

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1336 Disciplinary Docket No. 3  
Petitioner :  
v. : No. 131 DB 2007  
DEBBIE ANN CARLITZ, : Attorney Registration No. 49128  
Respondent : (Bucks County)

ORDER

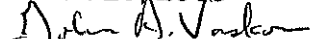
PER CURIAM:

AND NOW, this 26<sup>th</sup> day of March, 2008, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated December 7, 2007, 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 Debbie Ann Carlitz is suspended on consent from the Bar of this Commonwealth for a period of one year and one day and she shall comply with all the provisions of Rule 217, Pa.R.D.E.

A True Copy John A. Vaskov

As of: March 26, 2008

Attest: 

Deputy Prothonotary

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

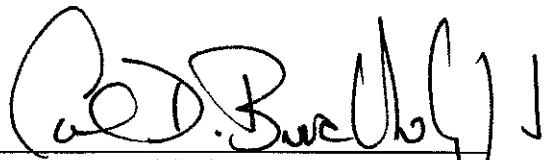
OFFICE OF DISCIPLINARY COUNSEL : No. 131 DB 2007  
Petitioner :  
v. : Attorney Registration No. 49128  
DEBBIE ANN CARLITZ :  
Respondent : (Bucks County)

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 Carl D. Buchholz, III, Laurence H. Brown and Robert E. J. Curran, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on October 26, 2007.

The Panel approves the Joint Petition consenting to a One Year and One Day Suspension and recommends to the Supreme Court of Pennsylvania that the attached 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.

  
Carl D. Buchholz, III, Panel Chair  
The Disciplinary Board of the  
Supreme Court of Pennsylvania

Date: December 7, 2007

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :

Petitioner : No. 131 DB 2007

v.

DEBBIE ANN CARLITZ,

: Attorney Registration No. 49128

Respondent : (Bucks County)

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

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION  
CHIEF DISCIPLINARY COUNSEL

Donna M. Snyder  
Disciplinary Counsel  
Seven Penn Center  
1635 Market Street  
16<sup>th</sup> Floor  
Philadelphia, PA 19103  
(215) 560-6296

and

Jeffrey R. Solar, Esquire  
349 Bustleton Pike, Front  
Feasterville, PA 19053  
(215) 354-0501

**FILED**

OCT 26 2007

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

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :

Petitioner : No. 131 DB 2007

v. :

DEBBIE ANN CARLITZ, :

Attorney Registration No. 49128

Respondent : (Bucks County)

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 Donna M. Snyder, Disciplinary Counsel, and Respondent, Debbie Ann Carlitz, represented by Jeffrey R. Solar, Esquire, file this Joint Petition In Support Of Discipline On Consent Under Rule 215(d), Pennsylvania Rules of Disciplinary Enforcement and respectfully represent that:

1. Respondent, Debbie Ann Carlitz, was born on April 8, 1961 and was admitted to practice law in the Commonwealth of Pennsylvania on June 3, 1987.
2. Respondent's attorney registration address is Suite 301, 826 Bustleton Avenue, Feasterville, PA 19053.
3. Petitioner filed a Petition for Discipline against Respondent with the Secretary of the Disciplinary Board on August 30, 2007. On September 12, 2007, the Petition for Discipline with Notice to Plead was personally signed for by Respondent's assistant, Bonnie Sweeten.

4. On September 17, 2007, Respondent endorsed and returned the Acceptance of Service to Office of Disciplinary Counsel.

5. Respondent has not filed an Answer to the Petition.

SPECIFIC FACTUAL ADMISSIONS AND  
RULES OF PROFESSIONAL CONDUCT VIOLATED

6. Respondent stipulates that the following factual allegations contained in the Petition for Discipline are true and correct and that she violated the charged Rules of Disciplinary Enforcement and Rules of Professional Conduct.

7. On or about October 25, 2004, Respondent filed a Praecipe for Writ of Summons in Trespass, in the Court of Common Pleas of Bucks County, captioned *Robert and Donna Wanat v. Superior Play Systems, Inc.*, No. 0407029182.

8. On or about February 7, 2005, Respondent filed a Complaint in Trespass in that case. Respondent also entered her appearance on that date.

9. On or about June 10, 2005, Respondent filed Plaintiffs' Motion to Compel for Defendant's Failure to Respond to Plaintiffs' Interrogatories and Request for Production of Documents.

10. By Order dated July 26, 2005, the Supreme Court of Pennsylvania transferred Respondent to inactive status pursuant to Rule 111(b) of the Pennsylvania Rules for Continuing Legal Education for failure to comply with Continuing Legal Education ("CLE") requirements.

