

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1042 Disciplinary Docket No. 3 -  
Petitioner : Supreme Court  
: :  
: No. 105 DB 2005 – Disciplinary Board  
v. :  
: Attorney Registration No. 18631  
JOHN RICHARD OARE, JR., :  
Respondent : (York County)

ORDER

PER CURIAM:


AND NOW, this 15<sup>th</sup> day of March, 2006, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board dated January 4, 2006, 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 Richard Oare, Jr., be subjected to public censure by the Supreme Court.

Madame Justice Baldwin did not participate in this matter.

A True Copy Patricia Nicola

As of: March 5, 2006

Attest: 

Chief Clerk

Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

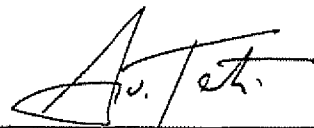
OFFICE OF DISCIPLINARY COUNSEL : No. 1042, Disciplinary Docket No. 3  
Petitioner : Supreme Court  
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v. : No. 105 DB 2005 - Disciplinary Board  
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: Attorney Registration No. 18631  
: :  
JOHN RICHARD OARE, JR. :  
Respondent : (York 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 Louis N. Teti, C. Eugene McLaughlin, and Marc S. Raspanti, has reviewed the Joint Petition in Support of Discipline on Consent filed in the above-captioned matter on December 2, 2005.

The Panel approves the Joint Petition consenting to a Public Censure 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.



\_\_\_\_\_  
Louis N. Teti, Panel Chair  
The Disciplinary Board of the  
Supreme Court of Pennsylvania

Date: January 4, 2006

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 1042 Disciplinary  
Petitioner : Docket No. 3 -  
: Supreme Court  
v. :  
: No. 105 DB 2005 –  
: Disciplinary Board  
: JOHN RICHARD OARE, JR., : Attorney Registration  
Respondent : No. 18631  
: (York County)

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

Petitioner, Office of Disciplinary Counsel ("ODC"), by Paul J. Killion, Chief Disciplinary Counsel, and John Francis Dougherty, Disciplinary Counsel, and Respondent, John Richard Oare, Jr., Esquire ("Respondent"), and his counsel, Clyde W. Vedder, Esquire, respectfully petition this Honorable Board in support of discipline on consent, pursuant to Pennsylvania Rule of Disciplinary Enforcement ("Pa.R.D.E.") 215(d), *et. seq.*, and in support thereof state:

**FILED**

DEC 02 2005

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

1. ODC, whose principal office is situated at Suite 1400, 200 North Second Street, Harrisburg, Pennsylvania, is invested, pursuant to Pa. R.D.E. 207, with the power and 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 Enforcement Rules.

2. Respondent was born on July 18, 1944, and admitted to the practice of law in this Commonwealth on February 11, 1974. He is on Active Status with Attorney Registration Number 18631 and a Registered Address of 1434 South George Street, York, PA 17403. Respondent is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

3. Respondent's affidavit stating, *inter alia*, his consent to the recommended discipline is attached hereto as Exhibit "A."

#### **SPECIFIC FACTUAL ALLEGATIONS ADMITTED**

4. On June 4, 2004, a four count Information was filed at No. 1893 C.R. 2004 in the Court of Common Pleas of Dauphin County, Pennsylvania by which the Respondent was charged as follows:

Counts One and Two: Willful Failure to File Pennsylvania Personal Income Tax Returns – 72 P.S. §7353(c), an ungraded Misdemeanor, for Tax Years 2001 and 2002;

Counts Three and Four: Willful Failure to Pay Pennsylvania Personal Income Tax – 72 P.S. §7353(c), an ungraded Misdemeanor, for Tax Years 2001 and 2002.

5. The Respondent's Pennsylvania net taxable income for his sole proprietorship law practice for 2001 was \$143,907.00 and the tax due was \$4,029.00. His net taxable income for 2002 was \$122,376.00 and the tax due was \$3,427.00.

