

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1284 Disciplinary Docket No. 3
Petitioner :
 : No. 106 DB 2007
v. :
 : Attorney Registration No. 62559
JORDAN B. LUBER, :
Respondent : (Philadelphia)

ORDER

PEIR CURIAM:

AND NOW, this 13th day of July, 2009, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated April 15, 2009, the Joint Petition in Support of Discipline on Consent is hereby granted pursuant to Rule 215(g), Pa.R.D.E., and it is

ORDERED that Jordan B. Luber is suspended on consent from the Bar of this Commonwealth for a period of three years retroactive to October 7, 2007, and he shall comply with all the provisions of Rule 217, Pa.R.D.E.

A True Copy Patricia Nicola

As pf: July 13, 2009

Attest.

Chief Clerk

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

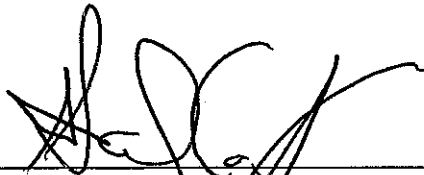
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RECOMMENDATION OF THREE-MEMBER PANEL
OF THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

The Three-Member Panel of the Disciplinary Board of the Supreme Court of Pennsylvania, consisting of Board Members Sal Cogneetti, Jr., Douglas W. Leonard and R. Burke McLemore, Jr., has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on March 27, 2009.

The Panel approves the Petition consenting to a three year suspension retroactive to October 7, 2007 and recommends to the Supreme Court of Pennsylvania that the attached Joint Petition be Granted.

The Panel further recommends that any necessary expenses incurred in the investigation and prosecution of this matter shall be paid by the respondent-attorney as a condition to the grant of the Petition.



Sal Cogneetti, Jr., Panel Chair
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date: 4-15-09

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : 1284 Disciplinary Docket
Petitioner : No. 3
:
: 106 DB 2007
v. :
: Atty. Reg. No. 62559
JORDAN B. LUBER, :
Respondent : (Philadelphia)

JOINT PETITION IN SUPPORT OF DISCIPLINE
ON CONSENT UNDER RULE 215(d), Pa.R.D.E.

Petitioner, Office of Disciplinary Counsel, by Paul J. Killion, Chief Disciplinary Counsel, and Robert P. Fulton, Esquire, Disciplinary Counsel, and Respondent, Jordan B. Luber, by his counsel, Fox Rothschild LLP, file this Joint Petition In Support Of Discipline On Consent Under Rule 215(d) of the Pennsylvania Rules of Disciplinary Enforcement ("Pa.R.D.E.") and respectfully represent that:

1. Petitioner, whose principal office is located at Suite 1400, 200 North Third Street, Harrisburg, Pennsylvania 17101, is vested, pursuant to Pa.R.D.E. 207 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

FILED

MAR 27 2009

Office of the Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

accordance with the various provisions of the aforesaid Rules.

2. Respondent, Jordan B. Luber, was born on December 23, 1965, and was admitted to practice law in the Commonwealth on December 11, 1991. Respondent's mailing address is 50 Belmont Avenue, Apartment 307, Bala Cynwyd, PA 19004. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. On June 29, 2007, Respondent entered a guilty plea to one count of Mail Fraud, 18 U.S.C. § 1341, and to one count of Health Care Fraud, 18 U.S.C. § 1347.

4. By Order dated September 7, 2007, the Supreme Court of Pennsylvania granted a Joint Petition to Temporarily Suspend an Attorney, placed Respondent on temporary suspension pursuant to Pa.R.D.E. 214 (Attorneys convicted of crimes), and referred the matter to the Disciplinary Board pursuant to Pa.R.D.E. 214(f)(1).

5. On June 9, 2008, Respondent appeared before United States District Judge Cynthia M. Rufe, at which time Judge Rufe imposed a sentence of 60 days of confinement on each count to run concurrently to each other, and following Respondent's release from imprisonment, one year of supervised release on each count to run concurrently to

each other. The first three months of supervised release was to be served on home confinement with electronic monitoring. In addition, the Court ordered Respondent to:

- 1) submit to a mental health evaluation within 30 days of the commencement of supervised release and comply with any and all recommendations for treatment;
- 2) complete 100 hours of community service;
- 3) refrain from practicing law or engaging in law-related activities while on supervised release;
- 4) provide his probation officer with full disclosure of Respondent's financial records including yearly income tax returns and cooperate with his probation officer in the investigation of Respondent's financial dealings including truthful monthly statements of income;
- 5) pay a \$200 assessment;
- 6) pay a \$10,000 fine; and
- 7) pay restitution in the amount of \$6,000.

