

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2621 Disciplinary Docket No. 3
Petitioner :
: No. 106 DB 2019
v. :
: Attorney Registration No. 26414
JOHN M. KERR, :
: (Cumberland County)
Respondent :
:

ORDER

PER CURIAM

AND NOW, this this 26th day of February, 2026, upon consideration of the Report and Recommendations of the Disciplinary Board, the Petition for Review, and the Office of Disciplinary Counsel’s Reply, John M. Kerr is disbarred from the practice of law in this Commonwealth, retroactive to July 11, 2019. Respondent shall comply with the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board. See Pa.R.D.E. 208(g).

A True Copy Nicole Traini
As Of 02/26/2026

Attest: Nicole Traini
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 106 DB 2019
Petitioner	:	
	:	
v.	:	Attorney Registration No. 26414
	:	
JOHN M. KERR,	:	
Respondent	:	(Cumberland 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, the Disciplinary Board of the Supreme Court of Pennsylvania (“Board”) herewith submits its findings and recommendations to your Honorable Court with respect to the above-captioned Petition for Discipline.

I. FINDINGS OF FACT

The Board makes the following factual findings:

1. Petitioner, whose principal office is located at Pennsylvania Judicial Center, Suite 2700, 601 Commonwealth Avenue, Harrisburg, Pennsylvania 17106-2485, is invested, pursuant to Pa.R.D.E. 207, with the power and duty to investigate all matters involving alleged misconduct of any attorney admitted to practice law in the Commonwealth and to prosecute all disciplinary proceedings brought in

accordance with the various provisions of said Rules of Disciplinary Enforcement.

2. Respondent, John M. Kerr, was born in 1950 and was admitted to practice in the Commonwealth in 1977. Respondent is subject to the jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.
3. Following his admission to the bar, Respondent worked in the Pennsylvania state government as Executive Deputy Auditor General and in 1978 became involved in a job selling scheme within the Auditor General's Office. N.T. 165, 166. Respondent knew at the time that the conduct was illegal. N.T. 166.
4. By Order dated May 10, 1985, the Supreme Court of Pennsylvania placed Respondent on temporary suspension from the practice of law.
5. By Order dated February 2, 1988, the Court disbarred Respondent on consent following his submission of a verified Statement of Resignation on January 13, 1988. The disbarment on consent was based on Respondent's 1984 conviction in the Court of Common Pleas of Dauphin County of 35 counts of bribery in official and political matters, 32 counts of Pennsylvania Conflict of Interest Act, 1 count of criminal attempt to obstruct administration of law or other governmental function, 34 counts of obstructing administration of law or other governmental function, 35 counts of demanding property to secure employment, and 2 counts of criminal conspiracy.

6. By Order dated June 18, 2007, the Court reinstated Respondent to the practice of law.
7. Following reinstatement, Respondent practiced law as a sole practitioner.
N.T. 181.

Respondent's Misconduct

Misappropriation of Client Funds and Failure to Maintain RPC 1.15(c) Records

8. From at least in or about January 2017 through June 2019, Respondent misappropriated entrusted funds and failed to maintain records fully compliant with RPC 1.15(c). Pet. Disc., ¶¶ 33; Answer, ¶¶ 33; ODC-1(d), Bates 79-81; N.T. 108, 110-111.
9. Respondent conceded that it was his duty and obligation to familiarize himself with the Rules of Professional Conduct related to records required to be maintained for his IOLTA and to ensure such records were maintained (N.T. 110-111), and to properly maintain client funds such that the IOLTA remained in trust. N.T. 119-120.
10. As of December 31, 2016, Respondent should have been holding at least \$170,000 in the IOLTA, as follows: \$150,000 for David Streisfeld, M.D. and \$20,000 for Dolph Pinkerman/G2 Deisel. ODC-1(a), Bates 4 (¶¶12); ODC-1(c), Bates 32-33 (¶¶12); ODC-7, line 1; N.T. 28-29.
11. On December 31, 2016, the balance in Respondent's IOLTA was \$152,308.54. ODC-7, Bates 2520 (line 1), 2530; N.T. 28.

