

Oral argument was requested by Respondent and held before a three member panel of the Disciplinary Board on January

24, 1997. This matter was adjudicated by the Disciplinary Board at the meeting held on January 29, 1997.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is now located at Suite 3710, One Oxford Centre, Pittsburgh, Pennsylvania, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement (hereafter Pa.R.D.E.), 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, [ ], was admitted to practice law in this Commonwealth on October 21, 1977, maintains his office at [ ] and is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania. (P.E. 2, Stip. 2)

CHARGE ONE ([A])

3. On or about June 23, 1987, [A] was involved in a vehicular accident in [ ], [ ] County, Pennsylvania, when her car was struck from behind by a vehicle operated by [B] of [ ]. [A] sustained personal injuries in the accident. (P.E. 2, Stip. 3)

4. In August 1987, respondent was retained by [A] on a one-third contingency fee basis to pursue any claims arising from the June 1987 accident with [B]. (P.E. 2, Stip. 4)

5. In January 1988, [A] was injured in a vehicular

accident while a passenger in a car operated by [C] of [ ], Pennsylvania. Respondent was retained by [A] on a one-third contingency fee basis to pursue any claims arising from this accident. (P.E. 2, Stip. 5)

6. In June 1989, respondent filed a Praecipe for a writ of summons in [ ] County in a case captioned [A] v. [B] and [D] at No. [ ] of 1989. Respondent caused the summons to be timely served. (P.E. 2, Stip. 6; 4 [docket]; 4(a) [praecipe])

7. Between January 1988 and December 1990, [A] would periodically contact respondent regarding the status of her accident claims. (P.E. 2, Stip. 7)

8. Around the spring or summer of 1990, respondent falsely advised [A] that he had negotiated a $1,000 settlement relative to the January 1988 accident with [C]. (P.E. 2, Stip. 8)

9. Respondent neither filed any suit on behalf of [A] relative to the personal injuries she sustained in the January 1988 accident with [C] within the applicable statute of limitations nor made any demands of the potential defendants, their insurers, or any others on behalf of [A]. (P.E. 2, Stip. 9)

10. On December 10, 1990, [A] called respondent and expressed her dissatisfaction with the delays in his handling of her claims arising from the [B] and [C] accidents. Respondent misrepresented to her that he had settled her claims against the [B] for $17,500 and asked her to come to his office to sign a release. On December 10, 1990, [A] went to Respondent's office and signed what Respondent contended was a release. Respondent

misrepresented to her that the settlement check should be received in about two weeks. (P.E. 2, Stip. 10)

11. In December 1990 and January 1991, [A] periodically contacted Respondent regarding the [B] settlement. On February 1, 1991, Respondent misrepresented that the settlement check had been received. Respondent told [A] to come to his office on February 4, 1991 to receive her share of the settlement proceeds. (P.E. 2, Stip. 11)

12. On February 4, 1991, [A] went to Respondent's office and he misrepresented to her that he did not have the [B] settlement check because he had not yet had the opportunity to go to some insurance office to pick it up. (P.E. 2, Stip. 12)

13. On February 4, 1991, Respondent also misrepresented to [A] that he had made a settlement of $1,000 relative to the January 1988 accident with [C]. (P.E. 2, Stip. 13)

14. On February 4, 1991, Respondent gave [A] his check No. 3821 for $666.67 drawn on his office account No. [ ] at the [E] ("Office Account") and misrepresented this as the two-thirds of the $1,000 she was entitled to as a result of the settlement of her claims evolving from her claims against [C]. (P.E. 2, Stip. 14; P.E. 5 [check])

15. At their meeting on February 4, 1991, [A] asked to see the insurance company check for $1,000 and Respondent misrepresented that it had not yet been received. (P.E. 2, Stip. 15)

16. Respondent has never advised [A] that she was

time-barred from suing relative to the January 1988 accident with [C]. (N.T. 530)

17. Respondent has never advised [A] that the $1,000 settlement with [C] was fabricated by him. (N.T. 530)

18. Respondent never advised [A] that in the [C] matter Respondent's legal and pecuniary interests became adverse to those of [A] upon the event of the fabricated [C] settlement and thereafter.

19. Subsequent to February 4, 1991, [A] told Respondent that she intended filing a complaint with the Petitioner if Respondent did not give her appropriate information regarding the [B] settlement. In response, on February 13, 1991, Respondent misrepresented to [A] that he had the [B] settlement check for $17,500 in his possession and asked that she meet him at the [ ] County Courthouse the next day. (P.E. 2, Stip. 18)

20. [A] met with Respondent at the [ ] County Courthouse on February 14, 1991, at which time he gave her a copy of a check purporting to be for $17,500 and misrepresented that as the settlement check received from the [B's] insurer. (P.E. 2, Stip. 19; P.E. 6 [check])

21. Respondent fabricated the copy of the check for $17,500 he provided to [A]. (N.T. 492-493)

22. On February 14, 1991, Respondent gave [A] his check No. 3844 for $11,627.83 drawn on his Office Account at the [E] Bank and misrepresented this amount as the two-thirds due [A] from the [B] settlement of $17,500. (P.E. 2, Stip. 20; P.E. 7

[check])

23. Subsequent to February 14, 1991, [A] asked Respondent for her files regarding the two accident claims (N.T. 497), but Respondent has never given her those papers. (N.T. 536)

24. By letter dated February 14, 1991, Respondent wrote to [F] Insurance Company and proposed settling for $35,000 the claims of [A] against the [B]. (P.E. 2, Stip. 22; P.E. 8 [letter])

25. By letter of March 27, 1991, the insurer asked Respondent to document his demands. (P.E. 2, Stip. 23; P.E. 9 [letter])

26. Respondent has never advised [A] that the [C] and [B] settlements were fabrications. (N.T. 499, 546)

27. Respondent has never advised [A] that relative to the [B] claim he made a demand for $35,000 which he did not thereafter pursue. (N.T. 547)

28. Respondent never advised [A] that relative to the [B] matter, Respondent's legal and pecuniary interests became adverse to her legal and pecuniary interests when he fabricated the settlements.

CHARGE TWO ([G])

29. In December 1988, [G] retained Respondent to represent him regarding a fence dispute he had with his neighbors, [ ] and [ ] [H]. (P.E. 2, Stip. 27)

30. By checks dated December 13, 1988, [G] gave Respondent his requested retainer of $375.00 and the $50.00 he

requested for the costs of filing and serving a complaint. Respondent never communicated to [G], in writing, the rate or basis of his fee. (P.E. 2, Stip. 28; P.E. [$375 check]; P.E. 13 [$50 check])

31. By letter of January 3, 1989, Respondent sent [G] a complaint in equity which concerned the fence disputed, captioned [ ] [G] and [ ] [G], his wife v. [ ] [H] and [ ] [H]. [G] executed the verification and returned the documents to Respondent. (P.E. 2, Stip. 29; P.E. 14 [letter]; P.E. 15 [Complaint in Equity])

32. Respondent never filed the [G] complaint against the [H]. (P.E. 2, Stip. 30)

33. During 1989, [G] would periodically contact Respondent and Respondent would misrepresent that litigation against the neighbors was progressing. (P.E. 2, Stip. 31; N.T. 420)

34. When [G] would periodically contact Respondent in the first ten months of 1990, Respondent continued to misrepresent that the litigation was progressing. (P.E. 2, Stip. 32; N.T. 420)

35. In November 1990, Respondent misrepresented to [G] that Judge [I] of the Court of Common Pleas of [ ] County had signed an order directing that the fence be removed and granting [G] an easement over part of the neighbors, property. (P.E. 2, Stip. 33)

36. Respondent misrepresented to [G] that the neighbors had 60 days to remove the fence. (N.T. 422)

37. [G] went to Respondent's office and was given a copy of a purported order of November 20, 1990, bearing the conformed signature of Judge [I]. No such order existed and the order Respondent gave to [G] had been fabricated by Respondent. (P.E. 2, Stip. 34; P.E. 16 [Order])

38. Respondent gave the fabricated order of November 20, 1990 to his client, [G], to put him off. (N.T. 421)

39. Between November 1990 and March 1991, Respondent advised [G] that, as directed by the purported order of Judge [I] of November 20, 1990, the fence should have been removed. (P.E. 2, Stip. 35)

40. In March 1991, Respondent prepared a Petition for Contempt that set forth that the defendants, [ ] and [ ] [H], were in contempt of the Order of November 20, 1990, directing them to remove the fence within 60 days and requesting that the defendants be found in contempt and that relief be granted. On March 8, 1991, [G] executed the verification to this Petition. (P.E. 2, Stip. 36; P.E. 17 [Petition and Verification])

41. In April 1991, Respondent misrepresented to [G] that based on the Petition for Contempt, Judge [I] had ordered the defendants to remove the fence within 72 hours. (N.T. 373)

42. Respondent gave [G] a copy of a purported Order of April 3, 1991, reflecting the conformed signature of Judge [I] and reflecting that the Order was filed at Case No. [ ] of 1988, which Order directed that the fence be removed. (N.T. 374; Petitioner's Exhibit 18 [Order])

