

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 17 DB 2001
Petitioner	:	
	:	
v.	:	Attorney Registration No. 44775
	:	
FRED JOSEPH LAGATTUTA,	:	
Respondent	:	(Allegheny 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 herewith submits its findings and recommendations to your Honorable Court with respect to the above-captioned Petition for Discipline.

I. HISTORY OF PROCEEDINGS

On February 5, 2001, Petitioner, Office of Disciplinary Counsel, filed a Petition for Discipline against Fred Joseph Lagattuta, Respondent in these proceedings. The Petition charged Respondent with violations of the Rules of Professional Conduct in four separate matters.

A disciplinary hearing was held on December 17, 2001 before Hearing Committee 4.04 comprised of Chair Timothy R. Bonner, Esquire, and Members Christopher E. Mohney, Esquire, and Patrick J. Thomassey, Esquire. Respondent was represented by Thomas W. Brown, Esquire.

The Hearing Committee filed a Report on March 25, 2002 and found that Respondent violated the Rules of Professional Conduct as charged in the Petition for Discipline. The Committee recommended that Respondent be disbarred.

No Briefs on Exceptions were filed by the parties.

This matter was adjudicated by the Disciplinary Board at the meeting of June 12, 2002.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is 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 born in 1958 and was admitted to practice law in the Commonwealth of Pennsylvania in 1985. His attorney registration address is 2506 E. Carson St., 3rd Floor, Pittsburgh PA 15203-2101.

The Guidice Matter

3. In about June of 1991, Brian T. Guidice retained Respondent to represent him with regard to a civil action against the Borough of Burgettstown, Pennsylvania.

4. Respondent entered into a contingent fee agreement with Mr. Guidice for his representation, by which he was to receive thirty-three (33%) percent of any recovery.

5. In or about April of 1994, Respondent filed in the Court of Common Pleas of Allegheny County a Praecipe for Issuance of Summons on behalf of Mr. Guidice, which was served on the defendant, the Borough of Burgettstown, which matter was docketed at GD-94-006481.

6. No further action of record was taken until August 3, 1995.

7. On August 3, 1995, counsel filed on behalf of the Borough of Burgettstown a Praeceptum for Rule to File a Complaint, which was served upon Respondent by certified mail.

8. On August 28, 1995, Respondent filed a civil complaint on behalf of Mr. Guidice.

9. By Order dated October 11, 1995, after consideration of preliminary objections, the averments of certain paragraphs of the Complaint were stricken, and Mr. Guidice was directed to file an Amended Complaint setting forth tort allegations.

10. The October 11, 1995 Order also provided that the matter be transferred to Washington County.

11. On February 6, 1996, the record for the matter was received in Washington County and docketed at No. 96-01101.

12. On February 28, 1996, Respondent filed in the Court of Common Pleas of Washington County an Amended Complaint on behalf of Mr. Guidice.

13. On September 10, 1996, an Answer, New Matter and Cross-Claim were filed on behalf of the Borough of Burgettstown.

14. The Cross-Claim by the Borough of Burgettstown joined as additional defendants Washington County and the Commonwealth of Pennsylvania Department of Transportation.

15. From about October of 1996 through about June of 1997, the parties engaged in discovery.

16. On August 28, 1997, by stipulation, Washington County was dismissed with prejudice as a defendant.

17. On September 3, 1997, by stipulation, all claims against the Commonwealth of Pennsylvania Department of Transportation were dismissed with prejudice.

18. No further action of record occurred with regard to the matter until April 6, 1998.

19. On April 6, 1998, a motion for partial summary judgment was filed on behalf of the Borough of Burgettstown, as well as a brief in support of the motion for partial summary judgment.

20. Any response brief was due on or before May 1, 1998, and argument on the motion was scheduled for May 12, 1998.

21. Respondent did not file any brief in response to the motion for partial summary judgment, nor did he appear for argument on the motion on May 12, 1998.

