

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1323 Disciplinary Docket No. 3
Petitioner :
 : No. 158 DB 2007
v. :
 : Attorney Registration No. 83150
JOHN DeGROFF TALBOT, II, :
Respondent : (Montgomery County)

ORDER

PER CURIAM

AND NOW, this 22nd day of August, 2008, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated April 23, 2008, 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 John DeGross Talbot, II, is suspended on consent from the Bar of this Commonwealth for a period of six months retroactive to February 14, 2008, and he shall comply with all the provisions of Rule 217, Pa.R.D.E.

A True Copy Patricia Nicola

As of: August 22, 2008

Attest:

Chief Clerk

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA


OFFICE OF DISCIPLINARY COUNSEL : No. 1323 Disciplinary Docket No. 3
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JOHN DEGROFF TALBOT, II :
Respondent : (Montgomery 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 Robert C. Saidis, Mark S. Baer and Charlotte S. Jefferies, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on March 28, 2008.

The Panel approves the Petition consenting to a six month suspension retroactive to February 14, 2008 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.



Robert C. Saidis, Panel Chair
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date: April 23, 2008

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1323, Disciplinary Docket
Petitioner : No. 3
:
v. : No. 158 DB 2007
:
: Attorney Reg. No.83150
JOHN DEGROFF TALBOT II, :
Respondent : (Montgomery County)

**JOINT PETITION IN SUPPORT
OF DISCIPLINE ON CONSENT
PURSUANT TO Pa.R.D.E. 215(d)**

Petitioner, the Office of Disciplinary Counsel, by Paul J. Killion, Chief Disciplinary Counsel, and Alan J. Davis, Disciplinary Counsel, and Respondent, John DeGroff Talbot II (hereinafter "Respondent"), by Samuel D. Miller, III, Esquire, file this Joint Petition in Support of Discipline on Consent, under Rule 215(d), Pa.R.D.E., and respectfully represent that:

1. Petitioner, whose principal office is situated at Suite 1400, 200 North Third Street, Harrisburg, Pennsylvania, is invested, pursuant to Rule 207 of Pennsylvania Rules of Disciplinary Enforcement (hereinafter "Pa.R.D.E."), with the power and duty to investigate all

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

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 Enforcement Rules.

2. Respondent, John DeGroff Talbot II, was born on August 9, 1971, and was admitted to practice law in the Commonwealth of Pennsylvania on February 2, 1999.

3. Respondent is a formerly admitted attorney, having been placed on temporary suspension by Order of the Supreme Court of Pennsylvania dated February 14, 2008, following the filing of a Joint Petition for Temporary Suspension. Respondent was formerly engaged in the practice of law at the law firm of Stevens & Lee, 620 Freedom Business Center, King of Prussia, Pennsylvania 19406.

4. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

SPECIFIC FACTUAL AND LEGAL ADMISSIONS

5. By Order dated March 28, 2005, the Supreme Court

of Pennsylvania transferred Respondent to inactive status, pursuant to Rule 111(b), Pa.R.C.L.E., at a time when Respondent was not practicing law.

6. By letter dated March 28, 2005, Elaine M. Bixler, Secretary to the Disciplinary Board, notified Respondent of the aforesaid Order of the Court and that Respondent's transfer to inactive status would become effective on April 27, 2005, because of Respondent's failure to comply with the Pennsylvania Rules of Continuing Legal Education.

7. Ms. Bixler's letter further advised Respondent of his requirement to comply with Rule 217 of the Pa.R.D.E., and Respondent was provided with Form DB-25, Statement of Compliance.

8. On June 6, 2005, the Disciplinary Board received Respondent's executed Statement of Compliance (Form DB-25) signed by Respondent on June 1, 2005, in which Respondent certified that, in connection with Respondent's transfer to inactive status by Order of the Supreme Court of Pennsylvania dated March 28, 2005, Respondent had fully complied "with the provisions of the Order of the Supreme Court, with the applicable provisions of the Pennsylvania

Rules of Disciplinary Enforcement and with the applicable Disciplinary Board Rules."