43. The Order of April 3, 1991 was fabricated by Respondent. (N.T. 423)

44. Respondent misrepresented the Order of April 3, 1991 as valid to his client. (N.T. 423)

45. Respondent misrepresented to his client, [G], that the Order of April 3, 1991 meant that the fence had to be removed. (N.T. 424)

46. The case actually filed at No. [ ] of 1988 had been finalized in October 1990 and had nothing to do with the [G] dispute. (N.T. 388-389; Petitioner's Exhibit 26 [docket])

47. Respondent does not know why he used the case number of No. [ ] of 1988 on the court documents he fabricated, and he did not know if there was actual litigation filed to that case number. (N.T. 423)

48. [G] had [J], Esquire contact Respondent in May 1991 and Respondent initially misrepresented to Attorney [J] that based on a stipulated order, the fence was to be removed. Respondent had hired a contractor to remove the fence but that upon visiting the site, the contractor refused to do the work and that Respondent was then attempting to hire a new contractor. (N.T. 390-391)

49. Upon his retention by [G], and thereafter, Attorney [J] relied on the documents and orders as fabricated by Respondent and considered them valid until the fall of 1991 when no one appeared in court in response to the Court's contempt citation. (N.T. 404)

50. Respondent did not reveal to Attorney [J] the true circumstances of [G's] legal claims and that Respondent had done absolutely nothing on behalf of [G]. (N.T. 427-431)

51. Respondent failed to return numerous calls of Attorney [J] and, therefore, [J], by letter of August 13, 1991, wrote to Respondent and asked that Respondent call him concerning the [G] matter. (N.T. 431; Petitioner's Exhibit 19 [letter])

52. Respondent made no response to Attorney [J's] letter of August 13, 1991. (N.T. 385, 386, 391, 400, 409, 433)

53. On August 19, 1991, [G] wrote to Judge [I] and enclosed copies of the complaint, the October 10, 1990 Order, the Petition for Contempt and the April 3, 1991 Order and requested assistance from the Judge. (Petitioner's Exhibit 20; N.T. 375-376)

54. On September 30, 1991, Judge [I] issued a Rule on [ ] and [ ] [H] to show cause why they should not be held in contempt and relief be granted to the plaintiffs.

55. The Rule issued by Judge [I] on September 30, 1991 (Petitioner's Exhibit 21) was issued to the case number which Respondent had placed on the documents he fabricated, which case number was for a prior existing case between other parties. (Petitioner's Exhibit 26 [docket for No. 45-E of 1988, Borough of [ ] v. [K]])

56. On November 4, 1991, [G] and Attorney [J] appeared before Judge [I] for the scheduled hearing on the contempt and requested that a capias be issued for the Defendants, the

neighbors of [G], as the Defendants had not appeared for the hearing. (N.T. 387-388)

57. Subsequent to the November 4, 1991 hearing, Attorney [J] and Judge [I's] staff determined that the documents Respondent had given [G] were fabricated. (N.T. 388-389)

58. By letter of November 22, 1991, Judge [I] notified Respondent and Attorneys [J] and [L] that on December 19, 1991, a hearing would be held on the [G] v. [H] matter that Respondent had represented was filed in [ ] County to No. [ ] of 1988. (P.E. 2, Stip. 47; P.E. 22 [letter])

59. Respondent received Judge [I's] letter of November 22, 1991. (P.E. 2, Stip. 48)

60. Judge [I] held a hearing on December 19, 1991, and rescinded his contempt order of September 30, 1991 and issued a Rule on Respondent to show cause why Respondent should not return [G's] papers to him by January 14, 1992. By letter of January 10, 1992, Respondent returned [G's] file to him. (P.E. 2, Stip. 49; P.E. 23 and P.E. 24 [Orders]; P.E. 25 [Respondent's letter of [G]])

61. Respondent has failed to return to [G] the total of $425.00 Respondent received in December 1988 and the $375 fee portion was totally unearned. (N.T. 416)

62. Respondent's Escrow Account No. [ ] at the [E] Bank of [ ], Pa. (hereafter "Escrow Account") was overdrafted repeatedly in April, May, and June 1990 (Petitioner's Exhibit 91, pp. 6-8), closed in October 1991 (Petitioner's Exhibit 91), and

since that account was closed, he has had no escrow account. (N.T. 764)

63. Respondent's office account No. [ ] at the [E] Bank of [ ], Pa. ("Office Account") was overdrafted repeatedly in November and December 1991 and in January 1992. (Petitioner's Exhibit 94)

64. Of the $425 Respondent received from [G] in December 1988, $50 was for costs and represented escrow funds that Respondent appropriated and converted to his own uses.

65. Respondent did nothing to earn any of the $375 he received for advanced fees and those funds were misappropriated by him.

66. Attorney [J] filed a claim (N.T. 396) to the Client Security Fund (now the PA Lawyers Fund for Client Security) which paid [G] the claim.

CHARGE THREE ([M])

67. On May 2, 1988, [M] suffered personal injuries while a passenger on a bus operated by the [N] County Transportation Authority. Shortly after the accident, [M] retained Respondent to seek compensation for her injuries. (P.E. 2, Stip. 53)

68. There was no written fee agreement between Respondent and [M] and she was never given, in writing, the rate or basis of Respondent's fees. (N.T. 229-230)

69. On April 18, 1990 Respondent filed in the [ ] County Court of Common Pleas a Praecipe for a Writ of Summons on

behalf of [M] and against the [N] Transportation Authority. The Summons was docketed to No. [ ]. (P.E. 2, Stip. 54; P.E. 29 [docket]; P.E. 29(a) [Summons])

70. Respondent never caused the Summons in the [M] case to be served. (Petitioner's Exhibit 1, Petition for Discipline; Admitted of Record, N.T. 297)

71. Respondent simply did not have the Summons served (N.T. 656), although he was aware of that necessity and familiar with the procedure. (N.T. 670)

72. Subsequent to Respondent obtaining the Summons, [M] would contact him periodically about the progress of her case. (P.E. 2, Stip. 56)

73. In or about early 1992, Respondent misrepresented to [M] that her case was scheduled for trial. (N.T. 232)

74. In 1992, Respondent told [M] to come to his office on what Respondent contended was the date of the trial to be held on her claim and he took her to the [ ] County Courthouse for trial. After arriving at the court house, Respondent misrepresented to [M] that the trial of her case had been postponed. (N.T. 232, 243-245)

75. Respondent told [M] that he thought he could settle the case for $15,000. (P.E. 2, Stip. 58)

76. On July 30, 1992, [M] met with Respondent at his office and Respondent told her that he could settle her case for $13,000 and had her sign a Release for that amount. (N.T. 234-235, 245-246; Petitioner's Exhibit 30 [Release])

77. Subsequent to the Release for $13,000 being signed, Respondent misrepresented to [M] that he had settled her case and that he was expecting to receive the settlement. (N.T. 234-235)

78. The insurance company that handles claims against the [N] Transportation Authority is [O]. [O] has never received any written communications from Respondent relative to any claim of [M]. (Petitioner's Exhibit 1, Petition for Discipline, Par. No. 63; Admitted of Record with the addition of the word "written," N.T. 296)

79. On November 3, 1992, [M] wrote her last letter to Respondent and requested that he respond to her inquiries and conclude her case. He made no response and has never communicated with her. (N.T. 238-239; 250)

80. On September 7, 1993, Respondent filed a Notice of Intention to Complete Case in the action he had initiated by Summon for [M]. (Petitioner's Exhibit 29; Petitioner's Exhibit 29(a))

81. [M] retained new counsel and her claims against the Transportation Authority were then pursued. (N.T. 236)

82. In New Matter filed November 13, 1993, the Transportation Authority, *inter alia,* raised the defenses based upon a failure of the Plaintiff to toll the applicable statute of limitations, and of the fact that the Plaintiff, [M], had executed the release of July 30, 1992 for $13,000. (Petitioner's Exhibit 29(g))

83. On December 9, 1993, the Transportation Authority filed a Motion for Summary Judgment based on the failure of the Plaintiff when represented by Respondent to serve the Summons. (Petitioner's Exhibit 29(g))

84. By Order of February 3, 1994, the Motion for Summary Judgment of the Defendant, [N] Transportation Authority, was granted against the Plaintiff, [M], in the action Respondent had initiated for [M]. (Petitioner's Exhibit 29(k))

85. Respondent's failure to proceed appropriately for [M] resulted in her being barred from pursuing her claim for personal injuries against the [N] Transportation Authority.

