

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1450 Disciplinary Docket No. 3
Petitioner :
: No. 170 DB 2008
v. :
: Attorney Registration No. 81819
JANEANE MICHELLE JAMES, :
Respondent : (Philadelphia)

ORDER


PER CURIAM:

AND NOW, this 20th day of February, 2009, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated December 2, 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 Janeane Michelle James is suspended on consent from the Bar of this Commonwealth for a period of two years consecutive to the suspension imposed by this Court on January 5, 2006, at No. 1088 Disciplinary Docket No. 3, and she shall comply with all the provisions of Rule 217, Pa.R.D.E.

A True Copy Patricia Nicola

As of: February 20, 2009

Attest: 
Chief Clerk

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

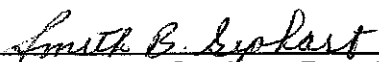
OFFICE OF DISCIPLINARY COUNSEL : No. 170 DB 2008
Petitioner :
v. : Attorney Registration No. 81819
JANEANE MICHELLE JAMES :
Respondent : (Philadelphia)

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 Smith Barton Gephart, William A. Pietragallo and Charlotte S. Jefferies, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on November 4, 2008.

The Panel approves the Joint Petition consenting to a two year suspension to run consecutive to the 18 month suspension ordered on January 5, 2006 at No. 1088 Disciplinary Docket No. 3 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.



Smith Barton Gephart, Panel Chair
The Disciplinary Board of the
Supreme Court of Pennsylvania

Date: December 2, 2008

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :

Petitioner : No. DB 2008

v. :

JANEANE MICHELLE JAMES, :

Attorney Registration No. 81819

Respondent : (Philadelphia)

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
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Philadelphia, PA 19103
(215) 560-6296

and

Samuel C. Stretton, Esquire
301 South High Street
P.O. Box 3231
West Chester, PA 19381-3231
(610) 696-4243

FILED

NOV 04 2008

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. DB 2008

v. :

JANEANE MICHELLE JAMES, :

Attorney Registration No. 81819

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 Donna M. Snyder, Disciplinary Counsel, and Respondent, Janeane Michelle James, represented by Samuel C. Stretton, 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, Janeane Michelle James, was born on February 17, 1967 and was admitted to practice law in the Commonwealth of Pennsylvania on August 20, 1998.
2. Respondent's last attorney registration address was 63 Prospect Avenue, Bryn Mawr, PA 19010. That address is also Respondent's residence address.

SPECIFIC FACTUAL ADMISSIONS AND
PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT AND RULES OF
PROFESSIONAL CONDUCT VIOLATED

3. Respondent stipulates that the following factual allegations contained in the DB-7 Letter Request for Respondent's Position are true and correct and that she violated the charged Rules of Disciplinary Enforcement and Rules of Professional Conduct.

4. By Pennsylvania Supreme Court Order dated January 5, 2006, Respondent was suspended on consent from the practice of law in this Commonwealth for a period of eighteen months effective February 4, 2006.

5. From in or around December 2002, through Respondent's suspension in 2006, Respondent was on inactive status based on non-compliance with Continuing Legal Education requirements.

6. To date, Respondent has not petitioned for reinstatement to the practice of law.

7. On March 14, 2008, Respondent appeared in the courtroom of the Honorable Municipal Court Judge Marsha H. Neifield, on behalf of her sister, Leah James a/k/a Leah Cox, in a criminal matter.

8. Respondent's appearance in court in a representative capacity was improper because of her status as "suspended."

9. Prior to the call of the case, Respondent sat in seats reserved for counsel.

10. At the call of the case, Judge Neifield questioned Respondent as to whether Respondent was an attorney and asked for Respondent's attorney identification number.

11. Respondent presented a card to Judge Neifield which read: "Janeane M. Davis, Executive Vice President of Strategy, Davis, James, and Associates, A debt relief agency."

12. Respondent gave her attorney identification number to Judge Neifield without explaining that she was suspended from the practice of law.

13. Respondent requested a continuance on behalf of the defendant.

14. Respondent told Judge Neifield that she was requesting a continuance because David Waties, Esquire, who had originally been retained to represent the defendant, was ill.