22. On May 12, 1998, the court granted the motion for partial summary judgment against Mr. Guidice.

23. From May 12, 1998, Respondent took no further action on behalf of Mr. Guidice that appears on the court record.

24. By letter dated November 3, 1998, Attorney Daniel F. LaCava, representing the Borough of Burgettstown, requested that Respondent contact him to discuss settlement of the matter.

25. Some time in late November 1998, Respondent contacted Attorney LaCava's office, and spoke to his associate, Stephen M. Elek, Esquire.

26. In his conversation with Attorney Elek, Respondent stated that he was willing to settle the case.

27. From late November 1998, to February 19, 1999, Attorney LaCava telephoned Respondent's office on numerous occasions, but Respondent did not return his calls.

28. In about early January of 1999, Respondent told Mr. Guidice that he was having a meeting with the defendant's counsel to discuss settlement of the case.

29. Respondent never scheduled a meeting with opposing counsel.

30. From January 8, 1999 until February 2, 1999, Mr. Guidice left several telephone messages for Respondent concerning the matter.

31. Respondent did not return any of Mr. Guidice's calls.

32. On the last occasion when he called Respondent, Mr. Guidice left a message for Respondent informing him that Respondent was discharged and that Mr. Guidice wanted his file to be returned.

33. Between February 2, 1999 and the end of May 1999, Mr. Guidice told Respondent that he was discharged.

34. Mr. Guidice told Respondent that he was discharging him because, among other reasons, Respondent did not keep him informed with regard to his legal matter and never returned his calls.

35. Respondent agreed to deliver the file to Mr. Guidice.

36. Respondent did not contact Mr. Guidice and, when Mr. Guidice attempted to contact Respondent, he discovered that Respondent's phone had been disconnected.

37. Mr. Guidice has never again heard from Respondent.

38. By letter to Respondent dated February 19, 1999, Attorney LaCava referred to his November 3, 1998 letter to Respondent, Respondent's conversation in late November with Attorney Elek and his fruitless attempts to reach Respondent by telephone.

39. In his February 19, 1999 letter to Respondent, Attorney LaCava offered to settle the matter for a payment to Mr. Guidice of \$600, and asked that Respondent advise him if the offer was acceptable.

40. Also on February 19, 1999, Attorney LaCava discussed the matter with Respondent by telephone and verbally extended the offer for \$600, to which Respondent replied that he would discuss the offer with Mr. Guidice and get back to Attorney LaCava within a week or so.

41. Respondent did not inform Attorney LaCava that he had been discharged by Mr. Guidice, either during their February 19, 1999 conversation or at any time thereafter.

42. After hearing nothing further from Respondent, on May 10, 1999, Attorney LaCava attempted to telephone Respondent, but discovered that Respondent's office telephone had been disconnected.

43. By letter to Respondent dated May 12, 1999, Attorney LaCava again requested that he contact him.

44. Respondent did not respond to Attorney LaCava's letter of May 12, 1999.

45. Respondent at no time conveyed Attorney LaCava's offer to Mr. Guidice.

46. To date, Respondent has not delivered the legal file to Mr. Guidice.

The Sperling Matter

47. Some time in 1997, Loren Sperling retained Respondent to prepare a new will for her.

48. At that time, Ms. Sperling provided Respondent with her existing will and certain additional documents to aid him in preparing her new will.

49. Respondent informed Ms. Sperling that he would call her shortly to finalize her new will.

50. When she did not hear from Respondent over the next several months, Ms. Sperling made numerous calls to his office concerning the matter and left messages for him to return her calls.

51. Ms. Sperling also wrote Respondent several short notes requesting that he return her original existing will and other documents, so that she could go to another lawyer to have her will prepared.

52. Respondent did not respond to Ms. Sperling's communications to him.

53. When Ms. Sperling was able to speak to personnel at Respondent's office, members of his staff refused to return her documents to her without Respondent's consent.

54. Some time between the time Respondent was retained and May 1999, Respondent closed his office and his telephone was disconnected.

