

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 226, Disciplinary Docket
Petitioner : No. 3 - Supreme Court
:
:
v. : No. 38 DB 1994
:
: Attorney Registration No. []
[ANONYMOUS], :
Respondent [2] : ([] County)

AND

OFFICE OF DISCIPLINARY COUNSEL, : No. 227, Disciplinary Docket
Petitioner : No. 3 - Supreme Court
:
:
v. : No. 39 DB 1994
:
: Attorney Registration No. []
[ANONYMOUS], :
Respondent [1] : ([] County)

REPORT AND RECOMMENDATIONS OF
THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

TO THE HONORABLE CHIEF JUSTICE AND JUSTICES
OF THE SUPREME COURT OF PENNSYLVANIA:

Pursuant to Rule 208(d)(2)(iii) of the Pennsylvania Rules of Disciplinary Enforcement ("Pa.R.D.E."), the Disciplinary Board of the Supreme Court of Pennsylvania ("the Board") respectfully submits its findings and recommendations to this Honorable Court with respect to the above-captioned Petition for Discipline.

I. HISTORY OF PROCEEDINGS

On April 14, 1994, the Office of Disciplinary Counsel ("Petitioner") filed a Petition for Discipline at Nos. 39 DB 94 and 38 DB 94 against Respondents [1] and [2], respectively. The matter was assigned to Hearing Committee [], which consisted of [], Esquire, Chairman, [], Esquire, and [], Esquire.

The hearings were held on November 14, 1994, November 15, 1994 and December 13, 1994. The Hearing Committee filed its report on November 1, 1995 and recommended a private reprimand for Respondent [2] and a private reprimand and three years of probation with conditions for Respondent [1].

On November 20, 1995, Petitioner filed a Brief on Exceptions and requested oral argument. On November 27, 1995, Respondent [1] filed a Brief on Exceptions and on December 15, 1995, Respondent [2] filed a Brief on Exceptions and in Opposition to Objections filed by Petitioner. Respondent [2] also requested oral argument. On January 24, 1996, oral argument was heard by a panel of the Board members including Gregory P. Miller, Esquire,

Chairman, and Alfred Marroletti, Esquire.¹ The Disciplinary Board adjudicated this matter at its February 1, 1996 meeting.

II. FINDINGS OF FACT

1. Petitioner, Office of Disciplinary Counsel, whose principal office is located at Suite 400, Union Trust Building, 501 Grant Street, Pittsburgh, PA 15219, is invested pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement (hereinafter "Pa.R.D.E."), 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 Rules of Disciplinary Enforcement.

2. Respondent, [1], was born in 1946, and was admitted to practice law in the Commonwealth of Pennsylvania in 1972. He maintains a law office at []. Respondent [1] is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

¹ Counsel for the Petitioner and Respondents agreed to proceed with the argument in the absence of the designated third Disciplinary Board member.

3. Respondent, [2], was born in 1945, and was admitted to practice law in the Commonwealth of Pennsylvania in 1970. He maintains a law office at []. Respondent [2] is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

4. [A] died on November 8, 1986, leaving a will which was probated in [] County, Pennsylvania in 1987, at which time Letters of Administration were granted to Respondent [1].

5. The decedent's will ("the [A] Will") established a fund known as the [A] Scholarship Fund ("the [A] Scholarship Fund"), for which Respondent [1] also served as the trustee.

6. The [A] Will directed that the [A] Scholarship Fund would be used to "aid and assist" students attending "universities" by awarding scholarships and/or fellowships. While the trustee was granted substantial discretion in making distributions from the [A] Scholarship Fund, the decedent stated a clear preference toward [B] University, [], Indiana. There is no mention of [C] University in the [A] Will.

7. Article IV, paragraph 5 of the [A] Will, specifically prohibited the trustee from engaging in "self-dealing" as that term is defined by the Internal Revenue Code and other federal laws and regulations.