9. Although Respondent had been admitted to practice law in New Jersey in April 2000, Respondent had advised the New Jersey Lawyers' Fund for Client Protection ("Fund") on April 2, 2004, that Respondent was exempt from paying the New Jersey annual fee because Respondent was "completely retired from the practice of law . . . in any jurisdiction" and that Respondent would "notify the fund of any change."

10. It was not until on or about June 21, 2007, after Respondent became aware of inquiries by the Office of Disciplinary Counsel in Pennsylvania, that Respondent paid the Fund his fee for 2007 to regain active status in that state. However, Respondent contends that in February 2007, he had telephoned the New Jersey Board of Bar Examiners and was informed that his status in New Jersey was active and in good standing. Respondent acknowledges that he failed to follow-up that telephone call to confirm his status with the Fund.

11. Notwithstanding Respondent's retired status in New Jersey from April 2004 until June 2007, his 2004-2005 and 2005-2006 Pennsylvania Attorney's Annual Fee Form lists

Respondent's status in New Jersey as "Active," without any change or modification by Respondent. Respondent contends that he did so under the mistaken belief that his status in New Jersey was active and alleges that he had no intent to engage in any misrepresentation.

12. Notwithstanding Respondent's transfer to inactive status in Pennsylvania, and Respondent's retired status in New Jersey, Respondent commenced employment as an attorney with the law firm of Stevens & Lee, on or about February 19, 2007.

13. At the time that Respondent began practicing law with Stevens & Lee, Respondent was not eligible to practice law in any jurisdiction.

14. The internet website of the firm described Respondent as concentrating his practice "in the representation of public companies, financial institutions and investment banks in connection with mergers and acquisitions, capital formation and other securities law matters."

15. As an example of Respondent's practice of corporate law in Pennsylvania, he was listed as counsel of record in the filing of a registration statement with the

Securities and Exchange Commission on behalf of Eastern Insurance Holdings, Inc.

16. While on inactive status, Respondent continued his law practice at Stevens & Lee after he became aware of inquiries by the Office of Disciplinary Counsel initiated in June 2007, but alleges that his work at all times was reviewed and utilized by an attorney at the firm who was on active status.

17. Respondent regained his active status in Pennsylvania in early August, 2007, prior to his subsequent complete cessation of the practice of law which was then followed by his temporary suspension imposed by Order dated February 14, 2008.

18. By his conduct as alleged in paragraphs 3 through 17, above, Respondent violated the following Rules of Professional Conduct:

- a. RPC 5.5(a), which prohibits a lawyer from practicing law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction;
- b. Rule 217(c), Pa.R.D.E., requiring a formerly admitted attorney to properly notify of the

fact of his transfer to inactive status by registered or certified mail all persons with whom the formerly admitted attorney may at any time expect to have professional contacts under circumstances where there is a reasonable probability they may infer the attorney continues in good standing;

- c. Rule 217(e), Pa.R.D.E., requiring an attorney transferred to inactive status to file a statement of compliance with the Disciplinary Board within ten days after the effective date of the transfer;
- d. Rule 217(j), Pa.R.D.E., prohibiting a formerly admitted attorney from engaging in any form of law-related activities in this Commonwealth except in accordance with the requirements set forth within the rule; and
- e. Rule 219(d)(1)(i), Pa.R.D.E., requiring an attorney to set forth in his annual registration statement all jurisdictions in which the person has ever been licensed to

practice law with the current status thereof.

SPECIFIC JOINT RECOMMENDATION FOR DISCIPLINE

19. 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 six months, retroactive to the temporary suspension entered by Order of the Supreme Court of Pennsylvania on February 14, 2008.