SPECIFIC FACTUAL ADMISSIONS AND
RULE OF DISCIPLINARY ENFORCEMENT VIOLATED

6. Respondent stipulates that the following factual allegations are true and correct and that he violated the Rule of Disciplinary Enforcement set forth in paragraph 31, *infra*.

7. Injury Associates ("IA") was a fake chiropractic clinic located at 8001 Roosevelt Boulevard in Philadelphia, Pennsylvania, established by the Federal Bureau of

Investigation ("FBI") as part of an undercover sting operation to target individuals participating in bogus personal injury actions arising out of purported vehicular accidents.

- a. The FBI established this undercover operation ("sting") to respond to the chronic problem in Philadelphia and elsewhere of individuals pursuing fake and exaggerated personal injury claims, which problem has contributed significantly to the increased cost of insurance premiums.

8. IA provided no medical treatment or therapy; rather, IA generated bogus paperwork to make it appear as if patients received real medical treatment and/or therapy so that the patients could maximize the values of their respective fraudulent personal injury claims.

9. The FBI utilized information provided to it by Brian Torchin ("Torchin"), a chiropractor whom the government had prosecuted for running fraudulent chiropractic clinics.

10. As a result of information received from Torchin, the FBI targeted Respondent.

11. Two FBI undercover agents ("agents") engaged Respondent to represent them for purported "personal injuries" sustained in a purported motor vehicle "accident" that purportedly occurred on January 12, 2004.

- a. Insurance coverage with St. Paul Travelers Insurance Company ("Travelers") was maintained on the vehicle purportedly involved in the "accident."

12. From January 2004 through July 2005, the agents met several times with Respondent to advance their respective claims for personal injuries sustained in the "accident."

- a. The meetings were all recorded by the agents on audiotape and videotape.
- b. Eventually, the agents revealed to Respondent that although they regularly visited IA, they did not receive any treatment.

13. IA generated medical and treatment records that made it appear that the agents received regular and significant treatment for real injuries.

14. IA forwarded the medical and treatment records to Respondent who thereafter forwarded the records to Travelers in an attempt to settle the bogus personal injury

claims of the "agents" for a total demand figure of \$34,500.

15. At one meeting the agents provided Respondent with a "cheat sheet" that was provided to the agents from IA to assist the "victims" with their testimony during an examination under oath, as demanded by Travelers, regarding their "injuries" and "treatment."

16. Respondent prepared the agents for the examination under oath in the face of the "cheat sheet" by directing the agents to testify in a manner consistent with the medical records by stating that "If it's not in the records, it didn't happen If it's on there it happened."

17. Subsequently, Respondent sent a letter to Travelers seeking to have the matters settled without the need for an examination under oath.

18. On April 25, 2005, one of the agents ("Larson") met with Respondent and informed Respondent that she had never received any treatment; Respondent informed Larson that Respondent could not allow Larson to do the statement (examination under oath) and that Respondent would "try to do an end around."

19. On May 4, 2005, Respondent sent the respective agents a letter informing them that he was closing their cases because of questions that Travelers was having regarding treatment, and that because IA was no longer in business, Respondent would not be able to obtain the testimony necessary to prove treatment.

20. On May 12, 2005, Respondent contacted Travelers' claims representative Karen Young ("Young") in an attempt to negotiate a settlement of the agents' claims.

21. On May 24, 2005, Respondent again contacted Young to check on the status of a possible settlement for the claims.

22. On June 1, 2005, Young notified Respondent that she would offer \$6,500 on each claim to settle the matters. Respondent requested that Young increase the offer and she agreed to settle the matters for \$7,500 each. Respondent informed Young that he would confer with his clients and get back to her.