55. To date, Respondent has not provided Ms. Sperling with the draft of a new will, nor has he returned her documents.

The Wachter Matter

56. On or about September 9, 1998, Regis W. Wachter retained Respondent to represent him in a divorce from Beverly Sue Cutenese, from whom he was separated.

57. Respondent verbally agreed to represent Mr. Wachter for a flat fee of \$500, which included costs for an uncontested divorce.

58. Respondent had never before represented Mr. Wachter.

59. Respondent did not communicate to Mr. Wachter, in writing, the basis or rate of the legal fee, either before commencing the representation or within a reasonable time thereafter.

60. On September 9, 1998, Respondent filed a complaint in divorce on behalf of Mr. Wachter.

61. Respondent took no further action of record on behalf of Mr. Wachter.

62. By September 28, 1998, Mr. Wachter paid Respondent a total of \$500 for his services.

63. At about that time, Respondent provided to Ms. Cutenese a document for her signature concerning the divorce, which she signed.

64. Ms. Cutenese did not oppose the divorce.

65. Beginning in about late September of 1998, Mr. Wachter made numerous calls to Respondent and left messages asking Respondent to call back.

66. Respondent did not return any of Mr. Wachter's calls.

67. In about early October 1999, Mr. Wachter retained other counsel to complete his divorce action, and obtained a divorce shortly thereafter.

The Lagattuta Estates Matter

68. Respondent's father, Anthony J. Lagattuta, died on January 23, 1996.

69. Respondent's mother, Joan Lagattuta, died on March 16, 1996.

70. By April 24, 1996, pursuant to their wills, Respondent received letters testamentary as executor of both estates.

71. Respondent did not retain counsel to represent him in his capacity as executor, but instead proceeded *pro se*.

72. Anthony J. Lagattuta's Will left his entire estate to his wife, Joan D. Lagattuta, and if she predeceased him, to their eight children in equal shares.

73. On October 23, 1996, as executor of the estate of Joan D. Lagattuta, Respondent filed a disclaimer with the Register of Wills of Allegheny County, by which her estate disclaimed its interest in assets of her husband's estate, to the extent of the then-available federal unified estate tax credit amount of about \$642,000.

74. Pursuant to the disclaimer, the disclaimed amount of Anthony Lagattuta's estate passed under his will to his eight children in equal shares.

75. Under Joan Lagattuta's will, because Anthony J. Lagattuta predeceased her, her entire estate was left to her eight children in equal shares.

76. Paula Lagattuta, successor personal representative of the estates, Attorney John F. Meck, attorney for Ms. Lagattuta in her capacity as personal representative, and Attorney Timothy F. Burke, successor personal administrator of the estates, would testify that, from at least April 24, 1996, by which date Respondent was the executor for both estates, until July 15, 1997, when Ms. Lagattuta was appointed as administrator *pro tem* of the estates, Respondent failed to take appropriate action with regard to the estates, including:

- (a) Failing to maintain insurance coverage on real estate and motor vehicles belonging to the estates;

- (b) Failing to make mortgage payments on the residence of the decedents located at 2600 Giant Oaks Drive, Pittsburgh, PA 15241; and,
- (c) Failing to pay real estate taxes on some or all of the properties belonging to the estates.

77. Respondent made payments to himself or on his own behalf from funds belonging to the estates totaling \$60,341.69.

78. Further, in October of 1996, with regard to the sale of a business in which the estates had an interest, the Pioneer Quality Market, Respondent received \$65,426.92.

79. The proceeds were from the sale of the real estate on which the business was located, in which the estates did not have an interest, and the business itself, in which the estates had a one-half interest.

80. The estates' share of the proceeds was \$26,000.

81. Respondent did not deposit these funds in an estate account and has not accounted for those funds.

82. Respondent used those funds for his own purposes.

83. On September 19, 1996, Respondent pledged, as collateral for two personal loans from United American Savings Bank, bank accounts belonging to the Estate of Joan D. Lagattuta.