20. Respondent hereby consents to that discipline being imposed upon him by the Supreme Court of Pennsylvania. Attached to this petition is Respondent's executed Affidavit required by Rule 215, Pa.R.D.E., stating that he consents to the recommended discipline and which includes the mandatory acknowledgements required by Rule 215(d)(1)(iv), Pa.R.D.E.

21. In support of Petitioner's and Respondent's joint recommendation, it is respectfully submitted that the following mitigating circumstances are present:

- a. Respondent is remorseful, has admitted engaging in the aforesaid conduct, and has admitted violating the Rules of Professional

Conduct and the Rules of Disciplinary Enforcement set forth above;

- b. Respondent has cooperated with Petitioner by entering into both the Joint Petition for Temporary Suspension and by his consent set forth herein to receive a suspension of six months retroactive to the temporary suspension imposed by Order dated February 14, 2008;
- c. Respondent has no prior disciplinary history;
- d. At the time Respondent was transferred to inactive status, in March 2005, he was not engaged in any law-related activities, and he was working as a project manager for a construction company;
- e. After Respondent resumed the practice of law in 2007, the total period in which he engaged in the practice of law while on inactive status did not exceed six months; and
- f. Respondent alleges that he had been told by the New Jersey Bar of Law Examiners that his status was active and in good standing, but conceded that he failed to verify his status with the Fund.

22. In Pennsylvania, there is no *per se* discipline for a particular type of misconduct, but instead each case is reviewed individually as established in the case of *Office of Disciplinary Counsel v. Lucarini*, 417 A.2d 186 (Pa. 1983).

23. The imposition of a six-month suspension, retroactive to the temporary suspension imposed by Order of the Supreme Court of Pennsylvania on February 14, 2008, is consistent with the range of sanctions imposed in other cases involving unauthorized practice of law:

- a. For example, in the case of *Office of Disciplinary Counsel v. Price*, No. 1179 DD No. 3, No. 113 DB 2006 (2006), the Court approved a joint petition in support of a six-month suspension for a Respondent who continued to practice law as a sole practitioner without supervision while on inactive status. Respondent Price, on behalf of several clients, appeared at judicial hearings, filed pleadings, rendered legal consultation and advice, and negotiated or transacted matters with opposing counsel and/or third parties; In *Office of Disciplinary Counsel v. Thompson*, No. 1227 DD No. 3, No. 159 DB 2005, Respondent received a six-month suspension for, *inter alia*, practicing while on inactive status. Respondent Thompson's misconduct was compounded by the fact that he had submitted a false active status certification to the court in which he falsely asserted that the parties were involved in ongoing settlement discussions; In *Office of Disciplinary Counsel v. Buffington*, No. 45 DB 2005 (2005), Respondent Buffington received a six-month suspension for engaging in the unauthorized practice of law in three legal matters. In recommending a six-month suspension, the Disciplinary Board characterized that Respondent's misconduct as "very limited acts of legal representation for a short time frame while on inactive status." (See D. Bd. Rpt. 10). Like Respondent Buffington, Respondent

Talbot engaged in the unauthorized practice of law for a limited duration, and did so under the supervision of senior attorneys within his law firm. In *Office of Disciplinary Counsel v. Quinn*, No. 1274 DD No. 3, 39 DB 2006 (2007), a Respondent, who had engaged in the unauthorized practice of law, received a three-month suspension. The majority Board Report agreed with the "Hearing Committee's assessment that Respondent's actions indicate carelessness and sloppiness, but not intentional or deceitful behavior." (Bd. Rpt. p. 15).

- b. On other occasions, respondents have been suspended from the practice of law for a period of one year and one day for engaging in the unauthorized practice of law. For example, in *Office of Disciplinary Counsel v. Forman*, No. 70 DB 2001 (2003) Respondent Forman had engaged in the unauthorized practice of law for twelve years and the Disciplinary Board found incredible his excuse for failing to comply with mandatory CLE requirements. Unlike Respondent Forman, Respondent Talbot was not engaging in the unauthorized practice for a period of many years; Respondent Talbot has further demonstrated his cooperation with the Office of Disciplinary Counsel by entering into a temporary suspension.

