

Suspension Sought for Lawyer Who Practiced for Years While Ineligible

By Charles Toutant

A lawyer who handled 48 litigation matters in New Jersey while ineligible to practice faces a one-year suspension and a perpetual ban on pro hac vice admission.

According to the Disciplinary Review Board, Steven Feinstein was suspended from practicing in New Jersey in September 2005 after failing to pay the annual attorney assessment for the prior 12 years.

Then, in 2007, he joined the Cherry Hill office of Philadelphia's Zenstein, Gallant & Parlow, where he was assigned to represent New Jersey homeowners in claims against insurance companies. He later told ethics authorities that he hadn't paid his fees for several years at that time but wasn't sure of the status of his license.

Upon contacting the court, he learned he was suspended and was instructed to file a petition to reinstate his license. He says he was told he could be readmitted if he passed the New Jersey bar exam, which he did in February 2008. But the Committee on Character told him he first had to resolve a dispute with a credit card company concerning late payments.

But while attempting to resolve the financial matters that prevented action on his bar admission, he continued to practice law in New Jersey.

In April 2010, he was about to try an insurance case before Superior Court Judge Jean McMaster in Gloucester County when the judge's court clerk asked him why he was not listed in the *Lawyer's Diary and Manual*. He responded he wasn't sure why his name was not listed, saying it must have been a mistake. But when questioned by McMaster in chambers, he confessed that he was ineligible to practice. He asked the judge if he could be admitted pro hac vice to try the case, but she refused, the DRB said.

The District IV Ethics Committee recommended charging Feinstein with violations of Rules of Professional Conduct 3.3(a)(1), knowingly making a false statement of material fact or law to a tribunal; 3.3(a)(5), failing to disclose to the tribunal a material fact, knowing the omission is reasonably certain to mislead the tribunal; 4.1(a)(1), in representing a client, knowingly making a false statement of jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction; 8.4(c), engaging in conduct involving dishonesty, fraud, deceit or misrepresentation; and 8.4(d), engaging in conduct prejudicial to the administration of justice.

Feinstein stipulated to those charges and expressed remorse for his misconduct. But the district committee recommended a two-year suspension, saying Feinstein's handling of 48 cases while ineligible "bordered on outrageous." The

committee also cited his "most egregious" attempt to try a case without a license to practice, and, "worse yet," his attempt to have McMaster sanction his conduct through pro hac vice admission.

At a hearing before the DRB, Feinstein said he practiced law without a license because he had two children in college, which was a financial drain on his family. The DRB said he was treated for clinical depression from 2010 to 2012 and that he had taken a job as a public adjuster with an insurance adjustment company in Pennsylvania.

The presumptive discipline for practicing while suspended was three months, but Feinstein practiced with knowledge he was on the revoked list, which the DRB said merits enhancing discipline to six months.

And the large number of cases he handled while suspended, coupled with his knowing misrepresentations to his clients, adversaries, judges and court personnel, merit further enhancement to one year, the DRB said.

The one-year suspension passed by a 4-3 vote, with the minority recommending two years.

The DRB recommended that if Feinstein applies for readmission, it should be denied for one year, with no appearance pro hac vice in New Jersey until further order of the Supreme Court.

Feinstein was self-represented in the discipline case. He could not be located for comment. ■