84. Respondent has not repaid these personal loans, and the estate assets remain encumbered.

85. The amount currently owed on these personal loans is greater than the value of the bank accounts pledged as collateral.

86. There is no benefit to be realized by the estates by paying off the loans.

87. The funds in those bank accounts will therefore never be available to the estates, unless Respondent pays off his personal loans.

88. On January 23, 1996, the day of the death of Anthony J. Lagattuta, Respondent became aware that cash in the amount of at least \$175,000 was in a safe deposit box, which box was held jointly by his parents.

89. On that day, Respondent accompanied his mother to the safe deposit box, at which time she removed the cash and took it from the bank.

90. Respondent maintained physical control of the cash.

91. On or about May 23, 1997, a petition to compel the filing of an inventory and accounting, to remove Respondent as executor, to appoint an

administrator *pro tem*, and to appoint an examiner of assets was filed on behalf of Respondent's sisters, Lara A. Connors and Paula J. Lagattuta.

92. At his deposition held on July 7, 1997, Respondent objected to questions concerning the cash found in the safe deposit box and refused to account for the cash found in the safe deposit box.

93. Pursuant to the petition to compel, by order dated July 15, 1997, the Honorable Robert A. Kelly ordered that:

- (a) Paula J. Lagattuta be appointed as administrator *pro tem* of the estates effective immediately;
- (b) Respondent turn over to Paula J. Lagattuta all of the assets of the estates and the books, accounts, and papers related thereto no later than seven days from the date of the Order; and,
- (c) Respondent file inventories and accounts of his administrations of both estates within thirty days of the court's order.

94. Respondent did not turn over the assets of the estates and the books, accounts, and papers related thereto within seven days from the court's order, nor did he file inventories and accounts for either estate within thirty days of the July 15, 1997 order.

95. On July 31, 1997, Respondent was given notice on behalf of the administrator *pro tem* of the estates that a petition to enforce sanctions on him for his failure to comply with the order of July 15, 1997 would be presented to the court on August 7, 1997.

96. On August 18, 1997, on the record in open Court, Respondent tendered his resignation as executor of the estates.

97. The Court accepted Respondent's resignation as Executor of the Estates and granted Paula J. Lagattuta leave to apply for appointment by the Register of Wills as Administratrix D.B.N.C.T.A. of the estates.

98. Respondent was to file, as to both estates, inventories and accounts no later than August 25, 1997 (the inventories), and September 2, 1997 (the accounts).

99. By a decree dated August 22, 1997, reflecting the court's ruling on August 18, 1997, the court, *inter alia*, decreed that Respondent was to turn over to the successor administrator or her counsel all property belonging to the estates, and surrender possession of the residence of the decedents no later than September 18, 1997.

100. Earlier deadlines were set in the August 22, 1997 decree for the delivery to the successor Administrator or her counsel of other property.

101. Respondent did not comply with the court's decree of August 22, 1997.

102. Thereafter, a petition for compliance was filed on behalf of the new administrator.

103. By a decree compelling discovery dated September 11, 1997, the court compelled discovery with regard to certain estate matters, including at least \$175,000 in cash that had been in the safe deposit box.

104. In the September 11, 1997 decree, the court ordered Respondent to appear for a deposition on September 22, 1997, to answer questions relating to the receipt, disbursement, and distribution of cash that was in the safe deposit box.

105. On September 22, 1997, Respondent did not appear for the deposition as ordered by the court.

106. On October 10, 1997, the court issued a rule to show cause why Respondent should not be held in contempt of the court's decree dated September 11, 1997, and a hearing was scheduled on that rule to show cause for October 22, 1997.

107. After a hearing on October 22, 1997, the court found Respondent in contempt and gave him until November 7, 1997 to purge the contempt, on which date a hearing on the imposition of appropriate sanctions was scheduled.

108. On November 7, 1997, Respondent tendered to the court Inventories for the Estates.

109. Also on November 7, 1997, the court directed that Respondent appear at the courtroom starting on November 10, 1997, at 9:00 a.m. and remain until 4:00 p.m. each day that the Court was in session, until the accounts were prepared.