86. [M's] counsel contacted Respondent concerning his liability to [M]. Respondent has made no arrangements to compensate [M] for her losses and has no malpractice insurance. (N.T. 667-668)

CHARGE FOUR ([P])

87. In 1991, Respondent was representing [P] relative to property settlement matters between her and her ex-husband, [Q]. (P.E. 2, Stip. 67)

88. [P and Q] agreed that title to the marital residence would be conveyed to [P] for the consideration of $10,000, to be paid to or on behalf of [Q]. (P.E. 2, Stip. 68)

89. At the time of the [P and Q] transaction in and subsequent to December, 1991, Respondent personally handled, and was responsible for, all financial accounts and records relating to this practice. (N.T. 592)

90. Respondent's escrow account No. [ ] at the [E] Bank of [ ], PA ("Escrow Account") had been closed in October, 1991. (N.T. 580; P.E. 91 and 93 [account summary for Escrow Account])

91. A closing on the [P and Q] real estate, located at [ ], was scheduled by Respondent, as the settlement agent, for December 31, 1991. [P] was financing the transaction through a mortgage with the [R] Bank of [ ]. (P.E. 2, Stip. 69)

92. On December 27, 1991, Respondent improperly utilized his [E] Bank office account No. [ ] (hereafter "Office Account") relative to a real estate settlement involving a [S], for which Respondent received escrow funds of $116,986.86, and which funds were then commingled in the Office Account. (N.T. 601; P.E. 94, page 5, item #86 [account summary for Office Account])

93. Respondent intentionally commingled the $116,986.86 he received for the [S] transaction in his Office Account. (N.T. 623-624)

94. Between November 21, 1991, and the deposit of the real estate settlement proceeds of $116,986.86 relative to [S] on December 27, 1991, Respondent's Office Account was repeatedly overdrafted and never had a balance in excess of $1,394.77. (P.E. 94, pps. 1-4)

95. On December 9, 1991, Respondent wrote on his Office Account his check No. 4222 for $12,050.00, and payable to parties named [T]. (P.E. 94, page 6, item #102; P.E. 100 [check])

96. The closing balance in the Office Account on December 9, 1991, and upon which Respondent's check No. 4222 to [T] for $12,050.00 was written, was $683.30. (P.E. 94, p. 3, item nos. 43-46)

97. On December 30, 1991, Respondent had improperly utilized his Office Account relative to a divorce and property settlement involving parties named [U], in which Respondent received $8,000.00 in escrow funds from an Attorney [V], and which funds were on that date deposited to the Office Account. (N.T. 602 and 608; P.E. 94, p. 6, item #92)

98. Respondent intentionally commingled the $8,000.00 he received for [U] in his Office Account. (N.T. 626)

99. On December 31, 1991, the date of the [P and Q] closing, Respondent's Office Account at the [E] Bank was overdrafted by $3,953.22, when it should have contained at least the $8,000.00 relative to [U]. (P.E. 94, p. 6; N.T. 603)

100. The overdraft of $3,953.22 on December 31, 1991, was caused by the payment on that date of Respondent's check No. 4241 for $111,557.86, which sum was payable from the $116,986.86 deposited December 27, 1991 relative to the [S] real estate transaction. (P.E. 94, p. 5, item #86; p. 6, item #103; N.T. 615)

101. The records for Respondent's Office Account reflect that part of the [S] real estate settlement proceeds commingled by Respondent in his Office Account were utilized in payment of his check #4222, of December 9, 1991, for $12,050.00, which check was paid on December 31, 1991. (P.E. 94, p. 6, item

#102; P.E. 100 [check])

102. The $12,050.00, paid by Respondent's bank on December 31, 1991, on his check No. 4222, related to his representation of an [T] and was a payment of Respondent's personal obligation to the heirs of the [T] estate, relative to which obligation Respondent had received no funds. (N.T. 614-617)

103. Respondent's check of December 9, 1991 to the [T] family for $12,050.00, in satisfaction of his personal obligation, was paid on December 31, 1991, in all or substantial part, from escrow funds Respondent had received relative to his clients [S], [P] and [U]. (P.E. 94)

104. Respondent's use of escrow funds of his clients in payment of his personal obligation of $12,050.00 to the heirs of his prior client, [T], constitutes the conversion by him of those escrow funds.

105. On December 31, 1991, the same day as the [P and Q] closing, Respondent wrote, on his Office Account, his check No. 4246 for $7,625.00 and payable to [U]. (P.E. 94, p. 7, item #115; N.T. 604)

106. At the December 31 1991 closing Respondent, as the settlement agent, received $10,000.00 from [P], which sum was distributable $8,604.76 to [Q] and $1,395.24 to the Pennsylvania Department of Public Welfare ("DPW"). (P.E. 2, Stip. 70, P.E. 36 [settlement sheets])

107. On behalf of his client, [P], Respondent also received at the closing other escrow funds relative to a title

policy, taxes, insurance, utilities and recording fees. (P.E. 2, Stip. 71; P.E. 36)

108. The total of the escrow funds received by Respondent for the [P and Q] transaction was $11,014.63, as represented by the check of [R] Bank, the mortgagee, payable "[Respondent], Esq., Approved Attorney for [W] Insurance Co., and [P]." (P.E. 95 [check and deposit ticket])

109. [P] expected Respondent to immediately satisfy the financial obligations arising from the closing and Respondent was not authorized to personally utilize these funds in any manner. (N.T. 293)

110. On December 31, 1991, Respondent attempted to deposit the [P and Q] mortgage proceeds check of $11,014.63 to his Escrow Account but because that account was closed, the bank deposited these funds to Respondent's Office Account. (P.E. 95 [check and deposit ticket]; P.E. 94, page 6, item #108 [account summary for Office Account])

111. Respondent knew on December 31, 1991 that his Escrow Account was closed and that he was mishandling escrow funds of clients in addition to [P].

112. On January 2, 1992, Respondent covered the $3,953.22 overdraft in his Office Account by an attempted deposit of $4,060.00, making the balance in the account then $78.92. (P.E. 94, p. 6, item #107)

113. Of the $4,060.00 deposited to the Office Account on January 2, 1992 by Respondent to cover the overdraft, $1,850 of

that total was a check Respondent drew on the closed Escrow Account (P.E. 94, p. 6, item #107) and that amount was charged back to the Office Account on January 3, 1992 (P.E. 94, p. 7, item #1171, N.T. 606-607)

114. On January 2, 1992, Respondent wrote check No. 1348 for $8,604.24, which should have been for $8,604.76, on his Escrow Account, at the [E] Bank, payable to [X], Esquire, and [Q], and representing the net sum due [Q] from the closing. Respondent transmitted this check to Attorney [X]. (P.E. 2, Stip. 72; P.E. 37 [check])

115. On January 2, 1992, Respondent wrote his check No. 4249 for $212.63 on his Office Account and payable to his client, [P], as the net proceeds due her from the December 31, 1991 closing. (P.E. 94, p. 7, item #116; P.E. 96 [check])

116. Respondent knew when he wrote the Escrow Account check of January 2, 1992 to Attorney [X] for $8,604.24 that the Escrow Account was closed and that the check would not be paid.

117. On January 2, 1992, the [P and Q] settlement proceeds of $11,014.63 were credited to the [E] Bank Office Account and the balance was then $11,093.55. (P.E. 94, page 6, item #108; N.T. 603)

118. On January 3, 1992, the check of $7,625.00 to [U] on the Office Account was paid by Respondent's bank, the check of January 2, 1992 for $212.63 to his client [P] from the real estate settlement was paid, the Escrow Account check for $1,850.00 on the closed account was charged back, and the balance was then $310.87.

(P.E. 94, p. 7)

119. On January 3, 1992, Respondent should have maintained at least the $8,604.24 payable to [Q]. His Escrow Account was closed and his Office Account, to which the [P and Q] settlement proceeds had been deposited, had only a balance of $310.87. (P.E. 94, p. 7, item #118)

120. On January 3, 1992, Respondent should also have maintained, but did not, at least $1,395.24, which was part of the $11,093.95 he received from the [P and Q] settlement, and which was payable to the Department of Public Welfare. (P.E. 36; N.T. 610-611)

121. Attorney [X] deposited Respondent's escrow check No. 1348 on January 3, 1992. The check was returned by Respondent's bank as Respondent's Escrow Account was closed. (P.E. 2, Stip. 73)

122. Upon the bank returning Respondent's check of January 2, 1992, Attorney [X] demanded of Respondent that Respondent produce the $8,604.76 owed to [Q]. (P.E. 2, Stip. 74)

123. On January 10, 1992, Respondent's Office Account was overdrafted $47.65 and he borrowed $3,000.00 from his parents and deposited that amount to the account on January 13, 1992. (P.E. 94, p. 8; N.T. 608)

124. At the time of the January 10, 1992 overdraft of $47.65 in his Office Account, Respondent should have had in that account <u>at least</u> $11,887.10 comprised of the following: $8,806.86 payable to [Q]; $1,395.24 payable to the Department of Public

Welfare relative to [P and Q]; the $30.00 recording fees for the [P and Q] deed and mortgage; $1,230.00 escrowed in July, 1989 for the possible payment of inheritance tax relative to the [Y] real estate transaction; and, the $375.00 in unearned fees and the $50.00 in costs received from [G] in December, 1988.

125. The $11,887.10 for which Respondent was out-of-trust on January 10, 1992, is approximately the same amount ($12,050.00) as Respondent had paid to the [T] family in December, 1991 to satisfy his personal obligation to that family, relative to which he had received no funds, and which personal obligation related to Respondent's prior representation of the then (12/91) deceased [T].