12. The balance in Respondent's IOLTA on December 31, 2016, was \$17,691.46 less than he should have been holding in escrow for Dr. Streisfeld and Mr. Pinkerman/G2 Deisel. ODC-7, line 1; N.T. 30.
13. For the period January 2017 through November 2018, Respondent's IOLTA was out of trust in amounts ranging from \$4,695.21 to \$73,346.21, at minimum. ODC-7, Bates 2520-2528.
14. Respondent admits "there have been deficiencies for clients" and "candidly admit[s] violation of [RPC] 1.15(b)." ODC-1(c), Bates 46.
15. Respondent admits he "utilized client funds in an inappropriate manner, more specifically to cover costs of doing business or for the benefit of another client" ODC-1(a), Bates 11 (¶ 26); ODC-1(c), Bates 51 (¶ 26).
16. On the following dates, between February 2017 and September 2018, Respondent transferred or withdrew the following amounts from his IOLTA, totaling \$122,738.00:
 - a. March 6, 2017 - \$1,925.00 transferred to Respondent's operating account ending in 3214 (Operating Account) (ODC-5(a), Bates 869);
 - b. March 13, 2017 - \$12,000.00 cash withdrawal (ODC-5(a), Bates 870);
 - c. April 7, 2017 - \$500.00 transferred to an account ending in 0375 (ODC-5(a), Bates 875);
 - d. April 14, 2017 - \$1,200.00 withdrawal via check no. 99, made payable as cash (ODC-5(b), Bates 992);
 - e. April 21, 2017 - \$1,000.00 transferred to Respondent's personal checking account ending in 8082 (Personal Checking Account)

(ODC-5(c), Bates 992); at the time of this transfer, the balance in the Personal Checking Account was negative \$755.89 (ODC-5(b), Bates 2121);

- f. July 24, 2017 - \$850.00 transferred to Personal Checking Account (ODC-5(a), Bates 888); at the time of this transfer, the balance in the Personal Checking Account was negative \$843.44 (ODC-5(b), Bates 2110);
- g. July 26, 2017 - \$500.00 withdrawal (ODC-5(a), Bates 888);
- h. August 15, 2017 - \$400.00 transferred to Operating Account (ODC-5(a), Bates 891);
- i. August 25, 2017 - \$2,500.00 transferred to Operating Account (ODC-5(a), Bates 891); these funds were used for check no. 2909 in the amount of \$2,500.00, made payable to Respondent's paralegal, Gloria Fryer (ODC-5(b), Bates 1406, 1410);
- j. August 25, 2017 - \$1,700.00 withdrawal (ODC-5(a), Bates 891);
- k. September 1, 2017 - \$14,000.00 withdrawal (ODC-5(a), Bates 895);
- l. September 5, 2017 - \$1,000.00 transfer to Personal Checking Account (ODC-5(a), Bates 895);
- m. September 12, 2017 - \$600.00 withdrawal (ODC-5(a), Bates 895);
- n. September 15, 2017 - \$1,150.00 transferred to Respondent's Payroll Account ending in 3222 (Payroll Account) (ODC-5(a), Bates 895); the balance in the Payroll Account at the time of this transfer was \$55.00 (ODC-5(c), Bates 2048); on the same day, check number