11. By letter dated July 26, 2005, sent by certified mail, return receipt requested, Elaine M. Bixler, Secretary to the Disciplinary Board, enclosed a copy of the July 26, 2005 Order advising Respondent she would be transferred to inactive

status effective August 25, 2005 and advising Respondent that she was required to comply with Rule 217 of the Pa.R.D.E. and §§91.91-91.99 of the Disciplinary Board Rules.

12. Respondent's agent signed for that letter on July 28, 2005.

13. Respondent knew that she was transferred to inactive status and thereafter ineligible to practice law in Pennsylvania.

14. Respondent failed to advise her clients, the Wanats, of her transfer to inactive status.

15. Respondent failed to file a Statement of Compliance (DB-25(i)) within ten days of the effective date of the transfer Order, as required by Pa.R.D.E. 217(e).

16. Since August 25, 2005, Respondent has been on inactive status as ordered by the Supreme Court of Pennsylvania, and as of August 2007, Respondent remains on inactive status.

17. By letter dated September 6, 2005, to Kristen Morris, Esquire, defense counsel, Respondent, inter alia, requested additional discovery information in the Wanat case.

18. By Notice of Oral Deposition dated October 3, 2005, to Ms. Morris and to Christine Dooley, Respondent enclosed two Notices of Deposition for November 10, 2005, at Respondent's law office, Suite 301, 826 Bustleton Avenue, Feasterville, PA 19053.

19. By letter dated October 4, 2005, Respondent advised Ms. Morris of new addresses that had come to her attention regarding a witness.

20. On November 11, 2005, Respondent personally took the deposition of two witnesses at her law office.

21. By letter to Ms. Morris dated January 10, 2006, Respondent enclosed medical specials.

22. In all of the above letters, Respondent's letterhead identified her as "Esquire" and "Licensed in PA and NJ."

23. By letter dated January 27, 2006, Respondent acknowledged Ms. Morris' correspondence to her.

24. In August 2006, Respondent attempted to pay her annual assessment and register as active, but the Attorney Registrar had sent her a letter dated August 24, 2006 notifying her that the CLE Board had not certified her as being in compliance with CLE rules and regulations.

25. In connection with the Wanat case, identified in ¶7, supra, Respondent filed pleadings and other legal documents; represented herself to clients, judges, court personnel and third parties as a lawyer; had contact with clients or their representatives either in person, by telephone or in writing; rendered legal consultation or advice to a client; and negotiated or transacted a matter for or on behalf of a client with third parties and had contact with third parties regarding such negotiation or transaction.

26. By her conduct as alleged in Paragraphs 7 through 25 above, Respondent violated the following Rules of Professional Conduct and Rules of Disciplinary Enforcement:

- a. RPC 5.5(a), which states that a lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction;
- b. RPC 7.1, which states that a lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services;
- c. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- d. RPC 8.4(d), which states that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice;
- e. Pa.R.D.E. 203(b)(3), which states that it is grounds for discipline for a lawyer to wilfully violate any other provision of the Enforcement Rules, via the Enforcement Rules charged in subsections f-o, infra;
- f. Pa.R.D.E. 217(a), which states that a formerly admitted attorney shall promptly notify, or cause to be notified, by registered or certified mail, return receipt requested, all clients being represented in pending matters, other than litigation or

administrative proceedings, of the disbarment, suspension or transfer to inactive status and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension or transfer to inactive status and shall advise said clients to seek legal advice elsewhere;

- g. Pa.R.D.E. 217(b), which states that a formerly admitted attorney shall promptly notify, or cause to be notified, by registered or certified mail, return receipt requested, all clients who are involved in pending litigation... and the attorney or attorneys for each adverse party in such matter or proceeding... of the transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the... transfer to inactive status;
- h. Pa.R.D.E. 217(c)(1), which states a formerly admitted attorney shall promptly notify, or cause to be notified... of the transfer to inactive status, by registered or certified mail, return receipt requested, all persons or their agents or guardians to whom a fiduciary duty is or may be owed at any time after the transfer to inactive status;
- i. Pa.R.D.E. 217(c)(2), which states that a formerly admitted attorney shall promptly notify, or cause to be notified, of the... transfer to inactive status, by registered or certified mail, return

receipt requested, all other persons with whom the formerly admitted attorney may at any time expect to have professional contacts under circumstances where there is a reasonable probability that they may infer that he or she continues as an attorney in good standing;

