IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, Petitioner	:	No. 93 Disciplinary Docket No. 3
	:	Nos. 154 DB 2001 and 11 DB 2003
v.	:	Attorney Registration No. 72294
ANTHONY JEROME McKNIGHT, Respondent	:	(Philadelphia)

ORDER

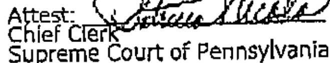
PER CURIAM:

AND NOW, this 1st day of March, 2012, upon consideration of the Report and Recommendations of the Disciplinary Board dated October 28, 2011, it is hereby

ORDERED that Anthony Jerome McKnight is disbarred from the Bar of this Commonwealth retroactive to January 1, 2007, 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.

A True Copy Patricia Nicola
As Of 3/1/2012



Attest:
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL Petitioner	:	No. 93 Disciplinary Docket No. 3
	:	Nos. 154 DB 2001 & 11 DB 2003
v.	:	
	:	Attorney Registration No. 72294
ANTHONY JEROME McKNIGHT	:	
Respondent	:	(Philadelphia)

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 November 26, 2001, Office of Disciplinary Counsel filed a Petition for Discipline at No. 154 DB 2001 against Anthony Jerome McKnight. The Petition charged Respondent with misconduct in seven separate matters. Respondent did not file an Answer to Petition. The Petition was referred to a Hearing Committee on January 10, 2002. By Order dated September 4, 2002, pursuant to Pa.R.D.E. 301(e), the Supreme Court ordered all pending disciplinary proceedings against Respondent be held in abeyance upon Respondent's contention he suffered from a disabling condition.

On February 18, 2010, Respondent filed a Petition to Remove Disability and Resume Proceedings. By Order dated April 26, 2010, the Supreme Court granted Respondent's Petition and directed the disciplinary proceedings be resumed.

On May 14, 2010, Petitioner filed a Petition for Discipline at No. 11 DB 2003 against Respondent. The Petition contains one charge based on Respondent's criminal conviction of two counts of delivery of a controlled substance, one count of possession with intent to deliver, one count of criminal use of a communication facility, and one count of criminal conspiracy. The Petitions were consolidated for hearing by Disciplinary Board Order dated June 24, 2010.

A disciplinary hearing was held on October 14 and October 29, 2010, before a District I Hearing Committee comprised of Chair Christopher N. Santoro, Esquire, and Members Robert M. Caplan, Esquire and Louis W. Schack, Esquire. Respondent was represented by Barbara S. Rosenberg, Esquire. Petitioner introduced into evidence Joint Stipulations of Fact and Joint Stipulations of Fact Pursuant to D. Bd. Rules Section 89.151(b), presented the testimony of seven witnesses, and introduced exhibits. Respondent presented the testimony of five witnesses, testified on his own behalf, and introduced exhibits.

Following the submission of briefs by the parties, the Hearing Committee filed a Report on March 22, 2011 and concluded that Respondent violated Rules of Professional Conduct 1.3, former 1.4(a) and 1.4(b), 1.16(d), 8.4(c), 8.4(d), and Pa.R.D.E. 203(b)(1). The Committee recommended that Respondent be suspended for a period of five years.

Petitioner filed a Brief on Exceptions on April 11, 2011, contending that the Hearing Committee erred by not recommending that Respondent be disbarred.

Respondent filed a Brief on Exceptions on April 13, 2011, contending that Respondent be suspended for a lengthy period of time, retroactive to February 2006.

Both Petitioner and Respondent filed Briefs Opposing Exceptions, on May 3, 2011 and May 9, 2011, respectively.

This matter was adjudicated by the Disciplinary Board at the meeting on July 23, 2011.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, Harrisburg, Pennsylvania, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, with the power and duty to investigate all matters involving alleged misconduct of any attorney admitted to practice law in the Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of said Rules of Disciplinary Enforcement.

2. Respondent is Anthony Jerome McKnight. He was born in 1957 and was admitted to practice law in the Commonwealth of Pennsylvania in 1994. His last registered mailing address is 611 W. Naomi Street, Philadelphia PA 19144-3710.

3. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court.

4. Respondent has a record of prior discipline consisting of an Informal Admonition in 1997 and a Suspension for One Year and One Day ordered on April 2, 2001.

5. The Informal Admonition was based on Respondent's violations of RPC 1.3, 1.4(a) and 1.4(b) in regard to his representation of a client, in that he failed to appear at the call of the list, failed to respond to numerous telephone calls, and failed to inform his client that as a result of his failure to appear at the call of the list, a judgment of non pros was entered.