- 1160, payable to Ms. Fryer, in the amount of \$1,190.00, cleared the account (ODC-5(c), Bates 2050);
- o. September 15, 2017 - \$1,000.00 transferred to Operating Account (ODC-5(a), Bates 895); the balance in the Operating Account before this \$1,000.00 deposit was \$485.30 (ODC-5(b), Bates 1437); the same day, Respondent made two tax payments from the Operating Account in the amounts of \$787.08 and \$94.46 (ODC-5(b), Bates 1437-1438);
 - p. September 18, 2017 - \$300.00 transferred to Operating Account (ODC-5(a), Bates 895);
 - q. October 2, 2017 - \$1,700.00 transferred to Operating Account (ODC-5(a), Bates 899);
 - r. October 12, 2017 - \$4,000.00 transferred to Operating Account (ODC-5(a), Bates 902, 925);
 - s. October 13, 2017 - \$1,190.00 transferred to Payroll Account (ODC-5(a), Bates 925);
 - t. October 16, 2017 - \$1,700.00 transferred to Operating Account (ODC-5(a), Bates 925);
 - u. October 18, 2017 - \$900.00 transferred to Personal Checking Account (ODC-5(c), Bates 1050);
 - v. October 18, 2017 - \$600.00 transferred to Operating Account (ODC-5(c), Bates 1050);
 - w. October 20, 2017 - \$2,500.00 withdrawal (ODC-5(c), Bates 1050);

- x. October 30, 2017 - \$2,000.00 transferred to Operating Account and Payroll Account (ODC-5(c), Bates 1050);
- y. November 1, 2017 - \$2,000.00 withdrawal (ODC-5(a), Bates 905);
- z. November 3, 2017 - \$1,000.00 transferred to Personal Checking Account (ODC-5(a), Bates 905); at the time of this transfer, the balance in the personal checking account was negative \$464.78 (ODC-5(c), Bates 2098); on the same day, Respondent made a payment from the Personal Checking Account to “Cardmember Serv,” in the amount of \$346.07 (ODC-5(c), Bates 2098);
- aa. November 7, 2017 - \$3,000.00 withdrawal (ODC-5(a), Bates 905);
- bb. November 28, 2017 - \$6,000.00 transferred to Operating Account (ODC-5(b), Bates 1045, 1500); the balance in the Operating Account prior to this transfer was \$418.12 (ODC-5(b), Bates 1494); the same day, Respondent issued check no. 4102, in the amount of \$2,750.00, made payable to David Brooks Sr. (ODC-5(b), Bates 1512);
- cc. December 5, 2017 – \$1,000.00 transferred to Operating Account (ODC-5(a), Bates 908);
- dd. December 11, 2017 - \$2,500.00 withdrawal (ODC-5(a), Bates 908);
- ee. December 26, 2017 - \$600.00 withdrawal (ODC-5(a), Bates 908);
- ff. December 26, 2017 - \$400.00 withdrawal (ODC-5(a), Bates 908);
- gg. January 5, 2018 - \$500.00 transferred to Operating Account (ODC-5(b), Bates 1059);

- hh. January 16, 2018 - \$3,500.00 withdrawal (ODC-5(b), Bates 1059);
- ii. January 31, 2018 - \$2,500.00 transferred to Personal Checking Account (ODC-5(b), Bates 1059); the balance in the Personal Checking Account prior to this transfer was negative \$2,409.37 (ODC-5(c), Bates 2221);
- jj. February 1, 2018 - \$1,000.00 withdrawal (ODC-5(a), Bates 916);
- kk. February 5, 2018 - \$4,500.00 withdrawal (ODC-5(a), Bates 916);
- ll. February 7, 2018 - \$1,000.00 transfer to Operating Account (ODC-5(a), Bates 916);
- mm. February 8, 2018 - \$500.00 withdrawal (ODC-5(a), Bates 916);
- nn. March 6, 2018 - \$488.00 withdrawal (ODC-5(a), Bates 920);
- oo. April 24, 2018 - \$2,500.00 transferred to Operating Account (ODC-5(b), Bates 951);
- pp. April 26, 2018 - \$1,250.00 transferred to Operating Account (ODC-5(b), Bates 951);
- qq. June 6, 2018 - \$2,500.00 transferred to Operating Account (ODC-5(b), Bates 955); the balance in the Operating Account at the time of this transfer was negative \$815.76 (ODC-5(c), Bates 1704);
- rr. June 20, 2018 - \$5,500.00 transfer to Operating Account; the balance in the Operating Account at the time of this transfer was \$1,136.02 (ODC-5(b), Bates 1706); the same day, Respondent transferred \$4,000.00 from the Operating Account into his Personal Checking Account (ODC-5(b), Bates 1710); the balance in the

