

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1308 Disciplinary Docket No. 3
Petitioner :
v. : No. 135 DB 2005
: Attorney Registration No. 42384
KAREN R. MAINOR, :
Respondent : (Philadelphia)

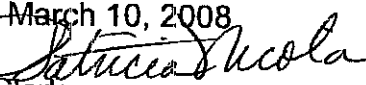
ORDER

PER CURIAM:

AND NOW, this 10th day of March, 2008, upon consideration of the Report and Recommendations of the Disciplinary Board dated September 14, 2007, the Petition for Leave to File Petition for Review Nunc Pro Tunc and the response thereto, the Petition for Leave to File Petition for Review Nunc Pro Tunc is denied and it is hereby

ORDERED that Karen R. Mainor is suspended 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.

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 March 10, 2008
Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 135 DB 2005
Petitioner	:	
	:	
v.	:	Attorney Registration No. 42384
	:	
KAREN R. MAINOR	:	
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 September 8, 2005, Office of Disciplinary Counsel filed a Petition for Discipline against Karen R. Mainor, Respondent. The Petition charged Respondent with professional misconduct arising out of allegations that Respondent continued to practice

law after her transfer to inactive status for failing to complete the required Continuing Legal Education courses. Respondent filed an Answer to Petition for Discipline on November 30, 2005.

Following two pre-hearing conferences, a disciplinary hearing was held on March 29, 2006, May 9, 2006, and June 23, 2006, before a District I Hearing Committee comprised of Chair Peter Samson, Esquire, and Members Thomas A. Brophy, Esquire, and John F. Gough, Esquire. Respondent was represented at part of the proceedings by Sharon Williams Losier, Esquire.

The parties submitted briefs to the Hearing Committee. The Hearing Committee filed a Report on March 26, 2007, finding that Respondent engaged in professional misconduct and recommending that she be suspended for one year and one day.

Petitioner filed a Brief on Exceptions on April 13, 2007.

Respondent filed a Brief on Exceptions on April 23, 2007, and requested oral argument.

Oral argument was held July 3, 2007, before a three-member panel of the Disciplinary Board chaired by Carl D. Buchholz, III, Esquire, and Members Laurence H. Brown, Esquire and Stewart L. Cohen, Esquire.

This matter was adjudicated by the Disciplinary Board at the meeting on July 21, 2007.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, whose principal office is located at Suite 1400, 200 North Third Street, Harrisburg, Pennsylvania 17101, is invested, 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 accordance with the various provisions of said Rules of Disciplinary Enforcement.

2. Respondent, Karen R. Mainor, was born in 1952 and was admitted to practice law in the Commonwealth of Pennsylvania in 1984. Her registered mailing address is 2930 Cambridge Street, Philadelphia PA 19130. Respondent is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent has a prior history of attorney discipline consisting of an informal admonition administered in 1997 and private reprimand administered in 1999.

4. In or about 1992, the Pennsylvania Continuing Legal Education Board (CLE) assigned Respondent to Compliance Group 2, which has an annual deadline of August 31 to comply with CLE course requirements.

5. In June 2002 the CLE Board mailed to Respondent a Status Report reminding Respondent that her course attendance record indicated she was not yet in

compliance with CLE requirements for the period ending August 31, 2002. Respondent received this Status Report.

6. Subsequent to August 31, 2002, the CLE Board provided Respondent with a Final Report informing her of her failure to comply with the CLE requirements. Respondent received the Final Report.

7. On or before July 1, 2002, Respondent failed to pay the annual attorney registration assessment required by Pa.R.D.E. 219(d) and by Order dated November 1, 2002, effective December 1, 2002, the Supreme Court of Pennsylvania transferred Respondent to inactive status for failure to pay the annual assessment.

8. By letter dated November 1, 2002, sent by certified mail, return receipt requested, Elaine M. Bixler, Secretary of the Disciplinary Board, notified Respondent of the entry of the Order transferring her to inactive status. Respondent received this letter.

9. On or before December 6, 2002, Respondent paid the annual assessment.

10. By letter dated February 4, 2003, the CLE Board provided to Respondent an "urgent notice" to advise Respondent that the CLE Board was preparing a list of non-compliant attorneys for submission to the Pennsylvania Supreme Court and that such list was "nearing completion", which "urgent notice" Respondent received.

