

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 994, Disciplinary Docket
Petitioner	:	No 3 - Supreme Court
	:	
v.	:	No. 86 DB 2005 – Disciplinary Board
	:	
GEORGE KOTSOPOULOS	:	Attorney Registration No. 75106
Respondent	:	(Chester 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

By Order of the Supreme Court of Pennsylvania dated June 6, 2005, George Kotsopoulos was placed on temporary suspension and the matter was referred to the Disciplinary Board. On July 12, 2005, Office of Disciplinary Counsel filed a Petition for Discipline against Respondent charging him with professional

misconduct arising out of his conviction in the Court of Common Pleas of Philadelphia County of three counts of tampering with public records or information in violation of 18 Pa.C.S.A. §4911(a)(1), by providing a false notary. Respondent filed an Answer to Petition for Discipline on August 25, 2005.

A disciplinary hearing was held on November 4, 2005 before a District II Hearing Committee comprised of Chair Lester G. Weinraub, Esquire, and Members Michael A. Cagnetti, Esquire, and Peter J. Hart, Esquire. Respondent was represented by John Rogers Carroll, Esquire.

Following the submission of briefs by the parties, the Committee filed a Report on April 26, 2006 and recommended that Respondent be subjected to a public censure.

This matter was adjudicated by the Disciplinary Board at its July 15, 2006, meeting.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is situated at Suite 1400, 200 North Third Street, Harrisburg PA 17101, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement, 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 the bar in the Commonwealth in 1995 and placed on temporary suspension from the practice of law on June 6, 2005, by Order of the Supreme Court of Pennsylvania. Respondent is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has no prior history of discipline.

4. On October 19, 2004, Respondent entered a plea of nolo contendere before the Honorable George W. Overton to three counts of tampering with public records or information in violation of 18 Pa.C.S.A. § 49119a)(1), by providing a false notary.

5. On October 19, 2004 Judge Overton sentenced Respondent to 18 months reporting probation and court costs.

6. The factual basis for Respondent's plea is that he falsely attested that a person named William Leibowitz, using the alias of Howard C. Goldman, had signed mortgage documents in his presence at two settlements, when in fact these documents had not been signed in Respondent's presence.

7. Respondent testified that an individual representing himself to be Howard C. Goldman gave him the documents at the settlements and represented to Respondent that he had signed them in advance.

8. The documents were later recorded in the Office of the Recorder of Deeds.

9. The mortgages involved were satisfied and no loss was suffered by the lenders or any other party to the transactions.

10. After admission to the Pennsylvania bar in 1995, Respondent accepted a position as a title underwriter with a title company in Malvern, Pennsylvania.

11. After about three years, Respondent formed Capital Assurance Group, Inc., with Barbara Meloy in 1998.

12. Capital Assurance is an escrow and title insurance company that provides title insurance to mortgage lenders and conducts residential and commercial real estate settlements.

13. In addition to being an officer of Capital Assurance, Respondent was its staff attorney; he also performed marketing services and acted as a settlement agent or clerk for the company in real estate closings.

14. In Pennsylvania a settlement clerk does not have to be licensed as an attorney to conduct settlements.

15. At real estate closings involving Capital Assurance, the settlement clerk's responsibilities include carrying out the lender's instructions, conducting the settlement, preparing and providing to the parties a settlement statement and distributing the loan proceeds in accordance with the statement.

16. Capital Assurance and Respondent had no responsibilities involving approving applicants for loans or reviewing loan applications.

17. Respondent did not express remorse for his criminal conduct.

Unauthorized Practice of Law

18. In February or March 2005, Gregory Costa, a friend of Respondent's parents, asked Respondent to write a letter for him to his neighbors, stating that Costa's neighbors' fence was encroaching upon the Costa property and that the neighbors did not have permission to do so.

19. Respondent told Mr. Costa at that time that he could write the letter himself; Respondent then forgot about Mr. Costa's request.

20. In July 2005, Mr. Costa again requested that Respondent write a letter to his neighbors, the Schwartzes.

21. Respondent wrote a letter dated August 23, 2005 to the Schwartzes. It read:

Dear Mr. and Mrs. Schwartz:

I am writing to inform you that I represent your neighbors Mr. and Mrs. Gregory Costa, who have asked me to inform you that your fence is encroaching their property by 2-3 feet. In order to prevent continuous possession, an element for adverse conveyance in Pennsylvania, this letter is to inform you that you do not have permission for the continuous use of the portion of the property that the fence encroaches. If you should have any questions, please do not hesitate to call me.