6. Respondent's suspension was based on his conviction for simple assault in the Superior Court of the District of Columbia in May 1994.

7. For that criminal conviction, Respondent was sentenced to a term of 180 days in jail, suspended as to all but 45 days.

8. In July 1997, Respondent was found in contempt of court on two counts and fined $500 per count for failure to appear before a district magistrate on behalf of client.

9. In May 1998, Respondent was found in contempt of court and was sentenced to 100 hours of community service.

10. By Supreme Court Order dated July 22, 1999, effective August 21, 1999, Respondent was transferred to inactive status for his failure to comply with Continuing Legal Education requirements.

11. In connection with that transfer to inactive status, the Board found that Respondent failed to comply with Pa.R.D.E. 217, in that he did not promptly withdraw from all of his active cases and didn't inform his client in writing that he had been placed on inactive status.

12. On November 26, 2001, Office of Disciplinary Counsel filed a Petition for Discipline at No. 154 DB 2001 against Respondent charging him with violations of the Rules of Professional Conduct in seven separate matters.

13. The Petition was referred to a Hearing Committee.

14. By letter dated May 2002, to Elaine M. Bixler, Secretary of the Board, Respondent claimed that he could not remember any details regarding the charges in 154 DB 2001 and therefore could not defend the charges.

15. On May 28, 2002, during the pendency of the formal proceedings, Respondent executed and filed a Certificate of Admission of Disability.

16. On September 4, 2002, the Supreme Court entered an Order directing that Respondent remain under suspension until further Order of the Court, and that all pending disciplinary proceedings be held in abeyance.

17. By Order dated January 31, 2004, the Supreme Court referred Respondent's criminal conviction of two counts of delivery of a controlled substance, one count of possession with intent to deliver, one count of criminal use of a communication facility, and one count of criminal conspiracy to the Disciplinary Board (No. 11 DB 2003).

18. By Order dated April 26, 2010, the Supreme Court directed that the disciplinary proceedings at Nos. 154 DB 2001 and 11 DB 2003 resume.

Charges at Petition No. 154 DB 2001

19. In or about January 1996, Respondent was retained by Janet Hogwood to remove her name as secretary and treasurer of Jazzy Java, Inc.

20. Ms. Hogwood paid a total of $375, in two separate payments, for Respondent's services.

21. Respondent negotiated and/or deposited those checks on February 2, 1996 and March 6, 1996.

22. During the representation, Ms. Hogwood telephoned Respondent and inquired as to the progress Respondent was making.

23. Each time, Respondent assured Ms. Hogwood and misrepresented to her that he had taken steps to remove her name from Jazzy and was waiting for the signature of Mr. Davis, Jazzy's co-owner, for paperwork to be sent to Harrisburg. In fact Respondent had not taken any steps to remove his client's name from Jazzy.

24. By check dated March 5, 1997, Ms. Hogwood paid Respondent an additional $235 to start the process of removing her name from Jazzy.

25. On or about March 14, 1997, Respondent negotiated and/or deposited the check.

26. In or about April 1997, Ms. Hogwood retained a new attorney to represent her.

27. Sometime thereafter, Ms. Hogwood spoke with Respondent and Respondent maintained that he had in his possession the documents evidencing the removal of her name from Jazzy and that the name had been removed from Jazzy.

28. This was a misrepresentation in that at the time Respondent spoke to Ms. Hogwood, her name had not been removed as secretary and treasurer of Jazzy.

29. By certified letter dated September 12, 1997 and received by Respondent's agent on September 15, 1997, Ms. Hogwood requested a refund of the unearned portion of the monies paid to Respondent and a full accounting of services performed.

30. Respondent failed to respond to the letter.

31. Respondent failed to promptly render an accounting regarding his services.

32. In or about May 1995, Respondent was retained by Cheryl P. Johnson- Campbell to represent her in a matter before the Department of Housing and Urban Development.

33. Ms. Johnson-Campbell paid Respondent a total fee of $350 to represent her in this matter.

34. In or about the same time period, Ms. Johnson-Campbell retained Respondent to represent her in an appeal from an adverse decision before the Philadelphia Zoning Board.

35. By letter of May 30, 1995, Respondent agreed to take the case on a contingent fee basis with Ms. Johnson-Campbell paying the initial filing fee and out-of-pocket expenses. Ms. Johnson-Campbell signed the fee agreement.

36. On June 16, 1995, Ms. Johnson-Campbell paid the filing fee of $160 and a photocopying cost.

37. On June 16, 1995, Respondent filed on behalf of his client an appeal in regards to the zoning matter against the City of Philadelphia and Jonathan Moyrant.