- j. Pa.R.D.E. 217(d), which states... that the formerly admitted attorney, after entry of the.... transfer to inactive status Order, shall not accept any new retainer or engage as attorney for another in any new case or legal matter of any nature;
- k. Pa.R.D.E. 217(e), which states, in part, that “[w]ithin ten days after the effective date of the... transfer to inactive status order, the formerly admitted attorney shall file with the Board a verified statement showing that the provisions of the order and the rules have been fully complied with”;
- l. Pa.R.D.E. 217(j)(1), which states, in pertinent part, that a formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except under the direct supervision of a member in good standing of the Bar of this Commonwealth who shall be responsible for ensuring that the formerly admitted attorney complies with the requirements of this subdivision;
- m. Pa.R.D.E. 217(j)(2), which states that the only law-related activities that may be conducted by a formerly admitted

attorney are legal work of a preparatory nature, such as legal research, assembly of data and other necessary information, and drafting of transactional documents, pleadings, briefs, and other similar documents; and accompanying a member of good standing of the Bar of this Commonwealth at a deposition or other discovery matter or to a meeting regarding a matter that is not currently in litigation, for the limited purpose of providing clerical assistance to the member in good standing who appears as a representative of the client;

- n. Pa.R.D.E. 217(j)(3), which states that a formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except that a formerly admitted attorney may have direct communication with a client or third party regarding a matter being handled by the attorney or firm for which the formerly admitted attorney works only if the communication is limited to ministerial matters such as scheduling, billing, updates, confirmation of receipt or sending of correspondence and messages, and the formerly admitted attorney shall clearly indicate in any such communication that he or she is a legal assistant and identify the supervising attorney; and
- o. Pa.R.D.E. 217(j)(4)(iv)-(vii) and (ix), which states that without limiting the other restrictions in this subdivision (j), a formerly

admitted attorney is specifically prohibited from engaging in any of the following activities: (iv) representing himself or herself as a lawyer or person of similar status; (v) having any contact with clients either in person, by telephone, or in writing, except as provided in paragraph (3); (vi) rendering legal consultation or advice to a client; (vii) appearing on behalf of a client in any hearing or proceeding or before any judicial officer, arbitrator, mediator, court, public agency, referee, magistrate, hearing officer or any other adjudicative person or body; and (ix) negotiating or transacting any matter for or on behalf of a client with third parties or having any contact with third parties regarding such a negotiation or transaction.

SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

27. 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 one year and one day.

28. Respondent hereby consents to that discipline being imposed upon her 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 she consents to the recommended discipline and including the mandatory acknowledgements contained in Rule 215(d)(1) through (4), Pa.R.D.E.

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

(a) There are two mitigating circumstances:

(i) Respondent has admitted engaging in misconduct and violating the charged Rules of Professional Conduct; and

(ii) Respondent has no record of discipline.

(b) In addition, there is an aggravating factor:

(i) Despite a Court Order transferring Respondent to inactive status, Respondent failed to advise her clients, the courts, or opposing counsel in the Wanats' case that she was ineligible to continue her representation in the case. Respondent's unauthorized practice was open and defiant in that Respondent personally took depositions of two witnesses in her law office, an office that should not have been operating during her "inactive" status.

(c) There are disciplinary cases concerning attorneys who continue to practice law after being transferred to inactive status for failing to fulfill continuing legal education requirements or to file an annual attorney registration statement and pay the required fee. As a general rule, these attorneys are suspended from the practice of law. The principal rationale for this discipline is that fulfilling continuing legal education requirements, filing attorney registration forms, and paying the annual fee are not mere ministerial acts. Rather, an attorney has an affirmative duty to know the status of his privilege to practice law and to comply with professional

requirements. *In re Anonymous No. 123 DB 1996 (Simon Belli, III)*, 41 Pa. D.&C.4<sup>th</sup> 290, 299-300 (1998).

Our Supreme Court has generally imposed a suspension of one year and one day for the unauthorized practice of law, with the period of suspension increasing depending upon the presence of aggravating factors or additional charges of professional misconduct. In 2004, the Disciplinary Board recognized that “[t]he Supreme Court of Pennsylvania has considered several instances of lawyers practicing while on inactive status, and recently has established a line of cases indicating that the appropriate sanction for such conduct is suspension for one year and one day.” *Office of Disciplinary Counsel v. Sharon Goldin-Didinsky a/k/a Sharon Goldin Ciborowski*, No. 87 DB 2003 (D.Bd. Rpt. 8/27/04, p. 13)(S.Ct. Order 12/13/04)(one-year-and-one-day suspension). Discipline of at least one year and one day requires an attorney to submit himself to a reinstatement proceeding so the public can be assured that the attorney has addressed any personal, professional, and organizational difficulties that contributed to the misconduct. In two cases decided in 2005, both of which resulted in a suspension of one year and one day, the Disciplinary Board stated that “[d]epending on the presence of aggravating and mitigating factors and the degree of willfulness exhibited, suspensions ranging from three months to two years have been imposed in recent cases.” *Office of Disciplinary Counsel v. Davis*, 77 Pa. D.&C.4<sup>th</sup> 563, 575 (2005); *In re Ferleger*, 78 Pa.