110. At a second deposition held on March 12, 1998, Respondent again refused to account for the cash found in the safe deposit box.

111. On March 31, 1998, April 1, 1998, and April 2, 1998, the court held a trial with regard to allegations made in petitions filed by Laura Connors and Paula J. Lagattuta concerning the estates.

112. On April 2, 1998, the Court made oral findings of fact and conclusions of law.

113. By written order dated April 3, 1998, the court ordered that Respondent file an accounting of all the funds received by him and/or Laura Hutterer (his fiancé) and placed in safe deposit boxes at Brentwood Federal Savings and Loan, such accounting to be filed on April 14, 1998 at 9:30 a.m. by Respondent personally handing those accounts to the Court .

114. Pursuant to the April 3, 1998 order, in the event that Respondent failed to file the accounts as above set forth, a charge was to be made against his distributive share of the estates in the amount of \$175,000.

115. Respondent did not file the accounts as ordered in the Court's April 3, 1998 order.

116. At the conclusion of a conference held on April 14, 1998, the Court ordered that a total charge of \$175,000 be made against Respondent's distributive share of both estates.

117. By written order dated April 14, 1998, the Court ordered that a total of \$175,000 be charged against Respondent's distributive shares in each estate.

118. At about that time, Paula J. Lagattuta was removed as administrator of the estates. In about early May 1998, Attorney Burke was appointed to that position.

119. On May 4, 1998, Respondent filed notices of appeal to Superior Court of the court's order of April 3, 1998.

120. On September 30, 1998, the appeals were quashed for Respondent's failure to file exceptions to the court's order of April 3, 1998.

121. Respondent made no further appeal of the matter.

122. Respondent has a history of discipline consisting of a suspension of one year and one day imposed by the Pennsylvania Supreme Court on March 8, 2001. This suspension resulted from action on a Petition to Revoke Probation filed against

Respondent after his third instance of violating previously-imposed conditions of probation.

III. CONCLUSIONS OF LAW

By his actions as set forth above, Respondent violated the following Rules of Professional Conduct:

As to the Guidice matter:

1. RPC 1.3 – A lawyer shall act with reasonable diligence and promptness in representing a client;
2. RPC 1.16(d) – Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests;
3. RPC 8.4 (c) – It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

As to the Sperling matter:

1. RPC 1.3 – A lawyer shall act with reasonable diligence and promptness in representing a client;
2. 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;
3. RPC 1.16(d) – Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests.

As to the Wachter matter:

1. RPC 1.3 – A lawyer shall act with reasonable diligence and promptness in representing a client;
2. 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;
3. 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.

As to the Lagattuta Estates matter:

1. RPC 1.3 – A lawyer shall act with reasonable diligence and promptness in representing a client;
2. 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.
3. 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. Except as otherwise stated, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property;
4. RPC 8.4(c) - It is professional misconduct for a lawyer to engage in conduct involving dishonesty fraud, deceit or misrepresentation;
5. RPC 8.4(d) – It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

IV. DISCUSSION

Before this Board for consideration is the petition for discipline charging Respondent with professional misconduct in four separate matters. Office of Disciplinary Counsel and Respondent entered into a stipulation to the facts of these matters. Respondent stipulated that, in the Guidice, Sperling and Wachter matters, Respondent engaged in acts involving neglect of his professional obligations to his clients; specifically, failing to communicate with his clients and failing to diligently pursue his clients' legal matters. The misconduct involved in these three matters is very similar and Respondent does not dispute that it occurred.

Without minimizing the importance of the foregoing, the fourth matter is the most serious and concerns Respondent's actions regarding the estates of his parents. The facts of record show that Respondent was named executor for the estates of both parents, who died within a short time of each other. The facts further demonstrate that in addition to his failure to timely pursue estate matters, Respondent misappropriated funds from the estate accounts. Respondent made improper payments to himself in the amount of approximately \$60,000, he misappropriated \$26,000 from the sale of a business in which the estate had an interest, he pledged certain estate assets as collateral for a personal loan in the amount of \$8,000, and Respondent failed to account for cash in a safe deposit box belonging to his father, the amount of which was estimated to be \$175,000.