126. Respondent gave [X] Respondent's check No. 4268, dated January 10, 1992, for $8,604.24 and drawn on his Office Account at the [E] Bank of [ ], PA. (P.E. 2, Stip. 75; P.E. 39 [check])

127. On January 10, 1992, [X] deposited Respondent's check No. 4268 to his account. The check was returned on January 14, 1992 by Respondent's bank because of insufficient funds. (P.E. 2, Stip. 77)

128. Respondent's check No. 4268 to [X] was NSF because the funds due [Q] from the December 31, 1991 settlement had been utilized to pay other of Respondent's obligations and clients. (N.T. 598; P.E. 94 [account summary])

129. By letter of January 15, 1992, Attorney [X] notified Respondent that he had 10 days to make good his check of

January 10, 1992. (P.E. 2, Stip. 79; P.E. 40 [letter])

130. On January 17, 1992, Respondent received [X's] letter of January 15 and then gave Attorney [X] a check for $8,000.00 in partial transmittal of the escrow funds payable to [Q] from the December 31, 1991 closing. This check was paid when presented by Attorney [X]. (P.E. 2, Stip. 80; P.E. 98 [check])

131. Respondent's check for $8,000.00 to Attorney [X] was drawn on Respondent's Office Account and was paid (P.E. 94, p. 10, item #168) in substantial part by an unrelated deposit of $6,500.00 to Respondent's account on January 16, 1992 (P.E. 94, p. 9, item #153)

132. Subsequent to January 17, 1992, Respondent gave Attorney [X] a check for the balance of $604.24 that was due to [Q] from the December 31, 1991 closing. This check was paid when presented by Attorney [X]. (P.E. 2, Stip. 81; P.E. 99 [check])

133. At the December 31, 1991 closing, Respondent retained escrow funds for the satisfaction of the $1,395.24 DPW lien on the property, $30.00 for the recording fees for the deed and mortgage, and $272.50 for a title policy. (P.E. 2, Stip. 82; P.E. 36 [settlement sheet])

134. Respondent did not satisfy the lien of the Department of Public Welfare until August, 1993, approximately 20 months after the closing. (P.E. 35; N.T. 611)

135. The DPW lien was satisfied with funds other than those Respondent had received at the [P and Q] closing on December 31, 1991.

136. Respondent did not file the mortgage and deed from the [P and Q] settlement of December 31, 1991 until March 25, 1992, almost three months after the closing. (P.E. 34; N.T. 611)

137. The problems in Respondent's properly and timely paying over the escrow funds payable to [Q] was caused by Respondent's improper handling and uses of the escrow funds payable to [Q] and third parties relative to the [P and Q] closing, and because of payments to or on behalf of other of Respondent's clients, and the mishandling of the funds of those other clients. (P.E. 91; P.E. 94; N.T. 596-597)

CHARGE FIVE ([Z])

138. In October, 1989 [Z] responded to Respondent's Yellow Pages advertisement that he handled bankruptcy cases. (P.E. 2; Stip. 84; N.T. 147)

139. Respondent has never been admitted to practice before any Federal Court. (N.T. 777-778)

140. On October 24, 1989, [Z] gave Respondent a check for $590.00 representing Respondent's requested fees of $500.00 and costs of $90.00 for filing and handling a bankruptcy for her. (P.E. 2; Stip. 85; P.E. 43 [check])

141. The $590.00 in fees and costs was the total to be paid to Respondent.

142. The check of October 24, 1989 for $590.00 and payable to Respondent reflects that it was negotiated by him in October, 1989 at the [E] Bank. (P.E. 43)

143. The $90.00 in costs received by Respondent were

escrow funds but were not deposited by Respondent to his Escrow Account. (P.E. 91, p. 5 [account summary])

144. The $500.00 in advanced fees paid by [Z] were escrow funds but were not deposited by Respondent to his Escrow Account. (P.E. 91, p. 5 [account summary])

145. The total of $590.00 Respondent received from [Z] in October, 1989 was immediately utilized and converted by Respondent to his own uses.

146. [Z] provided to Respondent's office complete lists of her assets, debts and debtors at the time of the initial meeting. Respondent had [Z] sign partially completed documents. (N.T. 148, 149)

147. In November 1989, [Z] and her family were being dunned by [Z's] creditors and would refer the creditors to Respondent. The creditors wanted a bankruptcy number and filing date and [Z] requested this information from Respondent. (N.T. 149-150, 167)

148. As a result of the repeated calls from creditors, [Z] met with Respondent on or about November 22, 1989, at which time Respondent gave her a piece of paper with the number [ ] written on it. The number was purportedly the bankruptcy case number assigned to her Petition. (P.E. 2; Stip. 88; N.T. 150, 164, and 674; P.E. 44 [note])

149. [Z] was advised by Respondent to provide this case number he had provided to any creditors who contacted her. (N.T 149-150; N.T. 167-168)

150. In December, 1989 and January, 1990, Respondent misrepresented to [Z] both that hearings were scheduled on her bankruptcy, and then that the hearings had been cancelled or continued. (P.E. 2; Stip. 90; N.T. 675)

151. In December, 1989, [Z] stopped driving her truck at the suggestion of Respondent and requested that Respondent contact her bank and arrange for the bank to voluntarily repossess the truck. Respondent stated that he would do as requested, but never did. (N.T. 152, 159-160, 168)

152. In early February, 1990, Respondent contacted [Z] and misrepresented that there was a bankruptcy hearing scheduled for February 5, 1990, at the Federal Courthouse in [ ].

153. Respondent met with [Z] and her father before the allegedly scheduled hearing. (P.E. 2; Stip. 93; N.T. 152-153)

154. Respondent, on February 5, 1990, misrepresented to [Z] and her father that the hearing had been cancelled through some mix up on the part of the Court. (N.T. 152-153; 173-174)

155. In the week following February 5, 1990, [Z's] mother, [AA], called the Clerk of the Bankruptcy Court to determine the status of her daughter's bankruptcy. [AA] was advised by the staff of the Bankruptcy Court that creditors' meetings were never held on Fridays so no hearing could have been scheduled for February 5, 1990. [AA] was also told that there was no record of anything having been filed for her daughter and that the filing number assigned by Respondent was for an old file for another party. (N.T. 169-170 and 154)

156. After calling the bankruptcy office, [AA] immediately called Respondent and related that she had been told that nothing was filed for her daughter, and that the filing number Respondent had provided was for an unrelated matter not involving him. Respondent contended to her that the Court was mistaken. (P.E. 2; Stip. 95; N.T. 170)

157. In response to the contentions of [AA] when she called him, Respondent misrepresented to her that her daughter's case had been filed, and that he could not find his file on the matter. Respondent advised her that when he located the file that he would call [AA]. (P.E. 2, Stip. 96)

158. Subsequent to speaking to [AA], Respondent immediately went to the Bankruptcy Court and filed a handwritten and incomplete Petition and Schedules on behalf of [Z], which documents incorrectly reflected her first name as [ ]. (P.E. 2; Stip. 97; P.E. 45 [bankruptcy docket])

159. The [Z] Bankruptcy Petition as filed by Respondent on February 9, 1990, contained the purported signature of [ ] [sic] [Z] over an acknowledgment date of January 3, 1990. [Z] spells her name [ ], she was not in Respondent's office on January 3, 1990, she did not complete the petition and forms as filed, and she did not sign the bankruptcy petition and forms, or authorize anyone else to sign her name to those documents, as filed by Respondent. (P.E. 46(a) [Petition]; N.T. 155-157, 682)

160. The [Z] Bankruptcy Petition (P.E. 46(a)) as filed by Respondent on February 9, 1990, had been completed by

Respondent. (N.T. 684-685)

161. Subsequent to filing the bankruptcy action, Respondent then called [AA] and gave her the bankruptcy number for the Petition Respondent had just filed, No. [ ]. (P.E. 2, Stip. 98)

162. [Z] in February, 1990, brought Respondent's misrepresentations and other misconduct to the attention of bankruptcy authorities. [BB], Esquire, contacted Respondent and inquired about his intent and representations to the [Z] relative to the purported hearing on February 5, 1990. (P.E. 1, Petition for Discipline, Par. No. 100; Admitted of Record, N.T. 677, 681)

163. Respondent initially misrepresented to Attorney [BB] that he had merely taken the [Z] to the Courthouse on February 5 to check on the bankruptcy. When [BB] pointed out to Respondent that, as counsel for the debtor, Respondent knew there was nothing to check on, as he had filed nothing, Respondent then misrepresented that Respondent merely wanted to show the [Z] where Respondent would be filing the bankruptcy and where the hearing would be held. (P.E. 1, Petition for Discipline, Par. No. 101; Admitted of Record, N.T. 677, 681)

164. [BB] suggested to Respondent that he return the unearned portion of the fees he received in October, 1989. In March, 1990, Respondent returned the fee paid by [Z's] father. (P.E. 2, Stip. 102)

165. [Z] discharged Respondent in February 1990 and retained Legal Services. After filing corrections to the

incomplete and/or improper bankruptcy filings Respondent made on February 9, 1990, Legal Services was successful in having [Z's] debts appropriately discharged. (P.E. 2, Stip. 99)

166. [Z] received a discharge in bankruptcy on June 1, 1990. (P.E. 45, p.2 [docket]; N.T. 165)

CHARGE SIX ([CC])

167. In December, 1986, [CC] and his daughter, [DD], obtained an award from District Justice [EE] for $2,500.00 against [FF] Homes and [GG]. The $2,500.00 represented a down-payment on a mobile home, which funds the defendants had refused to return. (P.E. 2, Stip. 104)

