

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 1137 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 42 DB 2006
v.	:	
	:	Attorney Registration No. 10008
JOHN A. HAVEY,	:	
Respondent	:	(Beaver County)

ORDER

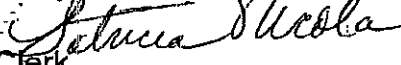
PER CURIAM:

AND NOW, this 19<sup>th</sup> day of May, 2008, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated February 8, 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 A. Havey is suspended on consent from the Bar of this Commonwealth for a period of three years retroactive to July 14, 2006, and he shall comply with all the provisions of Rule 217, Pa.R.D.E.

A True Copy Patricia Nicola

As of: May 19, 2008

Attest:   
Chief Clerk

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

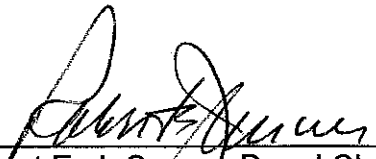
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JOHN A. HAVEY	:	
Respondent	:	(Beaver County)

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 E. J. Curran, Jonathan H. Newman and Marc S. Raspanti, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on January 28, 2008.

The Panel approves the Petition consenting to three year suspension retroactive to July 14, 2006 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 E. J. Curran, Panel Chair  
The Disciplinary Board of the  
Supreme Court of Pennsylvania

Date: February 8, 2008

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1137, Disciplinary Docket  
: No. 3 - Supreme Court  
Petitioner :  
: No. 42 DB 2006 - Disciplinary  
v. : Board  
: Attorney Registration No. 10008  
JOHN A. HAVEY, :  
Respondent : (Beaver 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

Samuel F. Napoli  
Disciplinary Counsel  
Suite 1300, Frick Building  
437 Grant Street  
Pittsburgh, PA 15219  
(412) 565-3173

and

John A. Havey  
Respondent  
I.D. No. 07778-068  
FCI Morgantown  
Federal Correction Institute  
P.O. Box 1000  
Morgantown, PA 26507

**FILED**

JAN 26 2006

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, : No. 1137 Disciplinary Docket  
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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 Samuel F. Napoli, Disciplinary Counsel, and Respondent, John A. Havey, file this Joint Petition in Support of Discipline on Consent Under Rule 215(d), Pa.R.D.E., and respectfully represents as follows:

1. Petitioner, whose principal office is located at Suite 1400, 200 North Third Street, Harrisburg, Pennsylvania 17101, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement (hereafter "Pa.R.D.E."), 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, John A. Havey, was born on February 4, 1946. He was admitted to practice law in the Commonwealth of Pennsylvania on April 20, 1972. Respondent's attorney registration mailing address is 2310 Virginia Avenue, Aliquippa, PA 15001. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. On April 7, 2006, as a result of Respondent having been convicted in the United States District Court for the Western District of Pennsylvania of three counts of the crime of income tax evasion, the Supreme Court of Pennsylvania entered a Rule pursuant to Rule 214(d)(1), Pa.R.D.E., directing him to show cause why he should not be placed on temporary suspension.

4. On July 14, 2006, upon consideration of the responses filed to its April 7, 2006 Rule, the Supreme Court of Pennsylvania entered an Order making the Rule absolute, placing Respondent on temporary suspension pursuant to Rule 214(d)(2), Pa.R.D.E., and referring the matter to the Disciplinary Board pursuant to Rule 214(f)(1), Pa.R.D.E.

I. SPECIFIC FACTUAL ALLEGATIONS ADMITTED

5. On April 1, 2003, an Indictment was filed against Respondent in the United States District Court for the Western District of Pennsylvania, docketed at Criminal No. 03-121, charging him with three counts of income tax evasion, in violation of 26 USC §7201.

6. On February 11, 2005, after a jury trial, Respondent was found guilty of all three counts of the Indictment.

7. The District Court determined that the tax loss resulting from Respondent's crimes was \$205,532.00.

8. On February 3, 2006, Respondent was sentenced at each count to a term of imprisonment of 21 months, to be followed by supervised release of 3 years, to be served concurrently.

9. Respondent has exhausted all appellate rights concerning his conviction, and his appeals have been unsuccessful.

10. The crime of income tax evasion is a felony and is punishable by imprisonment for a maximum of five years.

11. Income tax evasion is a "serious crime" as defined by Rule 214(i), Pa.R.D.E.

12. The aforesaid conviction of Respondent constitutes an independent basis for discipline, pursuant to Rule 203(b)(1), Pa.R.D.E.