D.&C.4<sup>th</sup> 437, 446 (2005). In the present case, Respondent Carlitz had actual notice of her transfer to inactive status yet continued to maintain an office for the practice of law and to represent the Wanats.

In *Davis, supra*, the respondent, after being transferred to inactive status for failure to pay his annual attorney registration fee, represented one client in three separate matters, in the process identifying himself to opposing counsel as attorney for his client, engaging in settlement discussions, and appearing in court. On two occasions, the respondent was less than candid about the reasons for his inactive status when confronted with allegations of his ineligibility to practice law. 77 Pa. D.&C.4<sup>th</sup> at 574-575. The respondent, whose mitigation evidence was limited to his having no record of discipline, was suspended for one year and one day.

In sum, the Supreme Court does not tolerate lawyers who take a lax approach to the administrative rules regulating the practice of law and thereby engage in the unauthorized practice of law. A suspension of one year and one day is the primary sanction for such contemptuous conduct. Hence, precedent supports the recommended discipline of a suspension of one year and one day.

WHEREFORE, Petitioner and Respondent respectfully request that:

- (a) Pursuant to Rule 215(e) and 215(g), Pa.R.D.E., the 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 one year and one day; and


(ii) Directing Respondent to comply with all of the provisions of Rule 217, Pa.R.D.E.

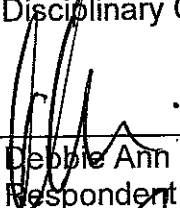
(b) Pursuant to Rule 215(i), the three-member panel of the Disciplinary Board order Respondent to pay the necessary expenses incurred in the investigation and prosecution of this matter as a condition to the grant of the Petition and that all expenses be paid by Respondent before the imposition of discipline under Rule 215(g), Pa.R.D.E.


Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION  
CHIEF DISCIPLINARY COUNSEL

By   
\_\_\_\_\_  
Donna M. Snyder  
Disciplinary Counsel

By   
\_\_\_\_\_  
Debbie Ann Carlitz  
Respondent

By   
\_\_\_\_\_  
Jeffrey R. Solar, Esquire  
Counsel for Respondent

BEFORE THE DISCIPLINARY BOARD OF THE  
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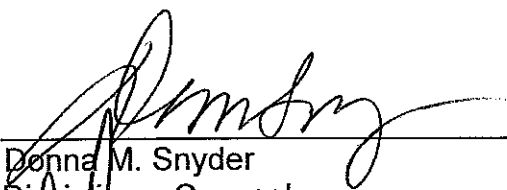
VERIFICATION

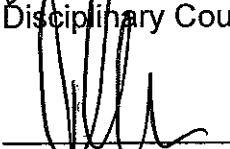
The statements contained in the foregoing Joint Petition In Support Of Discipline On Consent Under Rule 215(d), Pa.R.D.E. are true and correct to the best of our knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

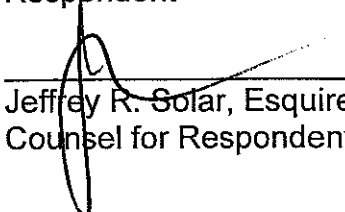
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Date

  
\_\_\_\_\_  
Donna M. Snyder  
Disciplinary Counsel

  
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Debbie Ann Carlitz  
Respondent

  
\_\_\_\_\_  
Jeffrey R. Solar, Esquire  
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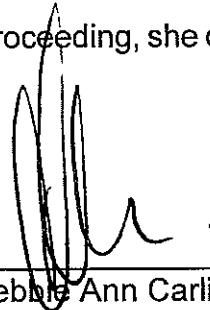
Respondent : (Bucks County)

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

Respondent, Debbie Ann Carlitz, hereby states that she consents to the imposition of a suspension from the practice of law for a period of one year and one day, as jointly recommended by Petitioner, Office of Disciplinary Counsel, and Respondent in the Joint Petition In Support Of Discipline On Consent and further states that:

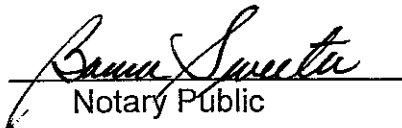
1. Her consent is freely and voluntarily rendered; she is not being subjected to coercion or duress; she is fully aware of the implications of submitting the consent; and she has consulted with counsel in connection with the decision to consent to discipline;
2. She is aware that there is presently pending a proceeding involving allegations that she has been guilty of misconduct as set forth in the Joint Petition;
3. She acknowledges that the material facts set forth in the Joint Petition are true; and

4. She consents because she knows that if the charges pending against her continue to be prosecuted in the pending proceeding, she could not successfully defend against them.



Debra Ann Carlitz  
Respondent

Sworn to and subscribed  
before me this 22<sup>nd</sup>  
day of October 2007.



Notary Public

