

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1571 Disciplinary Docket No. 3
Petitioner :
: No. 154 DB 2008
v. :
: Attorney Registration No. 64572
MARY LOUISE JOHNSON, :
Respondent : (Philadelphia)

ORDER

PER CURIAM:

AND NOW, this 16th day of April, 2010, upon consideration of the Report and Recommendations of the Disciplinary Board dated December 30, 2009, it is hereby

ORDERED that Mary Louise Johnson is suspended from the Bar of this Commonwealth for a period of one year 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 April 16, 2010

Attest:

Chief Clerk

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 154 DB 2008
Petitioner	:	
	:	
v.	:	Attorney Registration No. 64572
	:	
MARY LOUISE JOHNSON	:	
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 October 3, 2008, Office of Disciplinary Counsel filed a Petition for Discipline against Mary Louise Johnson. The Petition charged Respondent with violations of the Rules of Professional Conduct arising out of allegations that she misrepresented to Petitioner that she had complied with a condition attached to an Informal Admonition by

refunding a former client the sum of \$2,000, when, in fact, she had not. Respondent did not file an Answer to Petition for Discipline.

A disciplinary hearing was held on February 11, 2009, before a District I Hearing Committee comprised of Chair A. Harold Datz, Esquire, and Members Kristi A. Buchholz, Esquire, and Amy C. Lachowicz, Esquire. Respondent appeared pro se.

The Hearing Committee filed a Report on June 19, 2009, finding that Respondent violated the Rules of Professional Conduct as charged in the Petition for Discipline, and recommending that she be suspended for a period of one year.

This matter was adjudicated by the Disciplinary Board at the meeting on October 28, 2009.

II. FINDINGS OF FACT

The Board makes the following findings of fact:

1. Petitioner, Office of Disciplinary Counsel, whose principal office is located at Pennsylvania Judicial Center, 601 Commonwealth Ave., Suite 2700, P.O. Box 62485, Harrisburg, Pennsylvania 17106, 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 is Mary Louise Johnson. She was admitted to the practice of law in the Commonwealth in 1992. Her registered office address is 4018 North 12th Street, Philadelphia PA 19140. Respondent is subject to the jurisdiction of the Disciplinary Board of the Supreme Court.

3. On May 19, 2008, Chief Disciplinary Counsel sent Respondent a letter notifying her of the determination that an Informal Admonition would be administered to her.

4. The Informal Admonition arose out of a complaint filed against Respondent.

5. The May 19, 2008 letter also notified Respondent that a condition of her Informal Admonition was to refund \$2000 to Complainant.

6. The Informal Admonition was administered to Respondent on June 18, 2008.

7. Respondent violated RPC 1.1, 1.2(a), 1.3, 1.4(a)(2)(3)(4), 1.4(b), 1.15(a)(b)(e), 1.16(a)(1)(3), 1.16(d), 3.2 and 8.4(c).

8. As of June 18, 2008, Respondent had not refunded the \$2000 to Complainant.

9. On June 20, 2008, Respondent wrote a letter to Complainant and copied Chief Disciplinary Counsel. The letter included Check No. 1469 from PNC Bank, made out to Complainant in the amount of \$2000.

10. On June 26, 2008, Chief Disciplinary Counsel sent Respondent a letter indicating that she had complied with the condition of the Informal Admonition.
11. The address used by Respondent for Complainant was incorrect.
12. Respondent had been notified on multiple occasions that Complainant had a new address in Scottdale, Georgia.
 - a. On October 6, 2005, Complainant wrote Respondent an email instructing her to update her records to reflect the new address.
 - b. On March 17, 2006, Complainant wrote Respondent a letter, which indicated his new address.
 - c. On September 12, 2006, Complainant instructed Respondent to mail a check to his new address.
 - d. On February 7, 2007, Complainant wrote Respondent a letter again instructing her to mail a check to the new address.
 - e. On October 3, 2007, Complainant wrote Respondent an e-mail informing her of his new address.
 - f. On March 18, 2008, Respondent received a Request for Statement of Respondent's Position in the underlying disciplinary action, which indicated that the complaint against Respondent was filed by Complainant and listed the new address.
13. Complainant never received or endorsed Check No. 1469.

14. Respondent did not notify Petitioner that Complainant never received or endorsed the check for \$2000.

15. During the months of March 2008, April 2008, May 2008 and June 2008, Respondent had insufficient funds in her PNC Bank account to honor Check No. 1469.