38. Respondent failed to appear at the call of the list for assignment of trial.

39. As a result of Respondent's failure to appear, a judgment of non pros was entered on February 5, 1996.

40. Respondent failed to inform Ms. Johnson-Campbell that the case had been non-prossed.

41. Throughout the representation, Ms. Johnson-Campbell attempted to reach Respondent via telephone and mail to obtain the status of her cases.

42. By certified letter of August 22, 1997, Ms. Johnson-Campbell requested that Respondent get in touch with her concerning her case and/or in the alternative forward any and all information pertaining to her case to her if he did not wish to represent her any longer.

43. Respondent failed to accept the letter.

44. Respondent failed to return any of Ms. Johnson-Campbell's phone calls or respond to her letters.

45. By his actions, Respondent abandoned Ms. Johnson-Campbell.

46. Respondent failed to advise his client that he did not intend to represent her or take any steps necessary to the extent reasonably practicable to protect her interest.

47. In or about June 1998, Respondent was attorney of record for Yusuf Gibson in his criminal matter in the Court of Common Pleas of Philadelphia County.

48. On June 23, 1998, Respondent was scheduled to appear at a hearing on behalf of Mr. Gibson before the Honorable Benjamin Lerner.

49. Respondent failed to appear.

50. Respondent did not give notice to the court, opposing counsel or co-counsel that he would not appear.

51. As a result of Respondent's failure to appear on that date, Judge Lerner:

a. telephoned Respondent's office and left several messages on the answering machine ordering him to appear in court;

b. faxed a letter to Respondent's office which stated, inter alia, that:

i. Respondent was present when Judge Bradley continued the case to June 23, 1998;

ii. Judge Bradley had denied Respondent's request to withdraw as counsel;

iii. Respondent's appearance had been entered on behalf of Mr. Gibson;

iv. Respondent was scheduled to appear for trial on June 23, 1998 and failed to appear; and

v. the case was continued to June 24, 1998 at 9:30 a.m. at which time Respondent was expected to appear.

52. Respondent received Judge Lerner's telephone messages and letter.

53. Respondent did not appear for trial on June 24, 1998.

54. As a result of Respondent's failure to appear on that date, Judge Lerner issued a bench warrant and the court severed Mr. Gibson's trial from his co-defendant's case.

55. On June 25, 1998, after Respondent was arrested on the bench warrant for failure to appear on June 23 and June 24, 1998, Ronald Joseph, Esquire, appeared on behalf of Respondent before Judge Lerner.

56. The bench warrant was withdrawn, the contempt hearing was continued until July 21, 1998, and Respondent was removed as counsel for Mr. Gibson.

57. On July 21, 1998, the contempt hearing was held in Respondent's case, in which Respondent's defense was:

a. Respondent could not represent Mr. Gibson because he had not been paid;

b. Respondent could not represent Mr. Gibson because his mother filed an action against Respondent with the Disciplinary Board asserting his ineffectiveness; and

c. Respondent was not attached for trial by either Judge Bradley or Judge Lerner; therefore, there was no direct violation of the Court's Order.

58. At the conclusion of the contempt hearing, Judge Lerner:

a. found that on June 23 and June 24, 1998, Respondent willfully failed to obey an order of the Court which caused the obstruction of justice and the willful interference with the Court's process;

b. found Respondent guilty of contempt of court;

c. fined Respondent $500 for each count of contempt of court.

59. In or about October 1998, Respondent was retained by Nina Andino to represent her son, Kenyatta Andino, in his criminal case.

60. On October 8, 1998, Respondent entered his appearance on behalf of Kenyatta Andino.

61. Ms. Andino paid Respondent a total of $700 towards Respondent's fee of $7,500.

62. Between November 17, 1998 and February 3, 1999, Ms. Andino attempted to contact Respondent by both letter and telephone to obtain the status of her son's case and to make additional installment payments.

63. Respondent failed to respond to Ms. Andino's telephone calls and letters and to supply Ms. Andino with the status of her son's case.

64. On February 3, 1998, Respondent appeared at the Criminal Justice Center and advised the court that Respondent was withdrawing his representation of Kenyatta Andino and Respondent would be refunding the $700 within a week.

65. Respondent failed to forward a refund check to Ms. Andino within that time.

66. Ms. Andino telephoned Respondent several times in regard to the refund.

67. Respondent failed to return Ms. Andino's telephone calls.

68. By certified letter dated February 19, 1999 to Respondent, Ms. Andino inquired as to the date she could expect the refund check and requested that Respondent respond to her inquiry within 10 days.