Sincerely,
George Kotsopoulos.

22. At the time Respondent wrote the letter he was temporarily suspended from the practice of law in Pennsylvania.

23. Respondent admitted that he should not have written the letter while he was on temporary suspension and that writing it was a mistake.

24. Respondent described the situation as just a letter and did not believe it amounted to a representation of the Costas.

III. CONCLUSIONS OF LAW

By his conduct as set forth above, Respondent violated the following Rules of Disciplinary Enforcement and Rule of Professional Conduct:

1. Pa.R.D.E. 214(i) - Tampering with public records or information is a misdemeanor punishable by more than one year imprisonment and is a "serious crime".

2. Pa.R.D.E. 203(b)(1) - Conviction of a serious crime constitutes a per se basis for discipline.

3. RPC 8.4(b) - It is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer.

IV. DISCUSSION

This matter is before the Disciplinary Board for consideration of the Petition for Discipline filed against Respondent charging him with professional misconduct arising out of his criminal conviction of three counts of tampering with public records or information. When a disciplinary proceeding is predicated on an attorney's conviction of a serious crime, the issue is whether the attorney's character as shown by his conduct makes the attorney unfit to practice law from the standpoint of protecting the public and the courts. Office of Disciplinary Counsel v. Casety, 512 A.2d 607 (Pa. 1986). It is necessary to consider the events surrounding the conviction to determine the impact of the conviction on the appropriate measure of discipline to be imposed. Office of Disciplinary Counsel v. Eilberg, 441 A.2d 1193 (Pa. 1982).

Respondent was under oath to perform his duties as a notary honestly. He did not do so, as he notarized signatures that were signed outside his presence. As an attorney, Respondent should have appreciated the risks of his actions and should have known better. Respondent should have had the individual appearing before him resign the documents in Respondent's presence. Respondent does not appear to fully accept responsibility for his actions, instead advancing the argument that he was merely acting as a settlement agent, not an attorney. This is not a plausible defense, and certainly does not relieve Respondent

from discipline before this Board. While Respondent admits that he improperly notarized mortgage documents, he has not shown remorse for his misconduct.

Petitioner raises as an aggravating factor that Respondent engaged in the unauthorized practice of law by writing a letter on behalf of family friends to their neighbors regarding the subject of a fence encroaching on the friends' property. Respondent wrote this letter while on temporary suspension from the practice of law. Respondent admits that it was a mistake to write the letter and acknowledges that he should not have done it. Review of the facts show at most a de minimus act of the unauthorized practice of law that does not warrant consideration as an aggravating factor. Respondent did not tell the neighbors to do anything; he merely informed them of the situation.

Having reviewed Petitioner's and Respondent's positions for discipline of suspension for one year and one day and private reprimand, respectively, and the recommendation of the Hearing Committee for public censure, the Board is persuaded that a suspension of six months retroactive to the date of the temporary suspension adequately addresses Respondent's misconduct. Respondent has been on temporary suspension since June 6, 2005 and has been unable to practice law for more than one year. To add the additional embarrassment and humiliation of appearing before the Supreme Court for public censure to the realities of time served on suspension appears excessive. A short suspension addresses Respondent's criminal misconduct without subjecting him to more discipline than is warranted.

Respondent's guilty plea to three misdemeanors and the absence of any meaningful mitigating circumstances persuades the Board that a suspension for a period of six months, retroactive to June 6, 2005, the date of Respondent's temporary suspension from the practice of law, is appropriate.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, George Kotsopoulos, be suspended from the practice of law for a period of six months retroactive to June 6, 2005.

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: _____
Laurence H. Brown, Board Member

Date: October 5, 2006

Board Member Newman did not participant in the adjudication.

ORDER

PER CURIAM:

AND NOW, this 20th day of December, 2006, upon consideration of the Report and Recommendations of the Disciplinary Board dated October 5, 2006, it is hereby

ORDERED that George Kotsopoulos be and he is suspended from the Bar of this Commonwealth for a period of six months retroactive to June 6, 2005, 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.