Personal Checking Account at the time of this transfer was negative \$74.95 (ODC-5(c), Bates 2200);

ss. August 1, 2018 - \$1,000.00 withdrawal (ODC-5(c), Bates 1117);

tt. August 2, 2018 - \$1,000.00 withdrawal (ODC-5(c), Bates 1117);

uu. August 6, 2018 - \$2,500.00 transfer to Operating Account (ODC-5(c), Bates 1117); the balance in the Operating Account at the time of this transfer was negative \$1,171.68 (ODC-5(b), Bates 1816);

vv. August 6, 2018 - \$1,000.00 transfer to Operating Account (ODC-5(c), Bates 1117); the balance in the Operating Account at the time of the transfer was \$330.51 (ODC-5(b), Bates 1817);

ww. August 10, 2018 - \$11,500.00 transfer to Operating Account (ODC-5(c), Bates 1117);

xx. August 16, 2018 - \$1,660.00 withdrawal (ODC-5(c), Bates 1117);

yy. September 12, 2018 - \$1,500.00 transfer to Operating Account (ODC-5(c), Bates 1121); the balance in the operating account at the time of this transfer was negative \$169.30 (ODC-5(c), Bates 1886);

zz. September 13, 2018 - \$700.00 transfer to Operating Account (ODC-5(c), Bates 1121); at the time of this transfer, the balance in the Operating Account was \$122.06 (ODC-5(c), Bates 1886);

aaa. September 17, 2018 - \$2,100.00 transfer to Operating Account (ODC-5(c), Bates 1121); the funds were utilized the same day through a series of check card purchases (ODC-5(c), Bates

1887); and

bbb. September 20, 2018 - \$2,325.00 transfer to Personal Checking Account (ODC-5(c), Bates 1121); at the time of this transfer, the balance in the Personal Checking Account was negative \$1,801.36. ODC-5(c), Bates 2187; ODC-1(a), Bates 4-8 (§§ 13; ODC-1(c), Bates 33-34 (§§ 13).

17. Petitioner requested from Respondent records required to be maintained by RPC 1.15(c) for the withdrawals and transfers referenced in paragraph 9. ODC-4(e), Bates 760-765.
18. Respondent failed to provide the requested records to Petitioner demonstrating his entitlement to funds. ODC-5; ODC-7, Bates 2521 (lines 24, 29, 36, 39, 42), 2522 (lines 66, 67), 2523 (line 70, 73, 74, 79, 80, 84, 86-88, 94), 2524 (lines 99-104, 107, 109, 111, 113, 118, 119), 2525 (lines 120, 121, 124-126, 129-132), 2526 (lines 145, 158, 159), 2527 (lines 167, 169), 2528 (lines 192-194, 196, 199, 205-207, 209; N.T. 20-22.
19. Respondent admitted that prior to April 2019 he failed to maintain records required by RPC 1.15(c) and failed to complete monthly reconciliations. ODC-1(c), Bates 44 (§§ 19), 46 (§§ 21); N.T. 108.
20. Respondent admitted his failure to maintain records violated RPC 1.15(b) and (c). ODC-1(c), 44 (§§ 19), 46 (§§ 21); N.T. 109-112.
21. Respondent admitted it was his obligation to know the rules relating to IOLTA accounting. N.T. 111.