69. Respondent failed to claim the letter after the post office made three attempts to deliver the letter.

70. Respondent failed to return the unearned fee.

71. On or about June 12, 2000, Ms. Andino forwarded a letter to Respondent again requesting a refund.

72. Respondent failed to respond to the letter.

73. Thereafter Ms. Andino filed a claim with the Pennsylvania Lawyers Fund for Client Security against Respondent.

74. The Fund paid Ms. Andino $700.

75. In or about December 1998, Respondent was retained by James Cook to represent him in a criminal matter.

76. On December 9, 1998, Mr. Cook met with Respondent at his office and paid Respondent $250 toward the fee of $750.

77. Mr. Cook's criminal matter was scheduled for a hearing on December 14, 1998.

78. Respondent requested a continuance, which was granted, but thereafter failed to appear at the court hearing.

79. Between February 1999 and April 1999, Mr. Cook attempted to contact Respondent numerous times by telephone and by visiting Respondent's office.

80. Respondent failed to respond to Mr. Cook's messages.

81. By certified letter dated March 22, 1999 to Respondent, Mr. Cook informed Respondent that his efforts to contact Respondent had been unsuccessful.

82. Respondent failed to claim the letter after the post office made three attempts to deliver the letter.

83. By letter dated June 15, 1999 to Respondent, Mr. Cook notified Respondent that he had not received a refund and inquired as to when he could expect the refund.

84. Sometime thereafter, Respondent agreed to return the unearned fee in the amount of $415 to Mr. Cook.

85. Respondent failed to refund the unearned fee.

86. Mr. Cook filed a claim with the Pennsylvania Lawyers Fund for Client Security, which approved the claim in the amount of $415.

87. In 1994, Mrs. Sandris Windley retained Respondent to represent her and her husband in a claim against the Philadelphia Housing Authority involving Mr. Windley's personal injuries arising out of a slip and fall.

88. Mrs. Windley paid Respondent approximately $200 for his services.

89. Mrs. Windley repeatedly tried to contact Respondent by telephone.

90. Respondent failed to respond to Mrs. Windley's telephone calls.

91. Respondent failed to inform Mrs. Windley of the status of her husband's case.

92. Mrs. Windley retained Respondent to represent her in an automobile accident case.

93. Respondent failed to pursue the case.

94. By letter dated January 18, 2000, sent via regular and certified mail, Stephen C. Josel, Esquire, the new attorney for the Windleys, informed Respondent that the Windleys had been attempting to contact Respondent and had been unsuccessful, and requested that Respondent contact the Windleys and provide a thorough explanation of the status of all of their legal matters.

95. Mr. Josel requested that Respondent contact Mr. Josel within 14 days.

96. Respondent failed to accept the certified letter after delivery was attempted and notice given on January 20 and again on January 28, 2000.

97. The letter sent by regular mail was not returned. Respondent failed to respond to the letter.

98. By letter dated February 7, 2000, sent via certified and regular mail, Mr. Josel again requested from Respondent the same information contained in the January 18, 2000 letter.

99. Neither the letter sent by certified mail nor the letter sent by regular mail was returned to Mr. Josel.

100. Respondent failed to respond.

101. By letter dated March 9, 2000, sent via certified and regular mail, Mr. Josel requested information from Respondent for a third time.

102. Neither the letter sent by certified mail nor the letter sent by regular mail was returned to Mr. Josel.

103. Respondent failed to respond.

104. Mr. Josel eventually settled Mrs. Windley's case without filing a civil complaint on her behalf.

Charge at Petition No. 11 DB 2003

105. On April 27, 2000, Respondent sold 41.1 grams of cocaine to a government informant, who in return paid Respondent $1,875.

106. On May 31, 2000, Respondent sold 80.4 grams of cocaine and 7.9 grams of heroin to the same government informant, who in return paid Respondent $5,300 for the narcotics and an additional $240, which Respondent had requested.

107. On September 19, 2000, Respondent sold 25 grams of cocaine to the same government informant, who in return paid Respondent $1,150.

108. Respondent received from these transactions a portion of drugs, which he used personally, and a small amount of funds.

109. On July 19, 2002, Respondent was convicted by a jury in the Court of Common Pleas of Philadelphia County of two counts of delivery of a controlled substance; one count of possession with intent to deliver; one count of criminal use of a communication facility; and one count of criminal conspiracy.