11. By Order dated March 25, 2003, the Supreme Court of Pennsylvania directed that Respondent was to be transferred to inactive status pursuant to Pa.R.C.L.E.

111(b) for failure to comply with CLE requirements, said transfer to be effective 30 days after the date of the Order.

12. In and under cover of a letter dated March 25, 2003, which was sent by certified mail, return receipt requested, Ms. Bixler:

a. forwarded to Respondent a copy of the Supreme Court Order;

b. forwarded to Respondent a copy of Pa.R.D.E. 217

c. forwarded to Respondent Forms DB-23(i) and DB - 24(i) - Nonlitigation and Litigation Notices of Transfer to Inactive Status;

d. forwarded to Respondent Form DB-25(i), Statement of Compliance; and

e. advised Respondent that if she were transferred to inactive status, the transfer would be effective April 24, 2003 and Respondent would be required to comply with Pa.R.D.E. 217.

13. Respondent signed for and received the March 25, 2003 letter, with enclosures, on March 29, 2003.

14. Respondent went on inactive status on April 24, 2003.

15. Respondent failed to file a Form DB - 25(i) with the Board Secretary within ten days after the effective date of Respondent's transfer to inactive status, as required by Pa.R.D.E. 217(e), or at any time thereafter.

16. Following her transfer to inactive status, Respondent made a series of inquiries to the CLE Board regarding the necessary requirements to attain active status. The CLE Board responded to Respondent's respective inquiries by letters dated May 19, 2003, March 18, 2004, and January 3, 2005, all of which Respondent received, indicating the number of credits necessary to become active.

Greenwood Trust Matter

17. Subsequent to being placed on inactive status, Respondent entered her appearance in the matter of Greenwood Trust Co. v. Mainor.

18. On September 1, 2004, Respondent filed a Notice of Appeal from Philadelphia Municipal Court to the Philadelphia Court of Common Pleas on September 1, 2004.

19. On September 30, 2004, Respondent served plaintiff's counsel with an Affidavit of Service.

20. Respondent filed Preliminary Objections to Plaintiff's Complaint on November 19, 2004.

21. Respondent did not inform her opposing counsel that she was on inactive status and ineligible to practice law.

The Goetz Matter

22. On or about July 18, 2002, Respondent filed a Notice of Appeal from the Philadelphia Municipal Court to the Philadelphia Court of Common Pleas in the matter of Goetz et. al. v. Pierre, on behalf of the defendant, Betty LaRose Pierre.

23. On June 3, 2003, Respondent filed an Answer to Plaintiff's Complaint with New Matter and counterclaim on behalf of the defendant.

24. Respondent did not inform her opposing counsel that she was on inactive status.

The Valcin Matter

25. On February 19, 2004, Respondent met with Marie D. Valcin at the law office of Picard Losier Associates, for a consultation regarding the development of a business plan and for assistance in obtaining financing for the renovation of leased space for a coin operated laundromat in Philadelphia.

26. At the meeting Respondent had Ms. Valcin execute a Fee Agreement. The Fee Agreement provided that Ms. Valcin "appointed Karen R. Mainor, Esquire, of the law firm of Picard Losier & Associates as my/our attorney in the following matter..." This representation was maintained through January 2005.

27. At the meeting of February 19, 2004, Ms. Valcin paid Respondent \$100 and thereafter made periodic payments to Respondent for an additional \$1,000. At the

time that Ms. Valcin went to see Respondent, she was specifically looking to retain an attorney. She did not know that Respondent was on inactive status.

28. In hiring Respondent, Ms. Valcin believed she was hiring an attorney who was licensed to practice law.

29. Respondent did complete a business plan for Ms. Valcin, but it was not done in a timely fashion and by the time it was delivered, Ms. Valcin lost the opportunity to start the business.

30. Ms. Valcin made requests to Respondent to return the fees paid or provide an accounting of the fees paid.

31. All of Respondent's dealings with Ms. Valcin occurred while she was on inactive status.

The Brawley Matter

32. Respondent represented the plaintiff, Hosea Brawley, in the matter of Brawley v. City of Philadelphia, in the United States District Court for the Eastern District of Pennsylvania.

33. On October 11, 2002, a Notice of an Initial Pretrial Conference was sent to Respondent at her office address.

34. On February 11, 2003, a Notice of Discovery Conference was sent to Respondent by facsimile and first class mail in the ordinary course of court business. This Notice was delivered to Respondent's office address.