Respondent's Misuse of IOLTA

22. On the following dates between February 2017 and March 2018, Respondent transferred or deposited personal funds into his IOLTA on at least five occasions, totaling \$130,063.94, for purposes other than paying service charges on the account, as follows:
- a. February 21, 2017 - \$9,500.00 deposit; these funds were a loan from Respondent's son;
 - b. September 29, 2017 - \$40,063.94 deposit; these funds originated from a liquidation of a retirement account in Respondent's wife's name;
 - c. February 28, 2018 - \$6,500.00 deposit; these funds originated from Respondent's son; this deposit was to help remedy a \$6,674.09 overdraft in the account that was created by Respondent's disbursement of \$45,000.00 to G2 Diesel;
 - d. February 28, 2018 - \$3,000.00 transfer from Operating Account; this transfer was to cover the remainder of the \$6,674.09 overdraft created by the \$45,000.00 disbursement to G2 Diesel;
 - e. March 22, 2018 - \$71,000.00 transfer from Operating Account; these funds were a loan from Respondent's son; the balance in the IOLTA at the time of this transfer was \$2,000.00; on April 18, 2018, Respondent used these funds to make payment to Cunningham, Chernicoff & Warshawsky, P.C., on behalf of G2 Diesel;
 - f. September 6, 2018 - \$4,600.00 deposit; these funds originated from a \$9,000.00 check Respondent received as payment for services he

provided to his client Sammie Lane and constituted Respondent's earned fees;

- g. January 17, 2019 - \$12,000.00 transfer from Operating Account;
- h. June 14, 2019 - \$25,755.50 deposit; these funds were a loan from a family member. ODC-1(a), Bates 8-9 (¶ 15); ODC-1(c), Bates 35-36 (¶ 15); ODC-1(d), Bates 79-81; ODC-1(e), Bates 86; ODC-7, Bates 2520 (line 14); 2525 (lines 139, 140); 2526 (line 146); N.T. 115-119.

- 23. Respondent admitted that he deposited personal funds into his IOLTA. Answer, ¶ 8(c); ODC-1(c), Bates 47 (¶ 22); N.T. 115-116.
- 24. Respondent admitted his deposit of personal funds into the IOLTA violated RPC 1.15(h). ODC-1(c), Bates 47 (¶ 22).
- 25. Respondent deposited personal funds into the IOLTA “[b]ecause it was out of trust. Because of that, you needed to make everything work.” N.T. 116.
- 26. Respondent failed to take steps to determine why the IOLTA was out of trust or to avoid the IOLTA falling out of trust again in the future. N.T. 116-117.

Essis & Sons Matter

- 27. On October 5, 2017, Respondent deposited a \$1,500.00 check from Essis & Sons into his Operating Account. ODC-1(a), Bates 9-10 (¶ 16(a)); ODC-1(c), Bates 37 (¶ 16(d)); ODC-5(c), Bates 1474.
- 28. The \$1,500.00 check was a retainer fee for Respondent's representation of Essis & Sons in a district justice appeal in Lancaster County. ODC-

1(a), Bates 9-10 (¶ 16(a)); ODC-1(c), Bates 37 (¶ 16(d)); ODC-5(f), Bates 2661.

29. Respondent admitted depositing the retainer into his Operating Account. N.T. 121.
30. By letter dated May 7, 2018, Hubert Gilroy, Esquire, advised Respondent that he had been retained by Essis & Sons to take over representation, noted that Respondent had not filed anything on Essis & Sons' behalf in the matter, and requested that Respondent refund Essis & Sons' retainer fee. ODC-5(f), Bates 2661.
31. On May 25, 2018, Respondent issued check no. 1625, in the amount of \$1,500.00, payable to Hubert Gilroy o/b/o Essis & Sons, from the IOLTA. ODC-5(b), Bates 954.
32. In that Respondent deposited Essis & Sons' retainer fee into his Operating Account, on May 25, 2018, there were no Essis & Sons client funds in Respondent's IOLTA as of that date.
33. In paying out funds from his IOLTA to Essis & Sons on May 25, 2018, Respondent utilized other IOLTA funds to cover the \$1,500.00 check.