168. On January 26, 1987, the defendants filed a Notice of Appeal in [ ] County to No. [ ] of 1987. The Notice and Rule to File a Complaint were served on January 29, 1987, and [CC] retained Respondent, within approximately a week, to represent him and his daughter. (P.E. 2, Stip. 105; P.E. 46 [docket])

169. [CC] paid Respondent his requested fee of $250.00 when Respondent was retained. (P.E. 2, Stip. 106; N.T. 179)

170. Respondent prepared a Complaint and had [CC] review that document and execute the affidavit thereto on February 10, 1987. (R.E. 5; N.T. 193, 208)

171. Respondent was negotiating with the defendant's counsel, who had offered $2,000.00 which was refused by [CC]. (N.T. 207)

172. All of Respondent's negotiations with the Defendant's counsel were verbal and all occurred within six to nine

months of being retained. (N.T. 216)

173. Respondent never filed a Complaint on behalf of [CC] and his daughter and a judgment of non pros was entered in November, 1988. (P.E. 2, Stip. 113; P.E. 49(c) [Praecipe for Judgment of Non Pros and Order])

174. [CC] demanded that the matter go to trial and around January, 1991, Respondent misrepresented to him that a trial was scheduled. (P.E. 2, Stip. 108)

175. Respondent misrepresented to his client, [CC], that the trial of his case was to be held on Monday, February 11, 1991. (N.T. 180, 210)

176. On the evening of Sunday, February 10, 1991, Respondent called [CC] at his residence and misrepresented that the defendant agreed to settle for $2,500.00 if [CC] would forego any interest. (N.T. 180-181)

177. [CC] agreed to the settlement proposal and Respondent then misrepresented that the trial would be cancelled and that [CC] would have his money in several days. (N.T. 181)

178. Subsequent to February 10, 1991, Respondent on several occasions, misrepresented to [CC] that he would have the $2,500.00 in a few days, and Respondent misrepresented to [CC] that the defendant was difficult to deal with. (N.T. 181, 185)

179. Respondent's misrepresentations to [CC] continued through 1991 and 1992, and ended only when [CC] consulted an attorney who advised that nothing had been filed on [CC’s] behalf and arranged for Respondent to personally pay $2,500.00 to [CC].

(N.T. 217-219)

180. Respondent has never returned the $250.00 in fees he received from [CC] nor was he advised that he was entitled to interest. (N.T. 226)

CHARGE SEVEN ([Y])

181. On June 22, 1989, Respondent was the settlement agent for the closing on the sale of [ ] from [Y] to [ ] and [ ] [HH]. The closing was held at [II], the buyers' mortgagee, in [ ], PA. (P.E. 2, Stip. 119; P.E. 52 [settlement sheet])

182. Respondent represented the [Y] at and relative to the closing and charged them for the preparation of the deed. (N.T. 450-451, 457; P.E. 52 [settlement sheet])

183. On behalf of the buyers, Respondent determined that a Department of Public Welfare lien existed against the seller's mother's Estate who was the predecessor in title, and that there also existed a possible lien for unpaid Pennsylvania Transfer Inheritance Tax relative to the seller's mother's Estate. At the closing, Respondent retained $5,758.60 in seller's proceeds to satisfy these liens. (P.E. 2, Stip. 120; P.E. 52 [settlement sheet])

184. Respondent was to account to the [Y] for the $5,758.60 in escrow funds retained by Respondent at the [Y] settlement and any of those funds that did not have to be disbursed to third parties was to be timely returned to the [Y]. (N.T. 451-452, 458)

185. The $5,758.60 in escrow funds received by

Respondent at the [Y] closing was deposited into Respondent's Escrow Account. (P.E. 91, page 5, item #75 [account summary for Escrow Account]; P.E. 92 [check for $5,758.60]; N.T. 573-574)

186. Respondent provided a title report to the buyer's Mortgagee which noted the payment due the Department of Public Welfare and the payment possibly due for inheritance tax. Respondent has never notified the Mortgagee that the DPW lien has been paid. Respondent has never advised the Mortgagee that the inheritance tax issue remains unresolved. (Admissions of Record, N.T. 483)

187. Subsequent to the closing, [Y] spoke to Respondent and was told that a check for the amount due back to the [Y] had been mailed, but [Y] did not receive a check as promised. [Y] had no further dealings with Respondent. (N.T. 452)

188. On or about February 21, 1990, [Y] received Respondent's check No. 1270, dated January 30, 1990, in the amount of $1,758.60 and drawn on Respondent's Escrow Account. (P.E. 2, Stip. 123; P.E. 55 [check])

189. [Y] received Respondent's check for $1,758.60 only after calling and going to Respondent's office on several occasions. No accounting was provided with this check. (N.T. 459-460)

190. On March 21, 1990, Respondent gave [Y] check No. 1273, drawn on the Escrow Account in the amount of $250.00. (P.E. 2, Stip. 125; P.E. 56 [check]; N.T. 460-461)

191. At the March 21, 1990 meeting with [Y], Respondent

gave him Respondent's personal receipt for $2,345.00. (P.E. 2, Stip. 126; P.E. 57 [receipt])

192. When Respondent gave [Y] Respondent's receipt on March 21, 1990, Respondent misrepresented that he had paid the Department of Public Welfare lien as reflected by the receipt. (N.T. 461-462)

193. Respondent requested a lien payoff figure from the Department of Public Welfare by letter of March 26, 1990 to that agency. (P.E. 59 [letter])

194. Respondent maintains that he mailed a letter to the DPW on July 7, 1989 asking for a payoff figure but that he did not receive any response. (R.E. 44; N.T. 635 and 637)

195. Respondent did not pay the DPW lien until April 30, 1990. (P.E. 2, Stip. 127; P.E. 62 [satisfaction piece])

196. Respondent's delay of approximately 9 months in paying the DPW lien was unreasonable and a breach of his fiduciary duties.

197. By letter of April 4, 1990 (P.E. 58), [Y] requested that Respondent account to him for the entire $5,578.60, provide proof of payments from the escrow funds, and return any balance to him. (P.E. 2, Stip. 128; P.E. 58 [letter])

198. Respondent failed to respond to [Y's] April 4, 1990 letter until July 11, 1990, when Respondent wrote to [Y] and merely provided him with a copy of the satisfaction piece received from DPW. (N.T. 464; P.E. 62 [letter])

199. Respondent misrepresented in his letter of July

11, 1990, that the DPW lien "was paid in full and satisfied," when as of that date, the DPW lien, as filed at No. [ ] in [ ] County, had still not been marked satisfied as Respondent had failed to file the satisfaction piece. (R.E. 54 [lien docket]; N.T. 479)

200. As of the hearing on this matter on October 26, 1995, Respondent testified that he still had not filed the satisfaction piece for the now satisfied Department of Public Welfare lien (P.E. 541). That, he acknowledged, was a cloud on the title to the property conveyed in June, 1989 by the [Y]. (N.T. 651-652)

201. Respondent's failure to file the satisfaction piece for the DPW lien against the property conveyed in 1991 is a breach of Respondent's acknowledged fiduciary duties. (N.T. 649)

202. By letter of July 18, 1990 to [Y] Respondent sent him Respondent's check No. 1286 drawn on his Escrow Account for $84.01. (P.E. 2, Stip. 130; P.E. 64 [letter])

203. In his letter of July 18, 1990, Respondent contended that $1,080.00, plus $150.00 in interest, was payable in inheritance tax relative to the interest of [Y's] deceased mother in the subject property, misrepresented that his valuations relative to the inheritance tax were being reviewed by the Commonwealth, when he knew that no return had yet been filed. (P.E. 64; Admission of Record; N.T. 483)

204. As of February 28, 1995, the records in the [ ] County Courthouse for the subject estate, the [JJ] Estate, at No. [ ], reflect that no Inheritance Tax Return has been filed. (P.E.

2, Stip. 132)

205. Respondent has never filed anything with the Department of Revenue relative to determining or paying any tax that might be due relative to the funds escrowed at the July, 1989 closing on the [Y] transaction. (P.E. 87 [June 14, 1995 Certification from the Department of Revenue]; N.T. 479 and 483)

206. Respondent has failed to fully account to [Y] for the funds escrowed and has failed to remit any balance due to [Y]. (N.T. 468)

207. Respondent's Escrow Account, to which the [Y] settlement proceeds had been deposited in June, 1989, had a zero balance in September and October, 1991, and was closed by the bank as of October 17, 1991. (P.E. 91; N.T. 580-581)

208. As of the final hearing of April 11, 1996 in these disciplinary proceedings, Respondent had no escrow account and had had none since his [E] Bank Escrow Account was closed in October, 1991. (N.T. 794-795)

209. The $1,230.00 Respondent received in 1989 at the [Y] real estate settlement, which funds are payable in whole or part to the [Y] or the Department of Revenue, Inheritance Tax Division, are escrow funds that Respondent has converted and misappropriated to his own uses. (P.E. 91; N.T. 577-578)

210. As of the disciplinary hearing of April 11, 1996, Respondent had made no determination of whether he should make restitution of the $1,230.00 to the [Y] or whether all or some of that amount should be paid to the Department of Revenue relative

to inheritance tax. (N.T. 790-791)

211. Respondent's failure to ever determine and effectuate the proper disposition of the $1,230.00 he received in July, 1989, for the possible payment of inheritance tax, or to notify the buyer, seller and mortgagee of that failure, is a breach of Respondent's fiduciary duties. (N.T. 649)

CHARGE EIGHT ([KK])

212. In September, 1990 [KK] retained Respondent to represent him in a divorce and property settlement. (N.T. 334-335)

213. [KK] paid Respondent all fees that were owed. (N.T. 344)

214. In January, 1991 Respondent, on behalf of [KK], filed a Complaint in Divorce captioned [KK] vs. [LL], [ ] County to No. [ ] of 1991 (N.T. 335; P.E. 68 [docket]; P.E. 68(a) [Complaint])

215. [KK] repeatedly attempted to contact Respondent in 1991 by telephone and in person. He was eventually told that "everything was signed" and that the divorce could be finalized within one week (N.T. 335). This was a misrepresentation.