15. Respondent stated she had arranged for Robert Miller, Esquire, to represent her sister.

16. Respondent's representation to Judge Neifield regarding Mr. Miller was false because Mr. Miller had not been retained.

17. Respondent did tell Judge Neifield that she was "not going to be representing" her sister but failed to advise Judge Neifield and the assistant district attorney that she was a suspended attorney.

18. The court file for Ms. Cox's criminal case contains an Order for Appearance dated April 2, 2008, with the signature of C. Waties, as "attorney for defendant."

19. Respondent signed Ms. Waties' name on the Order of Appearance without the knowledge or consent of Carol Waties, Esquire.

20. By her conduct as alleged in Paragraphs 4 through 19 above, Respondent violated the following Rules of Professional Conduct and Rules of Disciplinary Enforcement:

- a. RPC 3.3(a)(1), which states that a lawyer shall not knowingly make a false statement of material fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

- b. RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- c. 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;
- d. 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 e-l, *infra*;
- e. Pa.R.D.E 217(c)(1), which states that a formerly admitted attorney shall promptly notify, or cause to be notified, of the disbarment, suspension or 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 disbarment, suspension, or transfer to inactive status, and (c)(2), 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;
- f. Pa.R.D.E. 217(d), which states, in pertinent part, that the formerly admitted attorney, after entry of the disbarment, suspension, or 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;

- g. Pa.R.D.E. 217(j)(1), which provides that a formerly admitted attorney may not engage in any form of law-related activities in this Commonwealth except under the 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 subdivision (j);
- h. Pa.R.D.E. 217(j)(2), which provides that a formerly admitted attorney cannot engage in any law-related activities in this jurisdiction except those of a preparatory nature or those involving clerical assistance to an attorney in good standing appearing as the representative of a client;
- i. 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;

- j. Pa.R.D.E. 217(j)(4)(iv), which prohibits a formerly admitted attorney from representing himself or herself as a lawyer or person of similar status;
- k. Pa.R.D.E. 217(j)(4)(vii), which prohibits a formerly admitted attorney from 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
- l. Pa.R.D.E. (j)(4)(ix), which prohibits a formerly admitted attorney from 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

21. 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 two years, consecutive to the suspension Respondent is now serving.

22. 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.

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

(a) There are two mitigating circumstances:

(i) Respondent let her familial obligation interfere with her professional responsibility; and

(ii) Respondent has taken responsibility for her actions.

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

(i) At the time of her misconduct, Respondent was serving an eighteen-month suspension for unauthorized practice of law.

(c) The discipline for unauthorized practice of law while on inactive status is a suspension ranging from three months to two years, *In re Ferleger*, 78 Pa. D.&C.4th 437, 446 (2005), although the primary sanction is suspension of one year and one day. *Office of Disciplinary Counsel v. Karen R. Mainor, No. 135 DB 2005*, D.Bd. Rpt. 9/14/07 at p. 15 (S.Ct. Order 3/10/08). Because Respondent's misconduct occurred when Respondent was serving a term of suspension, rather than an administrative sanction in the form of transfer to inactive status, the appropriate discipline in this case would at least parallel, if not exceed, the discipline imposed for unauthorized practice while on inactive status.

Similarly, attorneys on inactive status who engage in some form of active misrepresentation that is *secondary* to the misrepresentation inherent in all unauthorized practice cases have received moderate terms of suspension or have been disbarred. *In re Anonymous No. 78 DB 84 & 38 DB 85*, 39 Pa. D.&C.3d 131 (1986)(lying to disciplinary counsel at an informal admonition)(disbarment); **Office of Disciplinary Counsel v. Steven Marc Tannenbaum**, 724 A.2d 926 (Pa. 1999) (misrepresentations to client to conceal neglect)(three-year suspension); **Office of Disciplinary Counsel v. William H. Stubblefield**, 688 A.2d 689 (Pa. 1996) (misrepresentation to hearing committee of being current in annual fee payments)(one-year-and-one-day suspension). In this case, Respondent actively misrepresented to a court that an attorney had been retained to represent her sister, and, as explained above, Respondent was serving a disciplinary (not an administrative) sanction in the form of suspension at the time she made the misrepresentation.