110. On October 3, 2002, the Honorable Anthony J. DeFino sentenced Respondent to a term of imprisonment of not less than five years nor more than ten years at a state correctional institution; ordered Respondent to pay court costs in the amount of $227.50, and to pay the mandatory minimum fine of $30,000; and ordered Respondent to receive extensive drug treatment during his term of imprisonment.

111. Respondent fully admits his guilt in the criminal conviction matter and has expressed sincere remorse and regret for all of his misconduct.

112. Respondent was incarcerated for five years and 33 days, from January 2001 to February 20, 2006, including twenty months in Curran-Fromhold Correctional Facility and three years and four months at various state facilities.

113. Respondent was released from prison in February 2006 and was restricted to a halfway house until March 30, 2007.

114. While incarcerated, Respondent engaged in rehabilitation programs available to him, including Gaudenzia SCI Chester Orientation, "Thinking For a Change," "Character Development." "Chemical Dependency & Treatment Program," and "Sleep Enhancement Group," "SCI Chester Aftercare Program," and "Job Readiness Training Program," as well as an intensive drug program and a "Drug Dealer's Program."

115. While in the halfway house, Respondent participated in Gaudenzia aftercare programs.

116. At the time of the disciplinary hearing, Respondent was still on parole, with a completion date of January 3, 2011. At the time of the hearing, Respondent had no parole violation incidents.

117. After his release from the halfway house, Respondent voluntarily attended Narcotics Anonymous meetings, including a Lawyers Meeting, at various churches in Philadelphia.

118. Respondent currently attends Narcotics Anonymous sessions at St. John's Evangelical Church in North Philadelphia three Saturdays per month. He also engages in volunteer activities through the church. Respondent does not go to treatment

sessions with a psychiatrist, psychologist or other addiction specialist, as he cannot afford such treatment.

119. Dr. Charles Giannasio, M.D., is an expert in addiction medicine with extensive experience in that field. He testified credibly at the disciplinary hearing on October 14, 2010.

120. In May 2009, Dr. Giannasio evaluated Respondent on the issue of competency to participate in his own defense, at which time he reviewed materials including the Disciplinary Board Report and Order at 156 DB 1993, a statement of criminal conduct in the instant matter, and other related records.

121. At that time, Dr. Giannasio examined and tested Respondent and determined that he was capable of understanding the charges and assisting in his defense.

122. In 2010, Dr. Giannasio conducted extensive interviews with Respondent, in which he learned of Respondent's complete personal history, criminal and disciplinary history, use of cocaine, incarceration and recovery from drug use.

123. Commencing in mid-1998, Respondent was using cocaine and gradually increased his use, eventually becoming addicted to cocaine.

124. Dr. Giannasio opined that Respondent's addiction led to his failure to comply with CLE requirements, engaging in client misconduct, and engaging in criminal acts.

125. Respondent is not currently using cocaine or any other drugs and Dr. Giannasio gave Respondent a good prognosis for the future. Respondent is aware of what he has lost in the past through addiction and realizes he has more to lose now if he returns to cocaine use.

126. After his release from the halfway house, Respondent has found employment as a paralegal or law clerk for members of the Pennsylvania Bar including Qawi Abdul-Rahman, Esquire; Berto M. Elmore, Esquire; Donald Chisholm, Esquire; and Nakea S. Hurdle, Esquire.

127. These attorneys have filed the proper notices of employment with the Disciplinary Board, as has Respondent.

128. Petitioner presented the testimony of four witnesses. Kenneth McDaniels, Esquire, Stephen Feldman, Esquire, Qawi Abdul-Rahman, Esquire; and Karen C. Buck, Esquire, all testified credibly that Respondent feels remorse for his misconduct and has taken steps to rehabilitate himself since his time in prison.

129. By check dated January 5, 2009, Respondent made restitution to the Pennsylvania Lawyers Fund for Client Security for its payment to his former clients, totaling $2,424.50.

130. Respondent has open judgments in the Court of Common Pleas of Philadelphia County in two matters.

III. CONCLUSIONS OF LAW

By his actions as set forth above. Respondent violated the following Rules of Professional Conduct and Rules of Disciplinary Enforcement:

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

2. RPC 1.4(a) (former)– A lawyer shall keep a client informed about the status of a matter and promptly comply with reasonable requests for information.

3. RPC 1.4(b) (former) - A lawyer shall explain a matter to the extent necessary to permit the client to make informed decision regarding the representation.