23. Respondent informed "Larson" that although he had closed the files, Respondent had received a telephone call from Travelers offering to settle the two cases for \$15,000. "Larson" informed Respondent that she and "Lusk" (the second agent) would accept the offers.

24. On July 8, 2005, Respondent called Young and advised her that his clients would accept the offers. Respondent requested that Young send the releases to Respondent's personal post office box in Lafayette Hill, Pennsylvania.

25. On July 11, 2005, Young sent, through the United States Mail, checks issued to "Larson," "Lusk," and Respondent to Respondent's personal post office box in Lafayette Hill, Pennsylvania, along with a letter that confirmed that the settlement was based, in part, on the treatment records that Respondent had provided.

a. Respondent deposited the checks in an IOLTA account.

26. On July 21, 2005, Respondent met with the two agents during which meeting Respondent stated, "Just want to let you know, I'm, you know, it all makes sense to me now and we'll just leave it at that. . . . But in the future when you have a legal problem or an injury . . . let's, you know, do it a different way." He also stated, "No one's gonna know about it because they closed the file here." At the conclusion of the meeting, Respondent stated, "I'm not going to let anybody use my good reputation again like this, but I'm not going to let it go

for naught. I did all the proper record keeping. You never got this, so . . . it makes no difference."

27. On July 29, 2005, the agents had their final meeting with Respondent, during which Respondent handed them their respective checks and stated, "The timing on your thing was just impeccable. Couldn't have come at a better time Because, the office moved, the accounts were just, you know it's a closed file."

28. The crime of Mail Fraud, a Class B felony, is punishable by imprisonment not to exceed twenty years. 18 U.S.C. § 1341. Therefore, this crime is a "serious crime," as defined by Pa.R.D.E. 214(i).

29. The crime of Health Care Fraud, a Class C felony, is punishable by imprisonment not to exceed ten years. 18 U.S.C. § 1347. Therefore, this crime is a "serious crime," as defined by Pa.R.D.E. 214(i).

30. Respondent's conviction constitutes a *per se* ground for discipline under Pa.R.D.E. 203(b)(1).

31. Respondent admits that by his conduct as detailed in Paragraphs 7 through 30 above, he violated Pa.R.D.E. 203(b)(1), which provides that conviction of a crime, which under Enforcement Rule 214 (relating to attorneys convicted of crimes) may result in suspension, shall be grounds for discipline.

SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

32. Petitioner and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a suspension from the practice of law for a period of three years.

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

34. In support of Petitioner and Respondent's joint recommendation, it is respectfully submitted that:

- a. Respondent would testify that shortly after he was indicted he informed his clients and opposing counsel/parties that he had been indicted.
- b. There are several mitigating circumstances:
 - i. Respondent agreed to the entry of an order placing him on temporary suspension shortly after entering his guilty plea;

- ii. Respondent has admitted engaging in misconduct and violating the charged Rule of Disciplinary Enforcement;
- iii. Respondent has cooperated with Petitioner, as is evidenced by Respondent's admissions herein and his consent to receiving a suspension of three years;
- iv. Respondent cooperated with the United States Government in its investigation into mail fraud and health care fraud;
- v. Respondent entered a guilty plea to the criminal charges;
- vi. Respondent is remorseful; and
- vii. Respondent has no prior disciplinary history.

35. The cases of *In re DeMesquita, No. 139 DB 1995*, *In re Takacs, No. 21 DB 1996*, and *In re DeSantis, No. 22 DB 1996*, resulted in suspensions of three years. In each case the respondents were sentenced after entering guilty pleas to mail fraud to, *inter alia*, three years of probation for conduct similar to the conduct engaged in by the instant Respondent. In each case the Disciplinary Board recommended to the Supreme Court that the discipline

imposed be a three-year suspension. Each respondent showed varying degrees of remorse.