6. On March 10, 2005, the Respondent entered a plea of *Nolo Contendere* to Counts One and Two of the Information.

7. On March 10, 2005, sentence was imposed by Judge Bruce F. Bratton on each of Counts One and Two of a term of probation of six months and a fine of \$100. The principal taxes due had been paid and any penalties and interest still due were to be paid within the probationary period. Counts Three and Four were dismissed.

8. The convictions of the Respondent constitute an independent basis for the imposition of discipline, pursuant to Rule 203(b)(1), Pa.R.D.E.

9. By Order of the Supreme Court of Pennsylvania of July 12, 2005, at No. 1042 Disciplinary Docket No. 3, the March 10, 2005 conviction of the Respondent as aforesaid was referred to the Disciplinary Board pursuant to Rule 214(f)(1) and (g), Pa.R.D.E. The Disciplinary Board docketed the matter to No. 105 DB 2005.

10. The Respondent has no formal record of prior discipline. By a Letter of Concern, however, of October 23, 2000, from the Office of Disciplinary Counsel, his failure to properly fund and pay over to taxing authorities amounts due on wages of employees of his law practice was addressed as adversely reflecting on his character and his fiduciary obligations to others. He was

encouraged to become familiar with the Rules of Professional Conduct, and most particularly those encompassed within Rule 8.4, Misconduct, so as to avoid future problems.

#### **RULE OF DISCIPLINARY ENFORCEMENT VIOLATED**

11. The convictions of the Respondent constitute an independent basis for the imposition of discipline, pursuant to Rule 203(b)(1), Pa.R.D.E.

#### **RECOMMENDATION FOR A PUBLIC CENSURE**

Precedent establishes that absent aggravating or mitigating factors that a conviction for willful failure to file income tax returns warrants the imposition of a Public Censure by the Supreme Court of Pennsylvania. See *Office of Disciplinary Counsel v. Anonymous*, Nos. 625 and 626 Disciplinary Docket No. 3, Nos. 11 and 12 DB 2001, and cases cited. [“A review of Pennsylvania’s disciplinary cases reveals that there have been numerous cases involving attorneys convicted of failure to file income tax returns. Precedent established in these cases provides a benchmark for determining the severity of the crime in relation to the discipline which must then be tailored after consideration of aggravating and mitigating circumstances. In an overwhelming majority of cases, the Pennsylvania Supreme Court has imposed public discipline for convictions for failure to file tax returns. (citations omitted);” *Report and Recommendations of the Disciplinary Board of the Supreme Court of Pennsylvania*, at 9.]<sup>1</sup> From a

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<sup>1</sup>Available at  
<http://www.aopc.org/OpPosting/disciplinaryboard/dboardopinions/11&12DB01.RPT.pdf>

review of subsequent cases the parties hereto believe this Honorable Board's rationale remains as expressed in this case.

While the October 2000 Letter of Concern to the Respondent also involved a tax matter, and occurred prior to the misconduct leading to this criminal conviction, it related to a matter that occurred more than five years ago and did not involve any conviction. Any adverse probative value would be offset by the mitigating probative value of character evidence the Respondent could present and other factors, including his recognition of his misconduct in agreeing to proceed with this joint petition. The parties do not believe that in a trial and subsequent consideration of this matter that the circumstances from which the Letter of Concern arose would, after a balancing of the evidence, be given sufficient weight to warrant discipline greater than a Public Censure.

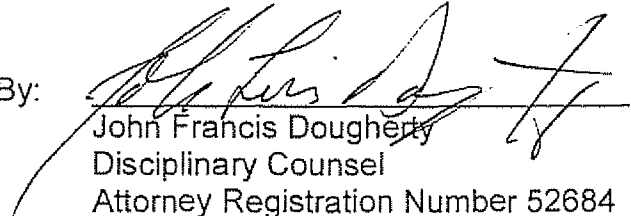
WHEREFORE, Joint Petitioners respectfully ask that your Honorable Board:

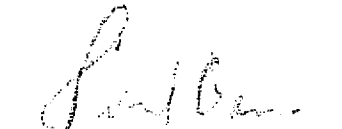
- a. Approve this Petition; and
- b. File this Petition and a recommendation for a Public Censure with the Supreme Court of Pennsylvania.