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

5. RPC 8.4(c) – It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

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

7. Pa.R.D.E. 203(b)(1) (former) – Conviction of a crime, which under Enforcement Rule 214 (relating to attorneys convicted of crimes) may result in suspension shall be grounds for discipline (superseded by Pa.R.D.E. 203(b)(1), effective August 28, 2009, which provides that conviction of a crime shall be grounds for discipline.)

8. Respondent met his burden of proof by clear and satisfactory evidence that he suffered from a psychiatric disorder which caused his misconduct. Office of Disciplinary Counsel v. Braun, 553 A.2d 894 (Pa. 1989).

IV. DISCUSSION

This matter is before the Disciplinary Board for consideration of two Petitions for Discipline filed against Respondent. Petitioner has the burden of proving ethical misconduct by a preponderance of evidence that is clear and satisfactory. Office of

Disciplinary Counsel v. Grigsby, 425 A.2d 730 (Pa. 1981). Petitioner has proved the essential facts and circumstances of the violations charged in 154 DB 2001 and 11 DB 2003 by Joint Stipulations of Fact, exhibits and the testimony of seven witnesses.

Petitioner proved that Respondent violated the Rules charged in the Petition for Discipline at No. 154 DB 2001. In seven separate client matters, Respondent engaged in unprofessional conduct. In the Janet Hogwood matter, Respondent was retained to remove Ms. Hogwood's name from a corporation. Each time Ms. Hogwood contacted Respondent in regard to his progress, he assured her that he had taken the necessary steps to have her name removed. At one point, Respondent maintained that he actually had in his possession documents that evidenced the removal of Ms. Hogwood's name. This was untrue. Thereafter, Respondent failed to forward any documents to Ms. Hogwood, respond to her certified letter or return the unearned fee.

Respondent represented Cheryl Johnson-Campbell in a matter before the Department of Housing and Urban Development and a zoning board appeal. Respondent failed to communicate with his client and failed to respond to her calls and letters. Although he filed an appeal in regard to the zoning matter, he failed to appear at the call of the list, which resulted in the entry of a judgment of non pros.

Respondent was the attorney of record for Yusuf Gibson in a criminal matter, but failed to appear at a hearing on two occasions, and after a contempt hearing was found in contempt of court for each occasion and fined $500 for each count.

Respondent was retained to represent Kenyatta Andino in a criminal matter. Respondent failed to respond to calls and letters to supply Mr. Andino's mother with the status of her son's case. Respondent informed the court that he would withdraw his representation and refund monies to Ms. Andino, but he failed to do so.

Respondent represented James Cook in a criminal matter. He entered his appearance but failed to appear at any subsequent hearing and failed to return calls and respond to letters. Respondent agreed to return the unearned fees, but failed to do so.

Sandris Windley retained Respondent to represent her and her husband in two different personal injury claims. Respondent failed to return or respond to calls and failed to inform Mrs. Windley of the status of the cases. Mrs. Windley obtained new counsel, who attempted to gather information from Respondent regarding the cases. Respondent failed to respond to three separate inquiries.

All of these charges are similar in that Respondent was retained to perform services, failed to communicate, failed to perform the services, and failed to refund unearned fees. These clients had to resort to other measures to address their legal problems. The witnesses who testified as to Respondent's actions were consistent in their testimony and had similar accounts of their contacts with Respondent.

In regard to the charges at Petition for Discipline No. 11 DB 2003, Respondent stipulated that he was convicted of two counts of delivery of a controlled substance, one count of possession with intent to deliver, one count of criminal use of a communication facility, and one count of criminal conspiracy. Respondent has admitted that his conviction constitutes a ground for discipline pursuant to Pa.R.D.E. 203(b)(1).

In determining the appropriate measure of discipline, the Board and the Court consider applicable precedent, which provides a benchmark to gauge the severity of the misconduct in relation to the discipline, which must then be tailored in consideration of any aggravating and mitigating circumstances. Office of Disciplinary Counsel v. Lucarini, 472 A.2d 186 (Pa. 1983).

Respondent's criminal conviction is very serious and constitutes the basis for significant discipline. The conviction involved the delivery or intent to deliver a total of 146.5 grams of cocaine and 7.9 grams of heroin, for a total of 154.4 grams of highly addictive controlled substances. The seriousness of Respondent's misconduct is reflected by his sentence of incarceration. This misconduct, combined with the extensive client misconduct engaged in by Respondent from approximately 1996 through 2000, demonstrates that the need for severe discipline is warranted.