WHEREFORE, Petitioner and Respondent respectfully request that:


- a. Pursuant to Rule 215(e) and 215(g), Pa.R.D.E., a three-member panel of the Disciplinary Board review and approve the above Joint Petition In Support Of Discipline On Consent and file its recommendation with the Supreme Court of Pennsylvania in which it is recommended the Supreme Court enter an Order:
 - i. suspending Respondent from the practice of law for a period of three years retroactive to October 7, 2007, the effective date of the Order placing Respondent on temporary suspension;
 - ii. directing Respondent to comply with all of the provisions of Rule 217, Pa.R.D.E.
- b. Pursuant to Rule 215(i), the three-member panel of the Disciplinary Board order Respondent to pay the necessary expenses incurred in the investigation of this matter as a condition to the grant of the Petition and that all expenses

be paid by Respondent before the imposition of discipline under Rule 215(g), Pa.R.D.E.

Respectfully submitted,


OFFICE OF DISCIPLINARY COUNSEL
PAUL J. KILLION
CHIEF DISCIPLINARY COUNSEL

25 MARCH 09
Date

By: 
Robert E. Fulton, Esquire
Disciplinary Counsel
Attorney Regis. No. 37935
Seven Penn Center, 16th Floor
1635 Market Street
Philadelphia, PA 19103
(215) 560-6296

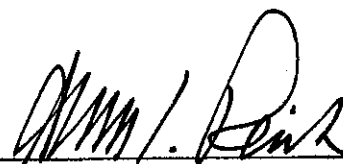
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3/23/09
Date

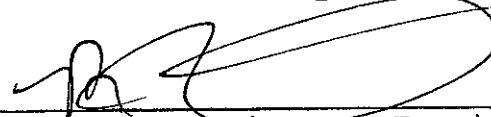
By: 
Jordan B. Luber
Attorney Regis. No. 62559
Respondent

and

3/23/09
Date

By: 
Abraham C. Reich, Esquire
Counsel for Respondent

3/23/09
Date

By: 
Robert S. Tintner, Esquire
Counsel for Respondent
Fox Rothschild LLP
2000 Market Street, 10th Floor
Philadelphia, PA 19103-3291

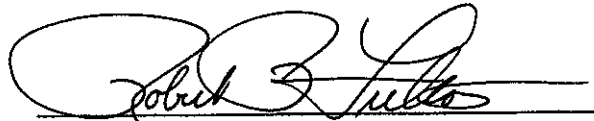
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VERIFICATION

The statements contained in the foregoing Joint Petition in Support of Discipline On Consent Under Rule 215(d), Pa.R.D.E., are true and correct to the best of our knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

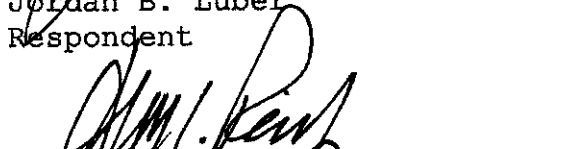
25 MARCH 09
Date


Robert P. Fulton
Disciplinary Counsel


3/23/09
Date


Jordan B. Luber
Respondent

3/23/09
Date


Abraham C. Reich, Esquire
Counsel for Respondent

3/22/09
Date


Robert S. Tintner, Esquire
Counsel for Respondent

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AFFIDAVIT UNDER RULE 215(d), Pa.R.D.E.

Respondent, JORDAN B. LUBER, hereby states that he consents to the discipline of a three-year suspension, as jointly recommended by Petitioner, Office of Disciplinary Counsel, and Respondent in the Joint Petition in Support of Discipline On Consent Under Rule 215(d), Pa.R.D.E and further states that:

1. His consent is freely and voluntarily rendered; he is not being subjected to coercion or duress; and he is fully aware of the implications of submitting the consent.


2. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant proceeding. He has retained, consulted with and acted upon the advice of counsel in connection with his decision to consent to discipline. Counsel for Respondent are Abraham C. Reich, Esquire and Robert S. Tintner,

Esquire, Fox Rothschild LLP, 2000 Market Street, 10th Floor,
Philadelphia, PA 19103-3291.

3. He is aware that there is presently pending an investigation into allegations that he has been guilty of misconduct as set forth in the Joint Petition.

4. He acknowledges that the material facts set forth in the Joint Petition are true.

5. He consents because he knows that if charges predicated upon the matter under investigation continued to be prosecuted in the pending proceeding, he could not successfully defend against them.



JORDAN B. LUBER
Respondent

Sworn to and subscribed
before me on this 23rd day
of March, 2009.



NOTARY PUBLIC

