

**BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL	:	No. 1368 Disciplinary Docket No. 3
Petitioner	:	
	:	No. 46 DB 2008
v.	:	
	:	Attorney Registration No. 42654
KEVIN JAMES HERON	:	
Respondent	:	(Montgomery County)

RESIGNATION BY RESPONDENT

Pursuant to Rule 215
of the Pennsylvania Rules of Disciplinary Enforcement

BEFORE THE DISCIPLINARY BOARD OF
THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1368, Disciplinary Docket
Petitioner : No. 3 - Supreme Court
:
:
v. : No. 46 DB 2008
:
:
: File No. C2-08-106
:
:
: Atty. Registration No.42654
KEVIN JAMES HERON, :
Respondent : (Montgomery County)

RESIGNATION
UNDER Rule 215, Pa.R.D.E.

KEVIN JAMES HERON, hereby tenders his unconditional resignation from the practice of law in the Commonwealth of Pennsylvania in conformity with Rule 215, Pa.R.D.E. and further states as follows:

1. He is a formerly admitted attorney, having been admitted to the bar of the Commonwealth of Pennsylvania on or about December 4, 1984. His attorney registration number is 42654. By Order dated November 14, 2008, the Pennsylvania Supreme Court placed him on temporary suspension pursuant to Pa.R.D.E. 214(d)(2).

2. He desires to submit his resignation as a member of said bar.

3. His resignation is freely and voluntarily rendered; he is not being subjected to coercion or duress and he is fully

aware of the implications of submitting this resignation.

4. He is aware that there are presently pending disciplinary proceedings instituted against him pursuant to Rule 214, Pa.R.D.E., relating to his federal felony criminal convictions of three counts of securities fraud-insider trading and one count of conspiracy to commit securities fraud-insider trading

5. He acknowledges that on October 17, 2007, at the close of the Government's case-in-chief, he moved for a judgment of acquittal on all charges. On October 19, 2007, a jury found him guilty of one count of the crime of conspiracy to commit securities fraud-insider trading and three counts of the crime of securities fraud-insider trading.

6. He acknowledges that on December 19, 2007, The Honorable Stuart Dalzell acquitted him of one count of the crime of conspiracy to commit securities fraud-insider trading and two counts of the crime of securities fraud-insider trading. Acting sua sponte, Judge Dalzell granted him a new trial on counts 1, 2 and 4 of the second superseding indictment in the event that the judgment on those counts was reversed on appeal.

7. He acknowledges that Judge Dalzell denied his motion for judgment of acquittal on one count of securities fraud-insider trading in violation of 15 U.S.C. §§78j(b), 78ff and 17 C.F.R. §240.10b-5.

8. He acknowledges that on January 25, 2008, he was sentenced by Judge Dalzell to be committed to the custody of the United States Bureau of Prisons, to be imprisoned for a total term of fifteen months and upon release from imprisonment, to be on supervised release for a term of two years.

9. He acknowledges that as part of his sentence, Judge Dalzell ordered him to pay a \$100.00 assessment fee, a fine of \$7,230.00 and to forfeit \$42,770.00 to the United States.

10. He acknowledges that on or about January 8, 2008, the United States filed an appeal of Judge Dalzell's grant of his motion for judgment of acquittal on Counts 1, 2, and 4 of the second superseding indictment and the conditional grant of a new trial. On April 2, 2009, the United States Court of Appeals for the Third Circuit reversed Judge Dalzell's grant of his motion for judgment of acquittal on counts 1, 2 and 4 of the second superseding indictment and reinstated the jury's verdict on those counts. The Third Circuit also reversed Judge Dalzell's grant of a conditional new trial on Counts 1, 2 and 4 and remanded the case to Judge Dalzell for sentencing on all four counts.

11. He acknowledges that on May 6, 2009, in accordance with the Third Circuit's opinion, Judge Dalzell sentenced him on all four counts. Judge Dalzell sentenced him to time served followed by a two year term of supervised release. Judge

Dalzell ordered him to pay a \$400.00 assessment fee, a \$7,500.00 fine and to forfeit \$164,842.00 to the United States.

12. He acknowledges that the material facts which formed the basis for his guilty verdicts on all four counts are true. A copy of the Amended Judgment is attached hereto and marked Exhibit "A."

13. He acknowledges that the convictions constitute *per se* grounds for discipline under Rule 203(b)(1), Pa.R.D.E.

14. He acknowledges that under Rule 214(f)(1), Pa.R.D.E., he would be entitled to the institution of a formal proceeding before a hearing committee in which the sole issue to be determined would be the extent of discipline to be imposed.

