

In the United States Court of Federal Claims **FILED**

DEC - 8 2016

U.S. COURT OF
FEDERAL CLAIMS

In the Matter of:

Mark David Frankel

No. 16-11196

FINAL ORDER

On May 24, 2004, the Supreme Court of Pennsylvania ordered Mark David Frankel disbarred from the practice of law in Pennsylvania, effective immediately. The court found that Mr. Frankel had violated several rules of the Pennsylvania Rules of Professional Conduct by using his professional position to induce his clients to take actions that would allow him to engage in sexually inappropriate behavior. *See In re Frankel*, 849 A.2d 1133 (Pa. 2004) (per curiam). He was then reciprocally disbarred by the United States Supreme Court. *See In re Frankel*, 544 U.S. 918 (2005). After the disbarment orders were issued, Mr. Frankel was later convicted in Pennsylvania of fifty seven counts of theft and one count of misapplication of funds. *See Strayer v. Bare*, Civ. No. 06-2068, 2008 WL 1924092, at *1 n.4 (M.D. Pa. April 28, 2008). He was sentenced to two to four years in prison. *Id.*

The Court of Federal Claims had no notice of the above-referenced disciplinary actions and criminal convictions until September 23, 2016, when attorney Samuel Stretton, who had been retained by Mr. Frankel to assist him in an attempt to be reinstated to the Pennsylvania bar, contacted the clerk's office to inquire about his status in our court. The court opened an attorney discipline matter under RCFC 83.2(g)(2) and issued an Order to Show Cause on October 6, 2016, directing Mr. Frankel to show cause within thirty (30) days why the court should not impose discipline identical to that imposed by the Supreme Court of Pennsylvania. *See* RCFC 83.2(g)(6).

In his response to the Show Cause Order, Mr. Frankel concedes that disbarment by the Court of Federal Claims is appropriate, but argues that some of the facts set forth in the Pennsylvania proceedings were inaccurate. *See* Response at 1-2. The Standing Panel's recitation of the facts underlying his criminal convictions were all described by the United States District Court for the Middle District of Pennsylvania. *See Strayer v. Bare*, Civ. No. 06-2068, 2012 WL 2504902, at *1 (M.D. Pa. June 28, 2012); *Strayer v. Bare*, Civ. No. 06-2068, 2008 WL 1924092, at *1 n.4 (M.D. Pa. April 28, 2008).

Mr. Frankel also disputes that he failed to notify the court of his disbarments. Response at 1. He claims that he did, in fact, notify all courts to which he was admitted,

but that he is now unable to substantiate this claim because all of the relevant files were appropriated by others after his disbarment in Pennsylvania. *Id.* He also argues that, because his criminal convictions were entered after he was disbarred, they should not be considered relevant to his disbarment in the Court of Federal Claims. *Id.*

The Standing Panel makes note of Mr. Frankel's assertions that some of the facts recited by the Pennsylvania court are not accurate, but finds that they do not constitute grounds for reconsideration of the decision to reciprocally disbar him based on RCFC 83.2(c)(2). The court also notes Mr. Frankel's concession that reciprocal disbarment in the United States Court of Federal Claims is appropriate, effective, *nunc pro tunc*, May 24, 2004. Therefore,

IT IS ORDERED that Mark David Frankel shall be disbarred from practice before the United States Court of Federal Claims effective, *nunc pro tunc*, May 24, 2004, the date of his Pennsylvania disbarment. Reinstatement is not automatic. The filing of any petition for reinstatement is to be governed by RCFC 83.2(k).


IT IS FURTHER ORDERED that the Acting Clerk of Court shall serve Mark David Frankel with a copy of this order.



JAMES F. MEROW
Judge



MARY ELLEN COSTER WILLIAMS
Judge



ELAINE D. KAPLAN
Judge