Suspended attorneys who continue to hold themselves out as licensed to practice and who fail to comply with Rule 217 have received discipline ranging from an additional suspension consecutive to the first suspension, to disbarment. *E.g., In re Anonymous No. 131 DB 1990*, 22 Pa. D.&C.4th 474 (1994)(suspension of one year and one day consecutive to previous six-month suspension); **Office of Disciplinary Counsel v. W. Gustave McGeorge**, 688 A.2d 1171 (Pa. 1997) (petition for reinstatement denied and suspension of one year and one day

consecutive to previously-imposed six-month suspension); *Office of Disciplinary Counsel v. Jackson*, 637 A.2d 615 (Pa. 1994)(disbarment imposed after five-year suspension).

Notwithstanding Respondent's active misrepresentation to a court, Respondent's post-suspension failure to comply with Rule 217 was sufficiently isolated to warrant a consecutive suspension of two years, and precedent supports that sanction.

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 two years consecutive to the suspension imposed at 1088 Disciplinary Docket No. 3, 120 DB 2005; 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.

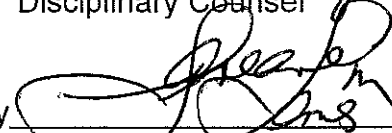
Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

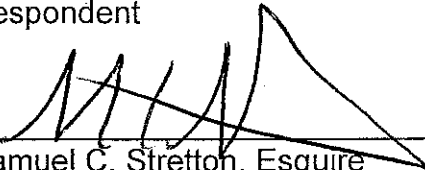
PAUL J. KILLION
CHIEF DISCIPLINARY COUNSEL

By 

Donna M. Snyder
Disciplinary Counsel

By 

Janeane Michelle James
Respondent

By 

Samuel C. Stretton, Esquire
Counsel for Respondent

BEFORE THE DISCIPLINARY BOARD OF THE
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AFFIDAVIT UNDER RULE 215(d), Pa.R.D.E.

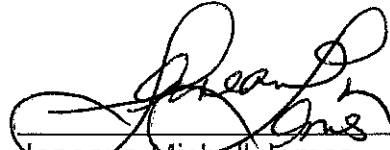
Respondent, Janeane Michelle James, hereby states that she consents to the imposition of a suspension from the practice of law for a period of two years consecutive to the eighteen-month suspension imposed at 1088 Disciplinary Docket No. 3, 120 DB 2005, as jointly recommended by Petitioner, Office of 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 an investigation into 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 charges predicated upon the matter under investigation were filed, she could not successfully defend against them.



Janeane Michelle James
Respondent

Sworn to and subscribed

before me this 31
day of October, 2008.



Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Cheryl L. McManamin, Notary Public
West Chester Boro, Chester County
My Commission Expires June 21, 2012
Member, Pennsylvania Association of Notaries

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OFFICE OF DISCIPLINARY COUNSEL, :

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JANEANE MICHELLE JAMES,

: Attorney Registration No. 81819

Respondent : (Philadelphia)

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.

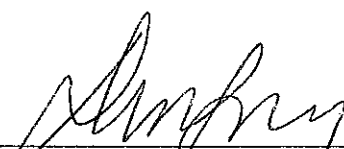
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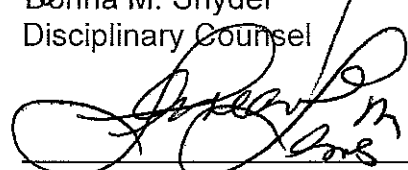
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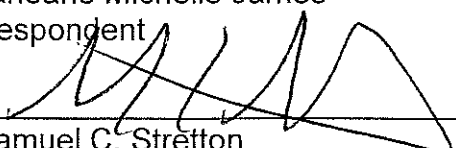
Date



Donna M. Snyder
Disciplinary Counsel



Janeane Michelle James
Respondent



Samuel C. Stretton
Counsel for Respondent