16. On approximately July 12, 2008, Complainant spoke with Respondent by telephone. Respondent informed Complainant that she would mail a new check by July 28, 2008.

17. On August 1, 2008, Respondent executed Check No. 1470 from PNC Bank in the amount of \$2000, made payable to Complainant.

18. Complainant deposited Check No. 1470 in Wachovia Bank on August 5, 2008.

19. On August 8, 2008, Wachovia Bank notified Complainant that there were insufficient funds in Respondent's PNC Bank account to honor Check No. 1470.

20. Consequently, Complainant suffered a shortage in his finances.

21. During the months of July 2008 and August 2008, Respondent had insufficient funds in her PNC Bank account to honor Check No. 1470.

22. Respondent did not correct PNC's failure to honor the check.

23. Respondent misrepresented to Petitioner that the condition of her Informal Admonition had been satisfied.

24. Respondent's testimony that she was not aware of Complainant's change of address was not credible.

25. Respondent repaid Complainant a total of \$2020, which covered the original sum plus fees.

26. Respondent expressed remorse for her actions as they pertained to Complainant.

III. CONCLUSIONS OF LAW

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

1. 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 in other respects.

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

IV. DISCUSSION

This matter is before the Board for consideration of the charges against Respondent that she made misrepresentations as to the completion of the condition attached to an Informal Admonition. Respondent failed to respond to the charges in the Petition for Discipline. Factual allegations in the Petition are deemed admitted if an answer

to the Petition is not timely filed. Pa.R.D.E. 203(b)(3). The record demonstrates that Petitioner established, by a preponderance of the evidence that is clear and satisfactory, that Respondent committed violations of the Rules of Professional Conduct by sending checks to Complainant that she knew or should have known would not be honored, and misrepresenting to Petitioner that she complied with the terms of her Informal Admonition when, in fact, she had not.

The type of discipline to be imposed must act as a deterrent to the lawyer, as well as protect the public from unfit attorneys and maintain the integrity of the legal system. Office of Disciplinary Counsel v. Keller, 506 A.2d 872 (Pa. 1986).

Respondent was required to reimburse \$2000 to her client as a condition of her Informal Admonition. In June of 2008 she forwarded a check to her client using an address that had not been viable for several years. Respondent should have known that it was an incorrect address, as she had been told by her client, on at least six occasions over a two and a half year period, of the client's actual mailing address. Nevertheless, Respondent sent the check to the wrong address and the client did not receive it. Meanwhile, Respondent informed Petitioner that she had complied with the condition, providing a letter to her client and a copy of a check for \$2,000. Respondent knew the check would not be honored if presented as she was aware that she did not have sufficient funds in her account between March of 2008 and June of 2008 to cover the check.

In July of 2008, the client contacted Respondent and she promised to mail a new check. Respondent did not inform Petitioner that she had sent the first check to the

wrong address. Two weeks after the conversation with her client, Respondent forwarded a check in the amount of \$2000 payable to her client, which the client deposited, even though Respondent was aware there were insufficient funds to cover the check. Respondent eventually repaid her client.

Respondent's actions are troubling. They reveal a deliberate attempt to hide facts from Petitioner of which Petitioner should have been apprised. Respondent should have promptly notified Petitioner that the first check she sent was to the wrong address. She was clearly aware when she spoke to her client that the condition of the Informal Admonition had not been satisfied since the client never received the funds. She was equally aware that Petitioner believed the condition was satisfied and the case closed. Respondent deceived Petitioner by sending a second check to the client which was not honored by the bank.

The Hearing Committee recommended a suspension of one year. The Board is persuaded that this recommendation is appropriate based on the particular facts of this matter and the sanctions imposed in prior cases where a respondent engaged in deceptive acts related to misrepresentations to Petitioner. In re Anonymous, 77 DB 93, 34 Pa.D. & C. 4th 214 (1996) (respondent suspended for one year for making misrepresentations to referral counsel and to Office of Disciplinary Counsel).

The Board recommends that Respondent be suspended for a period of one year.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania recommends that the Respondent, Mary Louise Johnson, be Suspended from the practice of law for a period of one year.

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: 
Mark S. Baer, Board Member

Date: December 30, 2009

Board Members Bevilacqua and Nasatir dissent for a one year and one day suspension.

Board Vice-Chair Buchholz recused.