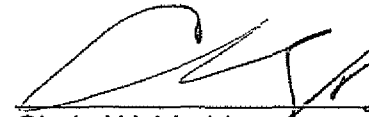
Respectfully Submitted,

OFFICE OF DISCIPLINARY COUNSEL  
Paul J. Killion  
Chief Disciplinary Counsel

By:

  
John Francis Dougherty  
Disciplinary Counsel  
Attorney Registration Number 52684  
Two Lemoyne Drive, 2<sup>nd</sup> Floor  
Lemoyne, PA 17043

  
John Richard Oare, Jr.  
Respondent

  
Clyde W. Vedder  
Counsel for Respondent

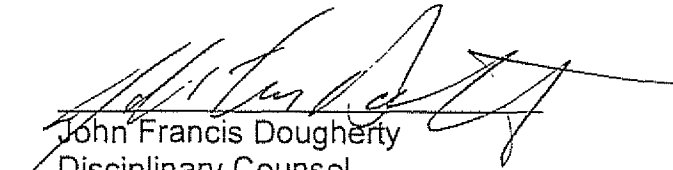
Dated: November 29, 2005




VERIFICATION

The statements contained in the foregoing *Joint Petition in Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d), et.seq.* 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.

12-2-05  
Date

  
\_\_\_\_\_  
John Francis Dougherty  
Disciplinary Counsel

12/1/05  
Date

  
\_\_\_\_\_  
John Richard Oare, Jr.  
Respondent

BEFORE THE DISCIPLINARY BOARD OF THE  
SUPREME COURT OF PENNSYLVANIA

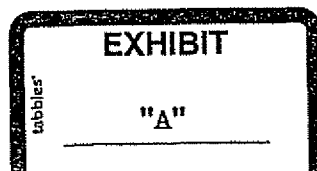
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	:	Board
	:	
JOHN RICHARD OARE, JR.,	:	Attorney Registration No.
Respondent	:	18631
	:	
	:	(York County)

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

John Richard Oare, Jr., being duly sworn according to law, submits this affidavit consenting to the recommendation of a Public Censure in conformity with Pa.R.D.E. 215(d) and further states as follows:

1. He is an attorney in the Commonwealth of Pennsylvania, having been admitted to the Bar on or about February 11, 1974, and having been assigned Attorney Registration No. 18631.

2. He desires to submit a *Joint Petition in Support of Discipline on Consent pursuant to Pa. R.D.E. 215(d), et. seq.* requesting that the Disciplinary Board recommend to the Supreme Court that he receive a Public Censure.



3. 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 this affidavit, and is represented in this matter by Clyde W. Vedder, Esquire of York, PA.

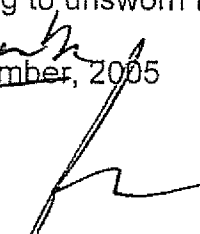
4. He is aware that there is presently pending a proceeding involving allegations that he has been guilty of misconduct as set forth in the Petition.

5. He acknowledges that the material facts in the Petition are true.

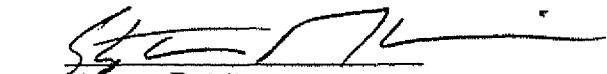
6. He consents to the recommended discipline because he knows if he continues to be prosecuted in the pending proceeding that he could not successfully defend against the misconduct set forth in the Petition.

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 1 day of December, 2005

  
\_\_\_\_\_  
John Richard Oare, Jr.

Sworn to and Subscribed  
Before me this 1st day  
Of ~~November~~, 2005  
December

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

COMMONWEALTH OF PENNSYLVANIA  
NOTARIAL SEAL  
STEPHANIE M. WAREHIME, Notary Public  
City of York, York County  
My Commission Expires March 21, 2009