There is precedent in Pennsylvania for a lengthy suspension or disbarment in cases involving delivery and possession with intent to deliver a controlled substance. In the matter of Office of Disciplinary Counsel v. Simon, 507 A.2d 1215 (Pa. 1986), Simon was convicted of federal drug charges after he acted as a middle man for the sale and purchase of four ounces of cocaine. He was convicted of unlawfully, willfully and knowingly conspiring to import, distribute, and possess with intent to distribute, and unlawfully, knowingly and intentionally possessing with intent to distribute cocaine. Simon was sentenced to two years and three months incarceration. The Board recommended a suspension of two years; however, the Court imposed disbarment. The Court stated, "Facilitating the sale and purchase of cocaine, alone, warrants disbarment." Simon, supra 507 A.2d at 1220. Further, the Court found as aggravating factors that Simon knew that cocaine would be sold on the streets, and he refused to tell the authorities the identity of the ultimate purchaser of the cocaine. Even though Simon had no record of professional discipline, the Court still disbarred him.

The respondent in Office of Disciplinary Counsel v. Perrino, 18 Pa. D. & C. 4th 490 (1993), was convicted of one drug transaction involving delivery of a small amount of cocaine with no profit motive. He was sentenced to a term of incarceration of ten years,

later reduced to six years, and the five year suspension he received from the Supreme Court reflects the lengthy term of incarceration.

The attorney in Office of Disciplinary Counsel v. Davis, 1 Pa. D. & C. 5th 78 (2006), was suspended for one year and one day following his conviction of participating in three drug transactions totaling 143.9 grams of cocaine. He received a term of incarceration of one to three years. Davis had no record of discipline and no criminal history, and did not engage in client misconduct.

There are numerous aggravating and mitigating factors in this particular matter that warrant examination.

The most serious aggravating factor is Respondent's record of prior discipline. Respondent is currently under suspension by Order of the Supreme Court of April 2, 2001, for a period of one year and one day. This resulted from Respondent's conviction of simple assault in 1994. He was sentenced to 180 days in jail and actually served 45 days, with two years of supervised probation. Respondent has never been reinstated, as he took disability status by Order of the Court dated September 4, 2002. Respondent received an Informal Admonition in 1997 for client neglect, similar to the acts which form the basis of the Petition for Discipline at No. 154 DB 2001.

Other aggravating factors are Respondent's contempts of court in 1997 and 1998 and his transfer to inactive status in 1999 for failure to comply with CLE requirements. Respondent contends that the Board should not consider the Informal Admonition or the contempts of court, as they were previously considered as aggravating factors during the proceedings resulting in the suspension. We are not persuaded by this argument. Respondent's record of prior bad acts stands on its own. The acts are not subsumed into and made irrelevant by a prior proceeding.

It is clear from this history that Respondent has been engaged in a course of misconduct since his admission in 1994 and continuing through his criminal conviction in 2002. Respondent has put forth evidence that this course of conduct has ceased and he has rehabilitated himself. We now examine Respondent's evidence concerning his drug addiction and recovery.

Respondent presented the testimony of Charles V. Giannasio, M.D., an expert in addiction medicine. The Hearing Committee found this testimony to be credible, and Dr. Giannasio's opinion well-founded. Review of the record supports this conclusion. Dr. Giannasio conducted extensive interviews with Respondent in which he learned Respondent's complete personal history, criminal and disciplinary history, use of cocaine, incarceration and recovery. . Dr. Giannasio opined that Respondent was addicted to cocaine during the time frame of his misconduct, and such addiction substantially contributed to Respondent's wrongdoing. Respondent is entitled to mitigation pursuant to Office of Disciplinary Counsel v. Braun, 553 A.2d 894 (Pa. 1989). Dr. Giannasio opined that Respondent's current prognosis is good, based on the programs in which Respondent participated, his current activities, and observations of Respondent. Respondent is no longer using drugs and does not demonstrate any of the characteristics of a cocaine addict.

Respondent testified on his own behalf. The Hearing Committee found that Respondent expressed sincere and genuine remorse for his misconduct, and the record supports this finding. Respondent candidly described his use of cocaine, his eventual addiction to cocaine, and the toll it took on his law practice and personal life. While incarcerated, Respondent took advantage of every treatment program and rehabilitative activity available. After his release to the halfway house in February 2006, Respondent

continued with therapy and successfully participated in Narcotics Anonymous and other programs. Respondent currently attends Narcotics Anonymous three Saturdays per month. Respondent does not receive formal treatment from a psychiatrist or psychologist, as he indicates he cannot afford such treatment. Since his release from prison and the halfway house, Respondent has not engaged in any illegal conduct or used drugs.