In defense of the allegation that he took more than \$60,000 from the estate accounts, Respondent claimed that he took the monies to reimburse himself for monies he paid out of his own pocket to cover estate expenses. These included alleged expenses arising from the management of a restaurant and rental properties. Respondent also claimed that he made withdrawals for items such as a campaign contribution to a state representative and a parking ticket, which Respondent testified were estate-related expenditures. Respondent claimed that he put more of his own money into the estate expenses than he ever took out of the estate accounts, but no evidence was submitted to support this contention. In his testimony, Respondent alluded to a loan of \$50,000 that he made to the estate. Despite his vehement protestations that he did not misappropriate monies from the estates of his parents, Respondent produced no accountings or other documentation to substantiate the legitimacy of the various expenditures he claimed that he made.

In defense of the allegation that he misappropriated \$26,000 in which the estate had an interest, Respondent testified that he did not really think that amount should be included in the estate, but since it was included he would pay back what he owed. Respondent's testimony indicates that he did improperly take the money.

Respondent pledged, as collateral for two personal loans, bank accounts belonging to his mother's estate. Respondent explained that his father had always loaned money to people in their neighborhood through an account he had at United American Savings Bank. After his father died, Respondent alleged that people

approached Respondent for loans and he acquiesced. The difference, according to Respondent, was that these people did not pay Respondent back as they had repaid his father. Respondent did not repay the loans.

In explanation of his actions regarding the cash in the safe deposit box, Respondent testified that the day before the death of his father, the father directed Respondent to take certain undisclosed actions with the money upon the father's death. The day after the death, Respondent's mother took him to the bank to retrieve the box. Respondent testified that he then carried out his father's directives. In his capacity as executor of the estates, Respondent refused to account for the monies in the deposit box. Respondent's failure to provide accountings for the estate resulted in court proceedings against him instituted by two of his sisters. On several occasions, Judge Robert Kelly ordered Respondent to provide an inventory and accounting and to turn over estate assets, but Respondent did not comply. Judge Kelly ordered that as to the safe deposit box, a total charge of \$175,000 be made against Respondent's distributive share of the estates.

The only conclusion to be drawn from the evidence of record is that Respondent mishandled and misappropriated estate funds entrusted to him. Respondent violated his professional responsibilities with respect to these funds, to the point of disregarding the direct order of a judge. Respondent's testimony at the disciplinary hearing, at times defiant and evasive, serves to bolster this conclusion.

Respondent's actions in the estate matter, his careless management of three other client matters, and his prior history of discipline warrant disbarment.

While there is no per se rule for discipline in Pennsylvania, the Disciplinary Board and the Supreme Court have regarded misappropriation of entrusted funds as an extremely serious act of misconduct. Office of Disciplinary Counsel v. Lucarini, 472 A.2d 186 (Pa. 1983). The mishandling of client monies is a serious breach of the public trust that cannot be tolerated. Office of Disciplinary Counsel v. Lewis, 426 A.2d 1138 (1981).

In order to reflect the gravity of Respondent's misconduct, and in light of Respondent's prior discipline, the Board recommends that Respondent be disbarred.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania recommends that the Respondent, Fred Joseph Lagattuta, be Disbarred from the practice of law in this Commonwealth.

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: John E. Iole, Board Chair

Date: December 27, 2002

Board Members Schultz and McLaughlin did not participate in the June 12, 2002 adjudication.

CORRECTED ORDER

PER CURIAM:

AND NOW, this 25th day of March, 2003, upon consideration of the Report and Recommendations of the Disciplinary Board dated December 27, 2002, it is hereby

ORDERED that FRED JOSEPH LAGATTUTA 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.