24. In view of the limited duration of Respondent's unauthorized practice of law, his lack of disciplinary history, his consent in entering a joint petition for temporary suspension and the other mitigating factors described above, Petitioner and Respondent submit that a six-month suspension retroactive to the date of

Respondent's temporary suspension is appropriate discipline in this matter.

WHEREFORE, Petitioner and Respondent respectfully request that, pursuant to Pennsylvania Rules of Disciplinary Enforcement 215(e) and 215(g), a three member panel of the Disciplinary Board review and approve the Joint Petition in Support of Discipline on Consent and file a recommendation with the Supreme Court of Pennsylvania that Respondent be suspended for a period of six months, retroactive to the temporary suspension imposed by Order of the Court dated February 14, 2008, and that Respondent be ordered to pay all necessary expenses incurred in the investigation and prosecution in this matter as a condition to the grant of the Petition.

Respectfully submitted,
OFFICE OF DISCIPLINARY COUNSEL
PAUL J. KILLION,
Attorney Reg. No. 20955,
Chief Disciplinary Counsel

3/5/08
DATE

By: Alan J. Davis
ALAN J. DAVIS
Disciplinary Counsel
Attorney Registration Number 12332
820 Adams Avenue, Suite 170
Trooper, PA 19403
(610) 650-8210

3/18/08
DATE

Samuel D. Miller
Samuel D. Miller, III, Esquire
Counsel for Respondent
Attorney Registration No. 14753
1349 Valley Drive
P.O. Box 547
Lansdale, PA 19446

VERIFICATION

The statements contained in the foregoing *Joint Petition In Support of Discipline on Consent Discipline* are true and correct to the best of my knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.

3/5/08
DATE

Alan J. Davis
Alan J. Davis
Disciplinary Counsel

3/18/08
DATE

Samuel D. Miller
Samuel D. Miller, III, Esquire
Counsel for Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
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Respondent : (Montgomery County)

AFFIDAVIT UNDER RULE 215, Pa.R.D.E.

Respondent, John DeGroff Talbot II, hereby states that he consents to the imposition of a suspension from the practice of law for a period of six months, retroactive to the temporary suspension imposed by Order of the Court dated February 14, 2008, and further states that:

1. He is an attorney admitted to the Commonwealth of Pennsylvania, having been admitted to the bar on or about February 2, 1999.

2. He desires to submit a Joint Petition in Support of Discipline on Consent pursuant to Pa.R.D.E. 215(d).


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

4. He has consulted with counsel, Samuel D. Miller, III, Esquire, in connection with his decision to consent to discipline.

5. He is aware there is presently a proceeding involving allegations that he has been guilty of misconduct as set forth within the accompanying petition.

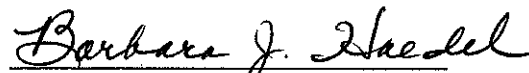
6. He acknowledges that the material facts within the petition are true.

7. He consents because he knows that if he continues to be prosecuted in the pending proceeding, he cannot successfully defend himself.

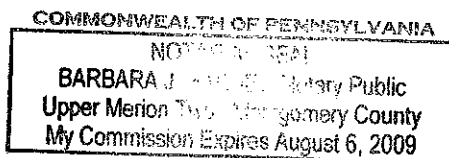


John DeGroff Talbot, II
Respondent

Sworn to and Subscribed
before me this *18th* day
of *March*, 2008.



Notary Public



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CERTIFICATE OF SERVICE


I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 204 Pa. Code §89.22 (relating to service by a participant).

First Class as follows:

Counsel for Respondent:

Samuel D. Miller, III, Esquire
1349 Valley Drive
P.O. Box 547
Lansdale, PA 19446

Dated: 3/26/08



Alan J. Davis
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