Respondent has been employed as a legal researcher and writer for several Philadelphia attorneys and has complied with notice requirements to the Disciplinary Board. These attorneys are all aware of the salient facts of Respondent's criminal and disciplinary problems. Qawi Abdul-Rahman, Esquire, testified that Respondent has completed his assigned projects in a very satisfactory manner.

After considering the totality of the record, the Board is persuaded that disbarment is the appropriate sanction. It is inescapable that the case at bar involves egregious misconduct and significant aggravating factors to which sufficient weight must be assigned. Even in light of our above conclusion that Respondent is entitled to Braun mitigation, disbarment is still the appropriate recommendation. Office of Disciplinary Counsel v. Czmus, 889 A.2d 1197 (Pa. 2005) (some misconduct is so egregious that it requires disbarment despite Braun mitigation.) Disbarment is adequate to protect the public, maintain the integrity of the court and legal profession, and send the appropriate message of deterrence for such egregious misconduct.

The question of retroactivity must be addressed, as both the Hearing Committee and Petitioner urge the Board to forego retroactivity, while Respondent asks this Board to apply retroactivity to February 2006, the date Respondent was released from incarceration. The position of the Committee and Petitioner is simply that Respondent is not entitled to retroactivity due to the severity of the charges and the aggravating factors.

The Court may grant retroactivity in certain situations. Often times in a criminal conviction matter, when the attorney has been placed on temporary suspension, the Court will impose a sanction retroactive to the date of temporary suspension, in recognition of the fact that the attorney has already been removed from the practice of law for a length of time. Office of Disciplinary Counsel v. Perrino, 18 Pa. D. & C. 4th 490 (1993); Office of Disciplinary Counsel v. Guida, 34 Pa. D. & C. 4th 198 (1995). But See Office of Disciplinary Counsel v. Simon, 507 A.2d 1215 (Pa. 1986).

Retroactivity was granted in Matter of Renfroe, 695 A.2d 401 (Pa. 1997). Respondent was convicted by a federal jury of bribery of a witness and obstructing the administration of justice, offenses which directly impacted the judicial process and were so serious that disbarment was ordered. In Renfroe, credible medical evidence was submitted asserting that Respondent's misconduct and criminal behavior was caused by his addiction to cocaine and the misconduct was a product of cocaine dependence. The Court made the disbarment retroactive to what it identified as the latest date in the record when Renfroe was known to be drug free, which coincided with the date of the temporary suspension.

Having already determined that Respondent is entitled to mitigation pursuant to Braun, the Board finds it appropriate to apply retroactivity in this particular case. While Respondent asserts that his release from incarceration in February 2006 is the proper date for retroactivity, the Board identifies the appropriate date to be January 1, 2007. This date is nearly one year after Respondent's release from prison and is squarely within the time frame of Respondent's rehabilitation and recovery from drug addiction.

The record demonstrates that Respondent has been drug free since 2000, and has participated in many treatment programs during his incarceration and his stay at

the halfway house, as well as after his release from the halfway house. Respondent continues to attend Narcotics Anonymous on a regular basis. He has not engaged in any drug or criminal activity since his release from prison and the halfway house. He has expressed sincere remorse and his witnesses affirm that he recognizes his wrongdoing and is sorry for it. The medical evidence demonstrates that Respondent's prognosis for continued abstinence and recovery is good if he maintains participation in rehabilitative programs, which he is doing. Respondent has been employed as a legal assistant to several Philadelphia attorneys and has been a satisfactory employee.

As noted, the Board is persuaded that disbarment is the appropriate sanction in this case. However, we see little to be gained by the public or the profession in having Respondent be prospectively disbarred for five years and unable to apply for reinstatement until 2017, which would be the consequence of a disbarment without retroactivity. Respondent is 54 years old and has not practiced law for more than ten years. If Respondent is truly rehabilitated and fit to practice law, we believe he should have the opportunity to petition for reinstatement after January 1, 2012. If Respondent applies for reinstatement after that date, he will have to undergo a reinstatement proceeding and establish that his underlying misconduct was not so egregious as to preclude reinstatement, that a sufficient amount of time has passed for his petition to be considered, and that he has been rehabilitated and is fit to practice law.

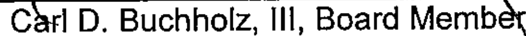
V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania recommends that the Respondent, Anthony Jerome McKnight, be Disbarred from the practice of law retroactive to January 1, 2007.

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: ______________________
Carl D. Buchholz, III, Board Member

Date: October 28, 2011

Board Members Lawrence, McLemore, and Todd dissented and would recommend Disbarment retroactive to February 18, 2010.