35. On February 26, 2003, an Order was entered by Honorable Eduardo C. Robreno scheduling a discovery conference for March 10, 2003, which was sent by facsimile to Respondent's address of record. This Order was received at Respondent's office address.

36. On March 6, 2003, an Order was entered for a hearing on a Motion for Enlargement of Time for Discovery filed by defendant's counsel. This Order was received at Respondent's office address.

37. On March 10, 2003, Respondent failed to appear at the conference before Judge Robreno.

38. On March 10, 2003, Judge Robreno issued an Order that included a Rule to Show Cause for April 10, 2003 for Respondent to show cause why she should not be sanctioned for her failure to appear at the scheduling conference.

39. Respondent received the Order of March 10, 2003.

40. On March 10, 2003, Judge Robreno issued a First Revised Scheduling Order, which Respondent received.

41. On April 10, 2003, Respondent failed to appear at the Rule to Show Cause hearing before Judge Robreno and on April 10, 2003 an Order was entered wherein Respondent was fined \$1,000 payable by April 25, 2003.

42. Respondent received this Order.

43. On April 10, 2003, Judge Robreno made the following specific findings:

a. that notice of the Court's consideration of possible sanctions was provided to Respondent; and

b. that Respondent's failure to appear at the March 10, 2003 and April 10, 2003 hearing "was willful, in bad faith and has adversely affected the parties, counsel and the public interest."

44. On April 10, 2003, Judge Robreno issued a Rule upon Respondent to show cause why Respondent should not be required to withdraw from the case for failing to comply with the Federal Rules of Civil Procedure, the Local Rules of Civil Procedure and the order of the court. The Rule Returnable date was set for April 25, 2003.

45. On April 25, 2003, Respondent attended the Rule to Show Cause hearing scheduled by Judge Robreno's Order of April 10, 2003 and stated the following:

- a. that Respondent was not receiving all of her mail;
- b. that Respondent was sick from late November 2002 and was coming into the office one or two days a week;
- c. that Respondent was not able to work full-time due to a number of debilitating conditions;
- d. that Respondent was still working from home; and
- e. that the Court reconsider the fine that was levied.

46. Respondent failed to notify the Clerk of Courts of the United States District Court for the Eastern District of Pennsylvania that Respondent had been transferred to inactive status on April 24, 2003 by the Supreme Court of Pennsylvania.

47. On May 30, 2003, Judge Robreno entered a written Order granting Respondent's request to withdraw "because she [Respondent] has been placed on inactive status by the Pennsylvania Bar due to health reasons."

48. Judge Robreno allowed Respondent to withdraw from the case. Respondent did not correct Judge Robreno's misunderstanding concerning the reason she had been placed on inactive status.

49. Respondent has not paid the fine levied against her.

50. George Hayes, M.D., testified on behalf of Respondent.

51. Dr. Hayes has not treated Respondent since 1995 and his testimony did not shed light on the events of 2003 which are the subject of the Petition for Discipline.

52. Neil C. Cutler, M.D., testified by way of deposition on behalf of Respondent. Dr. Cutler started treating Respondent around 2002.

53. After assessing a number of physical complaints of pain, Dr. Cutler believed Respondent was clinically depressed.

54. Dr. Cutler prescribed Effexor for Respondent, and after Respondent began taking Effexor, she became more alert, no longer had sleep complaints, and her concentration and memory came back to normal levels for her.

55. Dr. Cutler evaluated Respondent as suffering from moderate depression prior to her improvement with Effexor.

56. Dr. Cutler did not make a causal connection between the moderate depression and the misconduct of practicing law while on inactive status.

III. CONCLUSIONS OF LAW

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

1. RPC 1.16(a)(1) - A lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if the representation will result in violation of the Rules of Professional Conduct or other law.

2. RPC 1.16(a)(2) - A lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client.

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, such as giving reasonable notice to the 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.

4. RPC 3.3(a)(1) - A lawyer shall not knowingly make a false statement of material fact or law to a tribunal.

5. RPC 4.1(a) - A lawyer shall not knowingly make a false statement of material fact or law to a third person.

6. RPC 5.5(a) (effective 5/15/04) - A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction.

7. RPC 5.5(b) (adopted 10/16/87, superseded effective 5/15/04) - A lawyer shall not practice law in a jurisdiction where to do so would be in violation of regulations of the profession in that jurisdiction.