15. He acknowledges that by submitting the within resignation he is knowingly, voluntarily and intelligently waiving the right to have a disciplinary hearing pursuant to Rule 214(f)(1), Pa.R.D.E.

16. He submits the within resignation because he knows that he could not successfully defend himself against the charges of professional misconduct that are being brought in connection with his conviction.

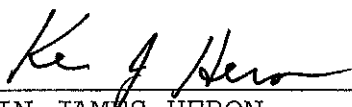
17. He is fully aware that the within resignation statement is irrevocable and that he can only apply for reinstatement to the practice of law pursuant to the provisions of Rule 218, Pa.R.D.E.

18. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant proceeding. He has retained, consulted with and acted upon the advice of counsel in connection with his decision to execute the within resignation.

19. Respondent requests that his disbarment be retroactive to November 14, 2008, the date he was placed on temporary suspension by the Supreme Court of Pennsylvania. Respondent understands that the Office of Disciplinary Counsel will not oppose his request and that the Supreme Court of Pennsylvania has complete discretion and authority to decide whether his disbarment will be made retroactive to November 14, 2008.

It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S.A. §4904 (relating to unsworn falsification to authorities).

Signed this 13th day of *November*, 2009.



KEVIN JAMES HERON
Respondent
Attorney Registration No. 42654

WITNESS: 

UNITED STATES DISTRICT COURT

Eastern

District of

Pennsylvania

UNITED STATES OF AMERICA

AMENDED JUDGMENT IN A CRIMINAL CASE

V.

Kevin Heron

Case Number: 06-674-01

USM Number: 61025-066

Joseph Aronica, Esq. & Robert Dietrick, Esq.

Defendant's Attorney

Date of Original Judgment: January 25, 2008 (Or Date of Last Amended Judgment)

Reason for Amendment:

- X Correction of Sentence on Remand (18 U.S.C. 3742(f)(1) and (2))
Reduction of Sentence for Changed Circumstances (Fed. R. Crim. P. 35(b))
Correction of Sentence by Sentencing Court (Fed. R. Crim. P. 35(a))
Correction of Sentence for Clerical Mistake (Fed. R. Crim. P. 36)

- Modification of Supervision Conditions (18 U.S.C. §§ 3563(c) or 3583(e))
Modification of Imposed Term of Imprisonment for Extraordinary and Compelling Reasons (18 U.S.C. § 3582(c)(1))
Modification of Imposed Term of Imprisonment for Retroactive Amendment(s) to the Sentencing Guidelines (18 U.S.C. § 3582(c)(2))
Direct Motion to District Court Pursuant to 28 U.S.C. § 2255 or 18 U.S.C. § 3559(c)(7)
Modification of Restitution Order (18 U.S.C. § 3664)

THE DEFENDANT:

- pleaded guilty to count(s)
pleaded nolo contendere to count(s) which was accepted by the court.
X was found guilty on count(s) 1, 2, 3 & 4 after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Table with 4 columns: Title & Section, Nature of Offense, Offense Ended, Count. Rows include Conspiracy to Commit Securities Fraud and Securities Fraud - Insider Trading.

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s)
Count(s) is are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

May 6, 2009 Date of Imposition of Judgment

Signature of Judge Stewart Dalzell, U.S.D.C. Judge Name and Title of Judge

May 6, 2009 Date

5/6/09- Copies to: PTS, FLU, Fiscal, 2 cc: Marshal, Probation, 1cc: Joseph Aronica, Esq., Derek Cohen, AUSA

A TRUE COPY CERTIFIED TO FROM THE RECORD DATED: 8-18-09 ATTEST: Mail R. Cohen DEPUTY CLERK, UNITED STATES DISTRICT COURT EASTERN DISTRICT OF PENNSYLVANIA

DEFENDANT: Kevin Heron
CASE NUMBER: 06-674-01

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term
TIME SERVED.

The court makes the following recommendations to the Bureau of Prisons:

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at _____ a.m. p.m. on _____

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on _____

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

a _____ with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Kevin Heron
CASE NUMBER: 06-674-01

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of
Two (2) years

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record, personal history, or characteristics and shall permit the probation officer to make such notifications and confirm the defendant's compliance with such notification requirement.

DEFENDANT: Kevin Heron
CASE NUMBER: 06-674-01

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

- A Lump sum payment of \$ 400.00* due immediately, balance due
 - not later than _____, or
 - in accordance with C, D, E, or F below; or
- B Payment to begin immediately (may be combined with C, D, or F below); or
- C Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Joint and Several Amount, and corresponding payee, if appropriate.

The defendant shall pay the cost of prosecution.

The defendant shall pay the following court cost(s):

The defendant shall forfeit the defendant's interest in the following property to the United States:
\$164,842.00 *

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.