216. On multiple occasions Respondent failed to appear for scheduled appointments. (N.T. 335)

217. In late 1991, Respondent indicated to [KK] that a Master in Divorce had been appointed. This was a misrepresentation. (P.E. 2, Stip. 142; N.T. 695, 701-702)

218. In late 1991, Respondent misrepresented to [KK] that a Master's Hearing would be held in Respondent's office on

December 18, 1991, on which date Respondent misrepresented to [KK] that the hearing was continued until January 12, 1992. (P.E. 2, Stip. 143) In fact no such hearing was scheduled nor had a Master been appointed.

219. Respondent misrepresented to [KK] that the January 12, 1992 Master's Hearing was rescheduled until February 25, 1992. (P.E. 2, Stip. 144)

220. [KK] discharged Respondent in March, 1992 and demanded the return of his file and the unused portion of the $300.00 fee. (P.E. 2, Stip. 146; P.E. 70 [letter])

221. Respondent never accounted to [KK] for the $300 in fees [KK] had paid Respondent. (N.T. 338-339, 352-353)

222. While no accounting has been provided, [KK] has testified that he does not feel that any refund is due.

223. Respondent did return [KK's] file. (N.T. 338)

224. After [KK] discharged Respondent in March 1992, [KK] retained new counsel who entered an appearance on March 6, 1992 (P.E. 68 (c)) and then completed the divorce by August 1, 1992. (N.T. 360; P.E. 68 [docket])

CHARGE NINE ([MM])

This charge was withdrawn by Petitioner.

CHARGE TEN ([NN])

225. In January, 1987, Respondent was retained by [NN], now [ ], to represent her in divorce and property settlement matters. (P.E. 2, Stip. 169)

226. A divorce action captioned [OO] vs. [NN] was filed

by Respondent in [ ] County to No. [ ] of 1987. (P.E. 2, Stip. 170; P.E. 73 [docket])

227. In April, 1988 [OO] and [NN] executed an Agreement negotiated by Respondent for [NN] and [PP], Esquire for [OO]. An intent of the Agreement was to settle economic issues; it was supplemented by an Addendum executed on August 27, 1988. (P.E. 2, Stip. 171; P.E. 73(b) [Agreement]; P.E. 73(c) [Addendum])

228. The Addendum of August 27, 1988 provided for the manner in which [NN] would receive part of the assets comprising the interests of [OO] in the Long Term Incentive Trust of the [QQ] Profit Sharing Trust Plan maintained by the husband's employer. (P.E. 2, Stip. 172; P.E. 73(c) [Addendum])

229. On September 30, 1988, [NN] paid Respondent $500.00 relative to her divorce and to represent her in obtaining the pension distribution from [QQ]. (P.E. 74 [Cashier's Check]; N.T. 255-256, 302-303)

230. Under the Addendum to the Agreement, [NN] was to receive from the pension, pursuant to a Qualified Domestic Relations Order, the following: $1,587.00 in cash, $17,266.00 in Guaranteed Investment Contracts, and 164 shares of [QQ] Company Common Stock. (P.E. 2, Stip. 174; N.T. 253)

231. On October 5, 1988, a Decree in Divorce was entered terminating the [NN and OO] marriage. (P.E. 2, Stip. 176; P.E. 73(a) [Decree])

232. The [NN and OO] Decree in Divorce incorporated the April 5, 1988 Agreement, and the Addendum of August 27, 1988 to

that Agreement. (P.E. 73(a); P.E 73(b); P.E. 73(c))

233. By his letter of April 14, 1989, Respondent first attempted to submit to [QQ] the Qualified Domestic Relations Order, based on the Court's Decree of October 5, 1988. (R.E. 15 [letter]; N.T. 315)

234. Attorney [PP], on behalf of the husband, had obtained documentation from [QQ] relative to the transfer of the pension interest to Respondent's client, and had [OO] execute those documents. Attorney [PP] provided those documents to Respondent for transmittal to [QQ]. [QQ] refused to accept the documentation as submitted by Respondent and advised him of what they required. (P.E. 2; Stip. 175)

235. [NN] attempted to contact Respondent repeatedly in late 1988, and through 1989, regarding her not receiving the distribution from [QQ]. Respondent failed to return most of her calls. (N.T. 255-256)

236. Respondent never sent [NN] any correspondence pertaining to the substantive matters in which he represented her. (N.T. 328, 330)

237. By letter of April 20, 1989, Respondent was advised by [QQ] that the paperwork he submitted as a Qualified Domestic Relations Order was not acceptable and the necessary forms were provided and requested to be completed and returned. (R.E. 10; N.T. 267)

238. After receipt of the April 20, 1989 letter from [QQ], Respondent did nothing in 1989 to advance the interests of

his client, [NN], in the pension.

239. In the Fall of 1989, and thereafter, Respondent misrepresented to [NN] that her settlement should shortly be received from [QQ]. (N.T. 257)

240. By letter of May 14, 1990, [NN] wrote to Respondent and complained about her failure to receive the pension proceeds after Respondent's repeated assurances that the funds would soon be received. (P.E. 75 [letter]; N.T. 282)

241. On May 23, 1990, Respondent had [NN] execute a Petition to Amend Decree in Divorce in an effort to comply with the requirements of [QQ] as set forth in the letter of April 20, 1989 from that company. (R.E. 11; N.T. 269-270)

242. Respondent's May, 1990 Petition to Amend Decree in Divorce was the first positive action he took on behalf of his client subsequent to his receipt of the April 20, 1989 letter from [QQ].

243. Subsequent to May 23, 1990, and before Respondent had filed a Petition to Amend Decree in Divorce, [NN] discharged Respondent.

244. [NN] retained new counsel who on August 8, 1990 filed a Stipulated Qualified Domestic Relations Order that was approved, that date, by the Court. (P.E. 739d; N.T. 281)

245. Successor counsel to Respondent was able within a month or two of retention to satisfactorily conclude the pension matters for [NN]. (N.T. 259)

CHARGE ELEVEN ([RR])

246. On August 29, 1986 Mr. and Mrs. [RR], residents of [ ], met with Respondent at his office in [ ], PA and Respondent agreed to represent Mrs. [RR] in attempting to secure support for two of her children from her ex-husband, [SS]. Respondent advised the [RR] that he would initiate the necessary proceedings through the [ ] County Domestic Relations Office. (P.E. 2, Stip. 188; N.T. 60)

247. Respondent requested a retainer of $250 and that amount was paid at the initial meeting. (P.E. 2, Stip. 189; P.E. 78 [receipt])

248. Respondent never requested any additional fees from the [RR]. (N.T. 30, 40)

249. Respondent never initiated any litigation on behalf of Mrs. [RR] in [ ] County. (P.E. 2, Stip. 192)

250. For the first several months after being retained, the only thing Respondent may have done on behalf of the [RR] was to look at the local rules governing support. Respondent did no other research on the matter. (N.T. 83-84)

251. Several months after being retained, Respondent may have informally discussed the [RR] case with an employee at the Domestic Relations Office in [ ] County. (N.T. 83)

252. The [RR] called Respondent's office at least 79 times per testimony of Mr. [RR], and perhaps as many as 140 times as reflected in P.E. 79 [telephone records].