13. Respondent began serving his sentence of incarceration on September 25, 2007, and is lodged at the Federal Correctional Institution at Morgantown.

## II. SPECIFIC RECOMMENDATION FOR A SUSPENSION OF THREE YEARS

14. Case law reflects that a suspension from the practice of law requiring formal reinstatement proceedings is appropriate in matters involving convictions of income tax evasion.

15. In the case of *In Re Anonymous No. 11 DB 2002* (Mark Anthony DeSimone) (2004)<sup>1</sup>, the respondent entered a plea of guilty to a one count federal indictment for income tax evasion. The tax loss was \$85,000. He was sentenced to incarceration for 12 months and 1 day, to be followed by supervised release for two years. This resulted in his incarceration and supervised release ending in September of 2004. By a Supreme Court Order dated February 3, 2004, Mr. DeSimone was suspended from the practice of law for a period of two years and eight months, retroactive to the date of his suspension pursuant to Rule 214(d)(2), Pa.R.D.E.

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<sup>1</sup> Final unpublished Board Reports are available on the internet at [www.courts.state.pa.us/OpPosting/disciplinaryboard/dboardsearch.asp](http://www.courts.state.pa.us/OpPosting/disciplinaryboard/dboardsearch.asp)

16. In *In Re Anonymous No. 24 DB 2000* (Dean Ian Weitzman) (2002)<sup>2</sup>, Weitzman pled guilty to three counts of tax evasion. The tax loss was \$197,826. Weitzman was sentenced to three years probation. The Board found that Weitzman had met his burden of proving that pursuant to *Office of Disciplinary Counsel v. Braun*, 520 Pa. 157, 553 A.2d 894 (1989) there was a causal connection between his drug addiction and his misconduct. The Disciplinary Board recommended, and the Court imposed a suspension of three years.

17. Imposition of a suspension for three years, retroactive to July 14, 2006, will be sufficient to recognize the seriousness of Respondent's misconduct, to deter similar conduct by other attorneys, and to protect the public.

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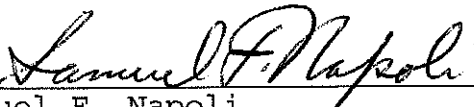
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18. It is recommended that for his misconduct in this matter Respondent receive a suspension from the practice of law of three years, retroactive to July 14, 2006.

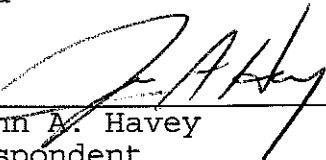
Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION  
CHIEF DISCIPLINARY COUNSEL

By   
\_\_\_\_\_  
Samuel F. Napoli  
Disciplinary Counsel

and

By   
\_\_\_\_\_  
John A. Havey  
Respondent

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

Respondent, John A. Havey, hereby states that he consents to the sanction of a three year suspension, retroactive to July 14, 2006, 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. His consent is freely and voluntarily rendered; he is not being subjected to coercion or duress; he is fully aware of the implications of submitting the consent;

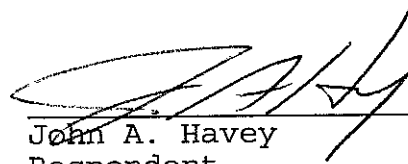
2. He has not consulted with counsel in connection with the decision to consent to discipline;

3. He is aware that there is presently pending a proceeding involving allegations that he has been guilty of misconduct as set forth in the Joint Petition;

4. He acknowledges that the material facts set forth in the Joint Petition are true;

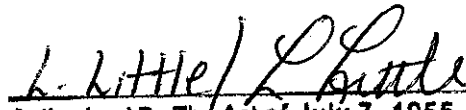
5. He acknowledges that the Supreme Court has already concluded by Order dated July 14, 2006, that his misconduct has violated the Rules of Disciplinary Enforcement and all that remains is the level of discipline to be recommended and imposed; and,

6. He consents because he knows that if charges predicated upon the facts set forth in the Joint Petition continue to be prosecuted in the pending proceeding, he could not successfully defend against them.

  
\_\_\_\_\_  
John A. Havey  
Respondent

Sworn to and subscribed  
before me this \_\_\_\_\_  
day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Notary Public

  
\_\_\_\_\_  
L. Little, Case Manager,  
Authorized By The Act of July 7, 1955, as amended, to  
administer oaths (18 U.S.C § 4004).

January 22, 2008