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

9. Pa.R.D.E. 203(b)(3) - It is grounds for discipline for a lawyer to willfully violate any other provision of the Enforcement Rules, via the Enforcement Rules charged below.

a. Pa.R.D.E. 217(a), 217(b), 217(c)(1), 217(c)(2) - failing to notify the clients, courts and opposing counsel of a respondent-attorney's transfer to inactive status, by registered or certified mail, return receipt requested.

b. Pa.R.D.E. 217(d) - engaging as counsel in new matters after the effective date of the transfer to inactive status order.

c. Pa.R.D.E. 217(e) - failing to file a verified statement of compliance with the Disciplinary Board Secretary within ten days after the effective date of the transfer to inactive status.

d. Pa.R.D.E. 217(j)(2), 217(j)(3), 217(j)(4)(ii-vii), 217(j)(4)(ix - x) - failing to cease engaging in law-related activities.

10. Respondent failed to meet her burden of proof by clear and convincing evidence that she suffered from a psychiatric disorder which substantially caused her

professional 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 the charges of misconduct against Respondent that she engaged in the impermissible practice of law while on inactive status.

Respondent was transferred to inactive status by Order of the Supreme Court of Pennsylvania dated March 25, 2003, effective 30 days thereafter. Respondent was notified of her transfer to inactive status and her obligations pursuant to her status as an inactive attorney. She was aware at all times that she was not permitted to engage in the practice of law. Petitioner alleged in its Petition for Discipline that Respondent engaged in the practice of law with respect to three matters in litigation and by accepting a retention to prepare a business plan in a non-litigation matter. Petitioner introduced joint stipulations of law and fact, by which it established its case against Respondent.

Essentially, in the Greenwood Trust, Goetz and Brawley matters, Respondent continued to represent clients after she was transferred to inactive status by filing motions, misrepresenting her status to the court and by failing to advise her opposing counsel of her status. Respondent explained that she was only protecting her clients, one of whom was her brother, by trying to preserve the status quo while their matters were taken over by other attorneys. While that may, in fact, have been the case, it does not excuse the

violations. Respondent's failure to arrange for substitute counsel and her lack of candor with the tribunal reflects on her failure to follow through on her responsibilities.

The Valcin matter was a situation where the client specifically sought out an attorney to handle the preparation of a business plan. The record is clear that although such a plan need not have been prepared by an attorney, the client wanted an attorney and believed she was hiring Respondent as an attorney. Respondent did nothing to correct this impression.

Respondent attempted to present evidence that she was suffering from physical problems and depression at the time of the misconduct, but such evidence is not sufficient to afford Respondent mitigation. Neither of the two physicians who testified established that Respondent suffered from depression at the time of the violations, much less that a depression caused her misconduct. Office of Disciplinary Counsel v. Braun, 553 A.2d 894 (Pa. 1989). Respondent's testimony concerning the actual charges against her leads to the conclusion that she still does not fully acknowledge that her actions were wrong.

The disciplinary sanctions meted out in Pennsylvania regarding the unauthorized practice of law have been consistent through the recent years. Suspension of one year and one day has been the primary sanction used to address this misconduct. An established line of cases reflects the Supreme Court's stance that practicing law while on inactive status is a serious disciplinary offense and has serious ramifications for members

of the public who unwittingly and unknowingly retain or continue to employ an unlicensed lawyer. Office of Disciplinary Counsel v. Goldin-Didinsky, 87 DB 2003, 969 Disciplinary Docket No. 3 (Pa. Dec. 13, 2004)

The Hearing Committee in the instant matter has recommended a one year and one day suspension. The totality of the record persuades the Board that this matter does warrant a length of suspension which requires Respondent to undergo the reinstatement process before practicing law in the future.

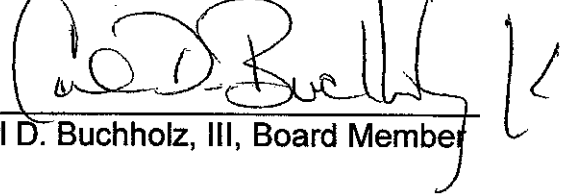
V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, Karen R. Mainor, be suspended from the practice of law for a period of one year and one day.

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: September 14, 2007

Board Members Newman and Raspanti did not participate in the adjudication.