253. Despite the many attempts to contact Respondent, the [RR] spoke to him on only rare occasions and received no

substantive information with regard to the progress of their case in those conversations. (N.T. 33)

254. Mrs. [RR] had a 1984 divorce decree from Texas that provided for her ex-husband to pay her $300 per month in child support, which payments she had never received. (N.T. 43-44)

255. Respondent misrepresented to the [RR] that he had sent for Mrs. [RR's] Texas divorce decree and that the non-receipt of that Decree was causing some delay. (N.T. 33)

256. Respondent misrepresented to the [RR] that he was waiting for a court date for a hearing, that a hearing date had been canceled, and that the Sheriff had to serve her ex-husband. (N.T. 34)

257. Respondent misrepresented to the [RR] that a warrant had been issued for Mrs. [RR's] ex-husband and that the authorities couldn't find him. (N.T. 35-36, 50, 54)

258. Respondent misrepresented to the [RR] that he had a court date set and gave them a date and time. (N.T. 34, 49-50)

259. The [RR] took off work and traveled from [ ] to [ ], a round trip of 436 miles, for the hearing, and Respondent misrepresented that the hearing had been canceled again. (N.T. 34-35, 63)

260. Respondent misrepresented to the [RR] at one time that the proceedings had been delayed because the ex-husband had failed to appear at a hearing. (N.T. 64)

261. Mrs. [RR] telephoned the Sheriff's office and a Magistrate's office and learned that there was no warrant to be

served on her ex-husband. (N.T. 36)

262. Mrs. [RR] contacted the [ ] County Domestic Relations office and learned that there had been no action initiated against her ex-husband. (N.T. 36)

263. In September 1988, the [RR] sent Respondent a letter indicating their dissatisfaction with the lack of progress and actual services rendered, terminating the attorney/client relationship and requesting a return of their retainer. (N.T. 86)

264. Respondent never replied to the [RR's] September 1988 letter. (N.T. 86)

265. Respondent did nothing on behalf of the [RR] that warranted charging anything more than a nominal fee, far less than the $250 actually charged.

266. At the June 15, 1995 initial hearing on this charge, Respondent promised to return to the [RR] their file and the $250 by the end of June, 1995. (N.T. 98)

267. As of the April 11, 1996 disciplinary hearing on this charge, Respondent had not returned to the [RR] their file or the $250. (N.T. 919)

CHARGE TWELVE ([TT])

268. Respondent represented [ ] and [ ] [TT] in a civil action against [ ] and [ ] [UU] and [VV] Roofers, Inc., which action was initiated on October 15, 1985, in [ ] County to No. [ ]. (P.E. 2, Stip. 199)

269. The subject of this litigation was an allegedly faulty roof and/or faulty roof installation. (N.T. 105, 134, 137)

270. Respondent caused the [TT] case to be assigned to a Board of Arbitrators on April 8, 1987. The initial hearing scheduled for April 23, 1987 was continued as pre-trial matters had not been concluded. (P.E. 2, Stip. 200)

271. At the time of the April 23, 1987 hearing, Respondent was prepared to present the [TT] case, but it was continued to allow the defendant's counsel to determine if the additional defendant had any insurance available. (N.T. 704)

272. Subsequent to the canceling of the April 23, 1987 hearing, Respondent advised the [TT] that their case was scheduled to be heard on May 11, 1987, then May 13, 1987, then September 28, 1987, then October 8, 1987, then February 26, 1988, and then on August 12, 1988, all of which were misrepresentations. (P.E. 1, Petition for Discipline, Stip. 201; N.T. 99-100; N.T. 108, 112-113)

273. On more than one occasion Mr. [TT] had arranged his personal schedule to appear in court as directed by Respondent, but Respondent then called and misrepresented that the purported hearings had been continued. (N.T. 112, 121)

274. On October 26, 1988, Respondent filed a petition to reschedule the arbitration hearing and by Order of that date a hearing was scheduled for November 9, 1988. When the [TT] appeared for the hearing on November 9, Respondent was the only person present and he advised the [TT] that he had failed to notify the other parties, their counsel, and the Board of Arbitrators of the scheduled hearing. (P.E. 2, Stip. 203)

275. On one or more occasions, Mr. [TT] went to the Courthouse as directed by Respondent and upon arriving he was advised by Respondent that the trial had been postponed. Mr. [TT] then determined from the Prothonotary that nothing had been scheduled. (N.T. 112-113, 122)

276. By letter of December 30, 1988 to Respondent, the [TT] expressed their dissatisfaction with the delays and demanded that Respondent immediately schedule the hearing. (N.T. 114; P.E. 83 [letter])

277. In April or May, 1989, it was determined that there was no insurance coverage available for the additional defendant, the roofing company. (N.T. 709)

278. In 1989, Respondent lied to his clients, the [TT], on several occasions about the scheduling and rescheduling of their hearing. (N.T. 710)

279. After speaking to Mr. [TT] on September 25, 1989, Respondent filed a petition requesting that the hearing be scheduled, which petition resulted in an Order scheduling the hearing for October 20, 1989, when the hearing was held. (P.E. 2, Stip. 213)

280. Respondent successfully tried the [TT] arbitration achieving an award of $8,750.00 at the October 1989 hearing. This amount was ultimately collected through new counsel. (P.E. 82 (docket); N.T. 135, 143)

281. Respondent has no prior history of discipline.

III. CONCLUSIONS OF LAW

By his conduct as set forth in the above Findings of Fact, Respondent has violated the following Rules of Professional Conduct and Disciplinary Rules:

1. RPC 1.1 - A lawyer shall provide competent representation to a client. This Rule was violated in one case.

2. RPC 1.3 - A lawyer shall act with reasonable diligence and promptness in representing a client. This Rule was violated in nine cases.

3. RPC 1.4(a) - A lawyer shall keep a client informed about the status of a matter and promptly comply with reasonable requests for information. This Rule was violated in one case.

4. RPC 1.4(b) - A lawyer shall explain a matter to the extent necessary to permit the client to make informed decisions regarding the representation. This Rule was violated in one case.

5. RPC 1.5(b) - When a 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 representation. This Rule was violated in two cases.

6. RPC 1.7(b) - A lawyer is prohibited from representing a client when the representation may be materially limited by the lawyer's own interests. This Rule was violated in one case.

7. RPC 1.15(a) - A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. This Rule was violated in two cases.

8. RPC 1.15(b) - Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person, promptly deliver to the client or third person any funds or property that such person is entitled to receive, and provide a full accounting regarding such property. This Rule was violated in two cases.

9. RPC 1.16(d) - Upon termination of representation, a lawyer shall take steps to protect the client's interest, surrender the client's papers and property, and refund any advanced payment of fee which has not been earned. This Rule was violated in three cases.

10. RPC 3.2 - A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client. This Rule was violated in seven cases.

11. RPC 8.4(c) - It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation. This Rule was violated in nine cases.

12. RPC 8.4(d) - It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice. This Rule was violated in two cases.

13. DR 1-102(A)(4) - A lawyer is prohibited from engaging in conduct involving dishonesty, fraud, deceit or misrepresentation. This Rule was violated in one case.

14. DR 1-102(A)(6) - A lawyer is prohibited from engaging in conduct adversely reflecting on his or her fitness to practice law. This Rule was violated in one case.

15. DR 6-101(A)(3) - A lawyer shall not neglect a legal matter entrusted to him or her. This Rule was violated in two cases.

IV. DISCUSSION

This matter is before the Board for consideration of the Petition for Discipline filed against Respondent alleging numerous violations of Rules of Professional Conduct and Disciplinary Rules in eleven separate cases. The Board's responsibility in this matter is to determine whether Respondent engaged in misconduct in violation of the Rules, and if so, to recommend an appropriate discipline that is responsive to such misconduct.

Careful analysis of the record indicates that Petitioner met its burden of proof as to every violation. The record evidences that Respondent engaged in a multitude of acts of dishonest conduct, including misappropriation of escrow funds, fabrication of court orders and related pleadings, repeated misrepresentations to clients and other counsel, and fabrications of settlements, as well as general and widespread neglect of

client cases and failure to expedite client cases. Respondent admitted that he engaged in Rule violations and presented expert testimony at the hearings that the acts of misconduct were allegedly caused by his emotional illness. By presenting this expert testimony, Respondent seeks to come within the standard set by the Supreme Court of Pennsylvania for consideration of mental illness as a mitigating factor in imposing disciplinary sanctions. Office of Disciplinary Counsel v. Braun, 520 Pa. 157, 553 A.2d 894 (1989). This standard states that before a mental infirmity may be considered in mitigation of the severity of the ultimate sanction, an attorney must demonstrate through clear and convincing evidence that he or she suffers from a mental infirmity, which was a substantial causal factor in this misconduct. The Braun standard does not provide a shield against discipline; however, its development and application recognizes the reality of mental illnesses and their impact on attorneys in attending to professional responsibilities.

In order for the Board to recommend an appropriate discipline in the instant case, it must first examine Respondent's proffered expert evidence, as well as the expert evidence offered by Petitioner, to determine whether Respondent meets the Braun standard. Respondent presented the testimony of [WW], a licensed clinical psychologist. Dr. [WW] testified that he first met with Respondent on August 24, 1995 after Respondent contacted him. Respondent met with Dr. [WW] for a total of six sessions during a two-month period, the final one on October 5, 1995. Each session

lasted for approximately one hour. Dr. [WW] diagnosed Respondent with an adjustment disorder and a chronic depressed mood. (N.T. 832-834). Dr. [WW] testified that the symptoms experienced by Respondent were the result of an identifiable stress, viz., Respondent's marital and financial problems, and the symptoms were experienced within three months of the onset of the stress. (N.T. 833) The doctor testified that an adjustment disorder may impact on many areas of a person's life and stated that this condition affected Respondent in that he gained weight, lost interest in things he enjoyed, lost interest in going to work and his career in general, and experienced judgment and concentration difficulties. (N.T. 843) Dr. [WW] testified that Respondent's disorder caused both the neglect of his clients' cases and his dishonest behavior. (N.T. 856) Dr. [WW] characterized Respondent as having suffered from the disorder since approximately 1989 and opined that the disorder was moderately severe in Respondent's case. (N.T. 836) Dr. [WW's] treatment consisted of brief, intensive psychotherapy. At the end of the sessions with Respondent, the doctor recommended no further treatment as the condition was no longer present.