8. Respondent [2], a friend of Respondent [1] for twenty years, served as Respondent [1's] counsel and advisor in [1's] capacity as Administrator, C.T.A. for the [A] Estate and as trustee for the [A] Scholarship Fund. Respondent [2] also assisted Respondent [1] in the filing of an accounting on behalf of the [A] Estate in [] County, Pennsylvania.

9. Respondent [1] sought legal advice from Respondent [2] as to whether Respondent [1] had the discretion under the terms of the [A] Trust to establish a scholarship fund at an institution other than [B] University. After a review of the trust document, Respondent [2] advised Respondent [1] that, in his opinion, the [A] Will provided the trustee with such discretion.

10. At the behest of Respondent [1], Respondent [2] initiated the process of setting up a scholarship at [C] University.

11. As a result of this request, [D], the Director of Development at [C] University, was contacted for the purpose of determining the manner in which distributions from the [A] Scholarship Fund could be used to establish a scholarship at [C] University.

12. In May 1991, Respondent [2] and [D] met to discuss the dedication of a portion of the [A] Scholarship Fund to [C] University. At that time, the Respondent [1's] son had been accepted for admission in the fall of 1991 to [C] University.

13. In July 1991, a meeting attended by Respondent [1], Respondent [2], [D] and [E], the Associate Vice President for Development at [C] University, was held to further discuss the commitment of a portion of the [A] Scholarship Fund for a scholarship at [C] University.

14. At this meeting, Respondent [1], Respondent [2] and representatives of [C] University discussed scholarship guidelines which included the award of a direct scholarship for the first four years and the creation of an endowed scholarship thereafter for the

College of Engineering. It was also discussed at this meeting that the trustee would designate the student who would receive the initial four year scholarship. Further, Respondents [2] and [1] requested that the guidelines, which the representatives of [C] University agreed to prepare, be as vague as possible regarding the identity of the recipients.

15. On or about November 8, 1991, Respondent [1], in his capacity as Trustee of the [A] Scholarship Fund, signed the written guidelines for the "[A] Endowed Scholarship" ("[A] [C] Scholarship") at [C] University. These guidelines provided that the [A] [C] Scholarship Fund would distribute \$152,000 to [C] University with the condition that for the first four years \$13,000 of these funds would be awarded to a "student currently attending [C] University." The balance of the funds distributed would be used to create an endowed scholarship limited to students majoring in engineering.

16. Respondent [1's] son was awarded the [A] [C] Scholarship for four years at \$13,000 per year.

17. On November 11, 1991, Respondent [2] wrote to [D] at [C] University, enclosing the executed scholarship guidelines and the first check in the amount of \$6,500, drawn on the [A] Scholarship Fund. The check was payable to [C] University and was signed by Respondent [1].

18. By letter dated December 6, 1991 to Respondent [2], the President of [C] University, acknowledged receipt of the first payment from the [A] Scholarship Fund and also recognized Respondent [1's] son as the recipient of the [A] [C] Scholarship who would receive the first eight payments under the agreed upon scholarship guidelines.

19. Respondent [2] discussed with [D] the contents of the December 6, 1991 communication from [F]. Respondent [2] did not, however, direct or cause Respondent [1] to direct [C] University to rescind the award of the [A] [C] Scholarship to Respondent [1's] son.

20. By letter dated January 27, 1992 to Respondent [2], the President of [C] University acknowledged receipt of the second payment from the [A] Scholarship Fund, however, the language regarding Respondent [1's] son as the recipient of the [A] [C] Scholarship was eliminated.

21. While serving as counsel to Respondent [1] in his capacity as trustee for the [A] Scholarship Fund, Respondent [2] recommended that his daughter contact Respondent [1] to inquire about the availability of scholarship monies for her educational purposes from the [A] Scholarship Fund.

22. By letter dated June 1, 1991, Respondent [2's] daughter contacted Respondent [1] regarding the possibility of receiving a scholarship award from the [A] Scholarship Fund.

23. Respondent [1] granted Respondent [2's] daughter a scholarship award from the [A] Scholarship Fund for her attendance at [G].

