

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

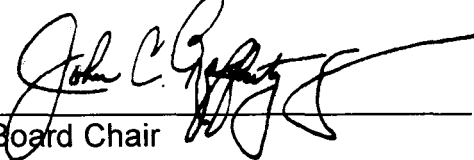
OFFICE OF DISCIPLINARY COUNSEL :
Petitioner :
 : No. 45 DB 2024
v. :
 : Attorney Registration No. 22761
JAMES S. TUPITZA, :
Respondent : (Chester County)

ORDER

AND NOW, this 9th day of May, 2024, in accordance with Rule 208(a)(5), Pa.R.D.E., the determination by a Review Panel of the Disciplinary Board of the above captioned matter is accepted; and it is

ORDERED that the said JAMES S. TUPITZA be subjected to a PUBLIC REPRIMAND by the Disciplinary Board of the Supreme Court of Pennsylvania as provided in Rule 204(a) and Rule 205(c)(8) of the Pennsylvania Rules of Disciplinary Enforcement. Costs shall be paid by the Respondent.

BY THE BOARD:


Board Chair

TRUE COPY FROM RECORD

Attest:



Marcee D. Sloan
Board Prothonotary
The Disciplinary Board of the
Supreme Court of Pennsylvania

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

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|---------------------------------|---|-------------------------|
| OFFICE OF DISCIPLINARY COUNSEL, | : | No. 45 DB 2024 |
| Petitioner | : | |
| | : | |
| | : | |
| v. | : | |
| | : | Attorney Reg. No. 22761 |
| JAMES S. TUPITZA, | : | |
| Respondent | : | (Chester County) |

PUBLIC REPRIMAND

James S. Tupitza, you appear before the Disciplinary Board for the imposition of a Public Reprimand ordered by the Board on May 9, 2024. By letter of that same date, the Board notified you of the disposition of this matter and further notified you of your opportunity to demand as of right the institution of formal charges within twenty days of the date of notification. You did not demand the institution of formal charges; therefore, you accept this public reprimand.

It is an unpleasant task to publicly reprimand one who has been granted the privilege of membership in the bar of the Commonwealth. Yet as repugnant as this task may be, it has been found necessary that you receive this public discipline.

Attorney Tupitza, the record shows that in November 2021, Kenneth Lake consulted you in regard to a property line dispute where Mr. Lake accused his neighbor of cutting down trees on Mr. Lake's property and for which Mr. Lake sought damages. During the course of the representation, you failed to provide a fee agreement in a contingent fee case, failed to adequately communicate with your client for a lengthy period of time, including ignoring two certified letters from your client, and essentially abandoned your client. Mr. Lake was forced to file a pro se writ of summons in order to

toll the statute of limitations, after which Mr. Lake retained new counsel and discharged you in October 2023. Mr. Lake's new counsel filed a civil suit against Mr. Lake's neighbor.

Additionally, you disclosed confidential client information when, in 2024, after you had been discharged from representation, you unilaterally called opposing counsel in the Lake matter to discuss the disciplinary complaint Mr. Lake had filed against you as well as the pending civil case Mr. Lake's new attorney had filed, and you later inappropriately paid an unannounced visit to the neighbor's property to view the tree line. Finally, you failed to promptly return \$1,000 that Mr. Lake originally provided for costs after Mr. Lake terminated your representation. However, you eventually refunded the monies in full after Mr. Lake filed a complaint with the Pennsylvania Lawyers Fund for Client Security.

By your conduct, you violated the following Rules of Professional Conduct ("RPC"):

1. RPC 1.4(a)(2) – A lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished.
2. RPC 1.4(a)(3) - A lawyer shall keep the client reasonably informed about the status of the matter.
3. RPC 1.4(a)(4) – A lawyer shall promptly comply with reasonable requests for information.
4. RPC 1.5(c) – A contingent fee shall be in writing and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of a settlement, trial

or appeal, litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated.

5. RPC 1.9(c)(1) and (c)(2) – A lawyer who has formerly represented a client in a matter ... shall not thereafter (1) use information relating to the representation to the disadvantage of the former client except as these Rules would permit or require with respect to a client, or when the information has become generally known; or (2) reveal information relating to the representation except as these Rules would permit or require with respect to a client.
6. RPC 1.16(d) – Upon termination of representation, a lawyer shall refund any advance payment of fee or expense that has not been earned or incurred.

Attorney Tupitza, your conduct in this matter is public. This Public Reprimand is a matter of public record and shall be posted on the Disciplinary Board's website at www.padisciplinaryboard.org.

It is the Board's duty to reprimand you for your misconduct. We note that you have no record of attorney discipline since your admission to practice in 1976. Please be aware that any subsequent violations on your part can only result in further discipline and more severe sanctions. We sincerely hope that you will conduct yourself in such a manner that future disciplinary action will be unnecessary.

/s/Bryan Neft

Designated Member
The Disciplinary Board of the

Supreme Court of Pennsylvania

Administered by a designated panel of three Members of The Disciplinary Board of the Supreme Court of Pennsylvania on July 18, 2024.