Petitioner presented the testimony of Dr. [XX], a Board certified forensic psychologist. Dr. [XX] met with Respondent on March 26, 1996 for approximately two hours. Dr. [XX] testified that Dr. [WW's] diagnosis "could have been appropriate", but other diagnoses could be equally correct. (N.T. 889) Dr. [XX] opined that no causal relationship existed between Respondent's problems

and his misconduct. (N.T. 891) The doctor found Respondent to be candid and believed that Respondent suffered from some depression between 1988 and 1992 as a result of his deteriorating marriage. While the doctor opined that the depression could have contributed to Respondent's misconduct, the doctor did not believe that such depression caused his misconduct. (N.T. 894) Dr. [XX] opined that Respondent's depression would not cause him to lie and engage in other acts of dishonesty. (N.T. 904) There is a marked difference between the experts' analysis of the impact of Respondent's depression on his professional misconduct. While Dr. [XX] agrees that Respondent experienced some problems with depression, which may have contributed to his professional problems, he does not find, as does Dr. [WW], that such depression would cause Respondent to engage in dishonesty.

After analysis of the expert testimony, the Board finds that Respondent has not met the Braun standard. Although there is evidence that Respondent may have suffered from some form of depression due to his marital troubles, the evidence is not sufficiently clear and convincing that such depression caused Respondent to neglect his practice, falsify documents and commit fraud and misrepresentation. The causal link between Respondent's depression and his fabrication of court orders, prevarication to clients, and commingling funds is even more tenuous. There is no evidence to support a determination that Respondent falls within the ambit of Braun. Respondent had not received any treatment during the period while his violations occurred. Dr. [WW] treated

Respondent on only six occasions during the two month period between August and October 1995 and testified that in his opinion Respondent suffered from an adjustment disorder and a chronic depressed mood, which caused him to engage in numerous acts of dishonesty and neglect. Dr. [WW] characterized Respondent's disorder as moderately severe. After those six sessions, the doctor determined that Respondent did not need further treatment as he no longer had symptoms of his disorder. While the Board certainly does not question Dr. [WW's] professional skills, it is difficult to perceive that an individual whose mental disorder is severe enough to cause him to commit such egregious acts of misconduct could be cured after six sessions during a two-month period. Respondent cannot assuage the damage done to his clients and the public perception of this profession by proffering evidence that he had marital problems and personal stresses that resulted in a depression. Most attorneys and the population in general experience a variety of stresses and difficult personal situations but do not engage in dishonest conduct. The record does not reveal to this Board why Respondent's situation should be accorded special consideration. The Committee attempted to meet halfway between the parties' experts and found that there was a causal link as to the acts of neglect, but no causal link as to the acts constituting dishonesty. It is apparent to the Board in this situation that the acts of dishonesty permeate the entire case. The Board cannot apply one standard for acts of neglect in a case and a different standard for acts of dishonesty in the same

case. Accordingly, the Board finds that Respondent did not meet his burden of proving that his mental infirmity caused his misconduct.

The Board must finally determine the appropriate disciplinary sanction based on Respondent's misconduct. The magnitude of the misconduct in this case is disturbing. Respondent breached the trust imposed in him by each of eleven clients. This misconduct started in approximately 1987 and lasted until at least 1992. At the time of the last disciplinary hearing in April, 1996, Respondent did not have an escrow account, although he was alerted to this fact through the Petition for Discipline filed in March 1995. In some of the cases, Respondent returned monies owed to his clients, but in other cases he has done nothing to rectify the situation. Respondent's situation is somewhat unusual because he had no history of discipline prior to the instant matter. In many of the cases before the Disciplinary Board, this factor weighs in mitigation against the severity of the final discipline. However, Respondent's five year pattern of misconduct and the number of disciplinary violations during that time period minimize any mitigating effect of prior blamelessness. Respondent was admitted in 1977; the pattern of misconduct began in 1987 and continued even up to the time of the hearings, when Respondent admitted his failure to have an escrow account. In plain English, Respondent’s conduct is an absolute danger to the public and he cannot be permitted to practice at this time. His conduct evidences his total repudiation of his responsibilities to

his clients. It is the Board's conclusion that the only appropriate sanction is disbarment. In other cases of this magnitude disbarment has been imposed. In the case of Office of Disciplinary Counsel v. Davis, 532 Pa. 22, 614 A.2d 1116 (1992), Mr. Davis was disbarred after he engaged in a pattern of misconduct including neglect of cases, dishonesty, and commingling of client funds. In Office of Disciplinary Counsel v. Passyn, 537 Pa. 371, 644 A.2d 699 (1994), Ms. Passyn was disbarred after she mismanaged client monies, lied to clients, failed to maintain records and failed to return client property upon request. Ms. Passyn had no prior record of public discipline, although she had received an Informal Admonition and a Private Reprimand in the past. In Office of Disciplinary Counsel v. Knepp, 497 Pa. 396, 441 A.2d 1197 (1982), Mr. Knepp engaged in a four year pattern of neglecting legal matters, converting client funds, making dishonest statements to clients, and failing to maintain records of client funds. Although Mr. Knepp had never been disciplined prior to this case, he was disbarred for his misconduct.

Finally, and most importantly, in Office of Disciplinary Counsel v. Holston, 619 A.2d 1054 (Pa. 1993), the Respondent was disbarred for forging the name of a Judge on a Divorce Decree and then lied to the Court. Justice Papadakos, writing for a unanimous Court stated:

> "Respondent's conduct demonstrates a callous disregard for the very integrity of the judicial process and calls for the most severe sanction. In an attempt to diminish the gravity of his misconduct and lessen the consequences

stemming from his actions, Respondent argues in mitigation that he was under extreme pressure in his personal life, that his wife was pregnant at the time and they were financially insecure; that once he realized his error he admitted his misconduct to Judge Bonavitacola and is remorseful for his actions; that he successfully completed the divorce for Mr. Wofford and refunded the fee he had been initially given and that he is very active in church and community affairs.

While all these factors are to be taken into consideration they cannot mitigate offenses which we have considered hitherto to be reprehensible and of the most egregious nature. *In Re: Oxman*, 496 Pa. 534, 437 A.2d 1169 (1981); *Office of Disciplinary Counsel v. Campbell*, 463 Pa. 472, 345 A.2d 616 (1975); *Montgomery County Bar Association v. Hecht*, 456 Pa. 13, 317 A.2d 597 (1974):

> 'False swearing in a judicial proceeding is certainly an egregious species of dishonesty and is surely also patently prejudicial to the administration of justice. This is doubly so when it is a lawyer who is the perjurer.'

In the footnote following this passage we quoted a speech given by Daniel Webster to the Charleston, South Carolina Bar on May 10, 1847, where he astutely comments:

> 'Tell me a man is dishonest, and I will answer he is no lawyer. He cannot be, because he is careless and reckless of justice; the law is not in his heart, is not the standard and rule of his conduct.'

We have likened false swearing in the nature of a crime of *crimen falsi*, since it involves a falsehood which injuriously affects the administration

> of public justice and, therefore, is an infamous offense. *In re: Gottesfeld*, 254 Pa. 314, 91 A.494 (1914). The same can be said of forgery which has always been understood as an attack upon the state and, therefore, was originally prosecuted as treason. See, *Toll, Pennsylvania Crimes Code Annotated*, Comment to Section 4101, at page 461.
>
> Respondent has acted dishonestly and has demonstrated his unfitness to continue practicing law. Truth is the cornerstone of the judicial system and a license to practice law requires allegiance and fidelity to truth. Respondent's lying to the court and dishonesty in forging a court order are the antithesis for these requirements. Accordingly, we deem disbarment to be the appropriate remedy in this case and order that the Rule to Show Cause Why Respondent Should Not Be Disbarred be made Absolute. Gregory G. Holston, is disbarred from the practice of law within the Commonwealth of Pennsylvania. It is further ordered that he shall comply with the provisions of Rule 217, Pa. R.D.E. Respondent shall also pay costs, if any, to the Disciplinary Board pursuant to Rule 208(g), Pa. R.D.E." Holston, at 1056, 1057.

The serious nature and extent of Respondent's unprofessional conduct justify disbarment. An attorney's admission by the Supreme Court to practice law in this Commonwealth is an endorsement to the public that he or she is worthy of confidence in professional relations, and if that attorney becomes unworthy, it is the Court's duty to remove such person from the profession.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, [ ], be

disbarred.

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:_____
Leonard A. Sloane, Member

Date: April 28, 1997

DECIDED: November 13, 1997

PER CURIAM:

Upon consideration of the Report and Recommendations of the Disciplinary Board dated April 28, 1997, and following oral argument, it is hereby

ORDERED that respondent, [ ], be and he is disbarred from the Bar of this Commonwealth, and he shall comply with all the provisions of Rule 217, Pa.R.D.E. It is further ORDERED that respondent shall pay costs to the Disciplinary Board pursuant to Rule 208(g), Pa.R.D.E.