24. Respondent [1] provided two checks, dated August 23, 1991 and January 3, 1992, for \$6,993 each from the [A] Scholarship Fund, which were payable to Respondent [2's] daughter and the [G].

25. Respondent [1] never obtained a copy of the high school transcript of Respondent [2's] daughter before awarding her a scholarship from the [A] Scholarship Fund.

26. Respondent [1] never advertised the availability of the scholarships before providing funds from the [A] Scholarship Fund to Respondent [2's] daughter.

27. Prior to the transmittal of the [A] funds to Respondent [1's] son and Respondent [2's] daughter, Respondent [1] and Respondent [2] never sought the opinion of any counsel, who did not have a financial interest in the [A] Scholarship Fund, as to the propriety of giving such funds to Respondents' respective family members.

28. Prior to these proceedings, but after the aforementioned distributions became known publicly², Respondent [2] repaid to the [A] Estate the funds paid to his daughter from the [A] Scholarship Fund.

29. Prior to these proceedings, but after the aforementioned distributions became known publicly, Respondent [1] repaid to the [A] Estate the funds paid to his son from the [A] Scholarship Fund.

III. CONCLUSIONS OF LAW

1. By his conduct, Respondent [1] has violated the following Rules of Professional Conduct:

- (a) RPC 8.4(a), which provides that it is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another.
- (b) RPC 8.4(c), which provides that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.
- (c) RPC 8.4(d), which provides that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

² As a result of litigation concerning the dissolution of a partnership to which Respondent [2] belonged, the Respondents' conduct regarding the [A] Estate first became known.

2. By his conduct, Respondent [2] has violated the following Rules of Professional Conduct:

(a) RPC 1.7(b), which provides:

A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client, or to a third person, or by the lawyer's own interest.

(b) RPC 8.4(a), which provides that it is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another.

(c) RPC 8.4(c), which provides that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

(d) RPC 8.4(d), which provides that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

IV. DISCUSSION

The Disciplinary Board conducts a de novo review of all disciplinary matters that come before it upon recommendation by a Hearing Committee. Office of Disciplinary Counsel v. Duffield, 644 A.2d 1186, 1188 (Pa. 1994); In re Anonymous No. 50 D.B. 87, 3 Pa. D.& C. 4th 627, 634 (1989). Although the Disciplinary Board is not bound by the findings made by the Hearing Committee, they are used

as guidelines in the Board's analysis of the conduct that brought the respondents into the disciplinary system:

A Hearing Committee imposes no discipline. It takes evidence and submits a report and recommendation to the Disciplinary Board in every case. The Disciplinary Board may then dismiss the charges, or, if it sustains them, may either impose a private reprimand or recommend to this Court a more severe sanction. If the latter course is chosen, discipline is imposed by this Court; all prior proceedings result in nonbinding recommendations. It is clear that the Disciplinary Board is free, within the limits of Supreme Court Rule 17-4, to recommend whatever discipline it deems appropriate.

Office of Disciplinary Counsel v. Walker, 366 A.2d 563, 568 (Pa. 1976).

Notwithstanding the Disciplinary Committee's finding of violations of disciplinary rules by Respondent [1] and Respondent [2], the Disciplinary Board is free to formulate their own opinions and conclusions as to whether Respondents have breached the disciplinary rules.

The burden is upon the Office of Disciplinary Counsel to prove by "a preponderance of evidence . . . an attorney's unprofessional conduct and the proof of such conduct must be clear and satisfactory."

In Re Berlant, 328 A.2d 471, 473 (Pa. 1974). The Disciplinary Counsel has met this burden by producing clear and satisfactory evidence of Respondents' misconduct in their handling of the [A] Estate.

After consideration of the record, the Hearing Committee's findings, and the oral argument of Petitioners and Respondents' counsel, the Disciplinary Board concurs with the Hearing Committee's finding that the disciplinary rules have been violated by Respondent [1] and Respondent [2]. While the Respondents dispute the facts as asserted by the Petitioner and many of the facts found by the Hearing Committee³, there are, nevertheless more than ample facts to support a finding that the Respondents engaged in self-dealing in the administration of the [A] Estate. Each Respondent personally benefitted from the distribution to their children of the funds over which they had fiduciary and ethical obligations.

Respondent [1] violated the Rules of Professional Conduct in that he engaged in dishonest and deceitful acts in utilizing distributions from the [A] Scholarship Fund to benefit his son. Respondent [1] also assisted and induced Respondent [2] in the violation of his responsibilities under the Rules of Professional Conduct as counsel to the [A] Estate. In encouraging his daughter to apply for a scholarship from the [A] Scholarship Fund and then allowing her to receive such funds while he was counsel to the [A]

³ Respondent [1] contends that his son was the unintended beneficiary of his efforts in establishing the [A] Scholarship at [C] University. Respondent [2] contends that his daughter was free to apply and receive a scholarship from the [A] Fund. Neither of Respondent' arguments are credible. Respondents' self-dealing is apparent and undeniable. Accordingly, the Petitioner has met its burden of proof.

Scholarship Fund, Respondent [2] violated the Rules of Professional Conduct by allowing his own interests to affect his representation of the [A] Estate. Further, Respondent [2] engaged in dishonest and deceitful acts in assisting Respondent [1's] son. Both Respondents also engaged in conduct prejudicial to the administration of justice.

In order to determine the appropriate sanctions to be imposed in a disciplinary proceeding, the Pennsylvania Supreme Court has implemented a balancing test which weighs the "concern for public welfare with a respect for the substantial interest that an attorney has in continuing his professional involvement in the practice of law[.]" Office of Disciplinary Counsel v. Lewis, 426 A.2d 1138, 1142 (Pa. 1981); Office of Disciplinary Counsel v. Kanuck, 535 A.2d 69, 74 (Pa. 1987) (same). The "concern for the protection of the public arises from the privileged position occupied by lawyers in relation to the public within the legal sphere." Lewis, 426 A.2d at 1142. Therefore, it is the responsibility of those involved in the disciplinary system to preserve confidence in the legal profession by properly sanctioning attorneys who seek to abuse their position as an official of the legal system.

The disciplinary system is in place to protect both the courts and the public from unfit lawyers. Office of Disciplinary Counsel v. Lucarini, 472 A.2d 186, 190 (Pa. 1983). The primary objective of the disciplinary system is "to determine the fitness of an attorney to continue the practice of law." Id. The proper inquiry, therefore, is whether the attorney's character, as shown by his conduct, makes him unfit to practice law from the standpoint of protecting the public and the courts. In re Anonymous No. 24 D.B. 93, 23 Pa. D. & C. 4th 526, 532 (1994). In order to make this determination, an individualized analysis of the particular circumstances surrounding each case, in addition to the respondent's background, must be performed. Lucarini, 472 A.2d at 190.

Although the violation of the Pennsylvania Disciplinary Rules gives reason for disciplinary sanctions to be imposed, there is no "per se" rule in Pennsylvania as to the degree of discipline to be levied upon each Respondent. Id. As was discussed in Lucarini:

While we are mindful of the need for consistency in the results reached in disciplinary cases so that similar misconduct is not punished in radically different ways, we are also concerned that each case, subject as it is to our exclusive jurisdiction and de novo review, be decided on the totality of facts present.

The position urged by Disciplinary Counsel would provide uniformity at the expense of the discretion and fact-specific considerations needed to fashion appropriate discipline. The gravity of any disciplinary proceeding requires not only the presentation of all relevant facts, but also our retention of the discretion necessary to evaluate those facts.

Such discretion is incompatible with the per se rule urged by Disciplinary Counsel.

472 A.2d at 190. Therefore, it is important to follow the guidance of the Supreme Court, while also performing an independent evaluation of each case based upon the totality of the facts on record.

The facts of this case are rather unique and there does not seem to be any precedent from which the Disciplinary Board can follow. The use of funds from the [A] Estate for Respondents' own

purposes was a clear abuse of their power in the administration of the Estate. "[W]hen there is a conversion of a client's funds some form of public discipline will be imposed, which will vary depending on the mitigating or aggravating circumstances of the particular case." In re Anonymous No. 132 D.B. 88, 7 Pa. D. & C. 4th 331, 351 (1990) (citations omitted). See also Lewis, 426 A.2d 1138 (The mishandling of a client's monies is a serious breach of public trust, which will not be tolerated by the Commonwealth of Pennsylvania.). It is important that the discipline imposed upon Respondents [1] and [2] is commensurate with the magnitude of their wrongdoing in the mishandling of the [A] Estate. See In re Anonymous No. 77 DB 83, 32 Pa. D. & C. 3d 507 (1984). Although Respondent [1's] and Respondent [2's] conduct was wrongful, and therefore, must be punished, their wrongdoings were not so egregious as to warrant disbarment. However, the Respondents' misconduct does warrant the imposition of stronger sanctions than the private reprimands that were recommended by the Hearing Committee.

The focus then becomes the appropriate disciplinary sanctions to be imposed upon the Respondents that will effectuate the protection of the interests of the public, as well as maintain the integrity of the Pennsylvania Bar. Office of Disciplinary

Counsel v. Stern, 526 A.2d 1180, 1186 (Pa. 1987); Office of Disciplinary Counsel v. Keller, 506 A.2d 872, 875 (Pa. 1986). In order to make this determination, it is important to consider the aggravating and mitigating factors of this particular situation. The totality of the given facts must be addressed according to each disciplinary matter. Office of Disciplinary Counsel v. Lucarini, 472 A.2d at 190.

To determine mitigation or aggravation, the Disciplinary Board takes a number of factors into consideration. Whether restitution was made, and if so, whether it was made before or after disciplinary charges were brought; whether the respondent has shown remorse through the course of the disciplinary proceedings; the prior disciplinary record of the respondent; the length of the respondent's career before the occurrence of the events leading to the discipline; participation in professional, community and religious programs; and the cooperation of the respondent in the disciplinary proceedings.

Mitigating factors with respect to Respondent [1] are found in that:

(1) Respondent [1] has been a member of the [] County Bar Association since 1972. He became an associate member of the

[] County Bar Association in 1980. He also served as a director of the [] County Bar Association. In 1980 he joined the [] County Bar Association and has since served as a committee chairman at various times. Respondent [1] coached little league for the [] Civic Association for nine years, and was a member of the troop committee of the local boy scout troop. He also served on two occasions as president of the [], and has been a member of the [].

(2) Respondent [1] has never been subject to any professional discipline nor was any complaint ever filed against him prior to this matter.

(3) Respondent [1] made restitution by repaying all scholarship monies that were paid from the [A] Trust to [C] University prior to the imposition of these disciplinary proceedings.

(4) Respondent [1] seemed genuinely remorseful.

(5) Numerous character witnesses testified as to Respondent [1's] reputation as a truthful and honest practitioner and as an individual who is highly dedicated to his clients.

Mitigating factors with respect to Respondent [2] are found in that:

(1) Respondent [2] served in a quasi-judicial capacity from 1980 through 1984 as [] and also as a divorce hearing officer to determine equitable distribution decisions. Respondent [2] has been a member of the Pennsylvania Bar Association and a member of the [] County Bar Association since his admission to practice law. Respondent [2] served on the Board of Directors on two separate occasions on the [] County Bar Association, he also served as secretary in the [] of [] County and acted as the Chairman of the entertainment committee with regard to the annual Christmas party.

He was awarded Man of the Year in 1984 by the [] of [] County. Respondent [2] was admitted to the Supreme Court of the United States and the United States District Court for the [] District of Pennsylvania. Respondent [2] is presently engaged as the president of [] Incorporated as a charitable undertaking. [] Incorporated, a non-profit corporation, is a retirement community, nursing center and personal care of over 300 individuals.

(2) Respondent [2] has never been subject to any professional discipline nor was any complaint ever filed against Respondent [2] prior to this matter.

(3) Respondent [2] made restitution by repaying all scholarship monies that were awarded to his daughter pursuant to the [A] Trust prior to the imposition of these disciplinary proceedings.

(4) Respondent [2] did not receive any compensation for any services performed in conjunction with the [A] Estate.

(5) Respondent [2] seemed genuinely remorseful.

(6) Numerous character witnesses testified as to Respondent [2's] reputation as truthful and honest practitioner and as an individual who is highly dedicated to his clients.

In formulating the appropriate measure of discipline, we have considered all of the above-mentioned mitigating factors and lack of aggravating factors, as well as the nature of Respondent [1's] and Respondent [2's] misconduct. While Respondents' wrongful conduct was of a very serious nature and warrants severe discipline, it is the Disciplinary Board's opinion that in light of the aforementioned mitigating factors, a temporary suspension from the practice of law is appropriate.⁴ See In re Anonymous No. 50 D.B. 87, 3 Pa. D. & C. 4th 627, 636 (1989). We recommend that the appropriate disciplinary sanction to be imposed upon each respondent is that of suspension for one (1) year. While suspension is an extreme sanction, public interests require the imposition of such discipline and its attendant stigma to previously unblemished reputations. A sanction of this severity is commensurate with Respondent [1's] and Respondent [2's] self-dealing in their use of the [A] Estate funds to benefit their own family members.

⁴Pennsylvania disciplinary case law on theft of client funds range from disbarment to the imposition of a private reprimand. In Re Anonymous No. 123 D.B. 90, 17 D. & C. 4th 464, 475.

The Disciplinary Board recognizes that both Respondents were genuinely remorseful and would not be inclined to engage in such misconduct in the future. However, it is apparent that Respondent [1] and Respondent [2] failed to properly represent the [A] Estate for which they were the administrator and attorney, respectively. It is similarly apparent that in failing to perform satisfactorily in their representative capacities, the Respondents breached the ethics of their profession. It is therefore the opinion of the Disciplinary Board that a one (1) year suspension is the correct form of discipline as it takes into account the serious nature of Respondent [1's] and Respondent [2's] misconduct as well as the interests of the public and the integrity of the Pennsylvania Bar.

V. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania respectfully recommends that the Respondent, [1] be suspended for one (1) year.

The Disciplinary Board of the Supreme Court of Pennsylvania respectfully recommends that the Respondent, [2], be suspended for one (1) year.

It is further recommended that the Court direct that Respondent [1] and Respondent [2] to pay all of the necessary expenses incurred in the investigation and processing of this matter pursuant to Pa.R.D.E 208(g).

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: _____
Gregory P. Miller, Member

Date: May 20, 1996

Board Members Kerns and Sloane Abstained.

Board Member Lieber did not participate in the February 1, 1996 adjudication.

O R D E R (as to 39 DB 94)

PER CURIAM:

AND NOW, this 19th day of August, 1996, upon consideration of the Report and Recommendations of the Disciplinary Board dated May 20, 1996, the Petitions for Review of Office of Disciplinary Counsel and respondent, [], and response of Office of Disciplinary Counsel, the requests for oral argument are denied and it is hereby

ORDERED that [RESPONDENT [1]] be and he is SUSPENDED from the Bar of this Commonwealth for a period of one year, and he shall comply with all the provisions of Rule 217 Pa.R.D.E. It is further ORDERED that respondent shall pay costs to the Disciplinary Board pursuant to Rule 208(g), Pa.R.D.E.

O R D E R (as to 38 DB 94)

PER CURIAM:

AND NOW, this 19th day of August, 1996, upon consideration of the Report and Recommendations of the Disciplinary Board dated May 20, 1996, the Petitions for Review of Office of Disciplinary Counsel and respondent, [], and response of Office of Disciplinary Counsel, the request for oral argument of Office of Disciplinary Counsel is denied and it is hereby

ORDERED that [RESPONDENT [2]] be and he is SUSPENDED from the Bar of this Commonwealth for a period of one year, and he shall comply with all the provisions of Rule 217 Pa.R.D.E. It is further ORDERED that respondent shall pay costs to the Disciplinary Board pursuant to Rule 208(g), Pa.R.D.E.