Dolph Pinkerman/G2 Deisel Matter

34. On February 26, 2018, Respondent issued check no. 1628 from his IOLTA, payable to G2 Deisel, in the amount of \$45,000.00. ODC-5(b), Bates 1062.
35. At the time Respondent issued check no. 1628, he should have been holding \$105,200.00 in the IOLTA on behalf of Mr. Pinkerman/G2 Deisel. ODC-7, Bates 2525 (line 137).

36. The balance in the IOLTA on February 26, 2018, and on February 27, 2018 when check no. 1628 was presented against the IOLTA, was \$38,325.91. ODC-7, Bates 2525 (line 137).
37. On February 27, 2018, the balance in Respondent's IOLTA was insufficient to cover check no. 1628, resulting in a \$6,674.09 overdraft in the IOLTA.
38. On April 18, 2018, Respondent issued a treasurer's check from his IOLTA, in the amount of \$171,510.00, made payable to Cunningham, Chernicoff, & Warshawsky, P.C., on behalf of G2 Deisel/Mr. Pinkerman. ODC-5(c), Bates 1085; ODC-7, Bates 2526 (line 154); N.T. 32.
39. On April 18, 2018, Respondent was only holding \$160,185.00 in the IOLTA for G2 Deisel/Mr. Pinkerman. ODC-7, Bates 2526 (line 153); N.T. 32.

Estate of J. Frank Kautz Matter

40. On June 27, 2018, Respondent deposited a check in the amount of \$19,029.69 into his Operating Account. ODC-1(a), Bates 10 (¶ 16(b)); ODC-1(c), Bates 38; ODC-5(b), Bates 1719; N.T. 121-122.
41. The \$19,029.69 check constituted the remaining balance for a debit card account of J. Frank Kautz, who was deceased. ODC-5, Bates 1720; N.T. 122, 125.
42. Respondent was counsel for the estate of J. Frank Kautz ("Kautz Estate"). ODC-1(c), Bates 11 (¶ 16(b)); N.T. 126.
43. At the time the \$19,029.69 check was deposited into Respondent's Operating Account, the balance in the Operating Account was negative

- \$1,458.21. ODC-5(c), Bates 1707; N.T. 126-127.
44. On July 2, 2018, Respondent issued check number 4069, drawn on his Operating Account, made payable to Venna Kautz, in the amount of \$5,000. ODC-1(c), Bates 69; ODC-5(c), Bates 1740; N.T. 128.
45. On the memo line of check number 4069, Respondent wrote "partial proceeds." ODC-5(c), Bates 1740; N.T. 128.
46. On July 10, 2018, Respondent issued the following checks from his IOLTA on behalf of the Kautz Estate:
- a. check no. 1632, in the amount of \$4,223.00, payable to Sullivan Funeral Home; and
 - b. check no. 1633, in the amount of \$174.35, payable to Reading Eagle Company. ODC-5(c), Bates 1101; ODC-1(c), Bates 69; ODC-7, Bates 2527 (lines 184-185).
47. On July 10, 2018, at the time he issued check nos. 1632 and 1633 for expenses relating to the Kautz Estate, Respondent's IOLTA did not include any funds attributable to the Kautz Estate.
48. In paying out funds from his IOLTA to Sullivan Funeral Home and Reading Eagle Company on behalf of the Kautz Estate, Respondent improperly utilized funds entrusted to other clients, to cover the July 10, 2018 checks.
49. Following the July 10, 2018, disbursements, Respondent should have been holding at least \$5,472.09 attributable to the Kautz Estate. ODC-1(c), Bates 69.

50. By July 27, 2018, the balance in Respondent's Operating Account was negative \$51.73. ODC-5(c), Bates 1730.
51. Between July 11, 2018, and July 27, 2018, Respondent did not:
 - a. disburse funds to Ms. Kautz or third parties on behalf of the Kautz Estate; or
 - b. transfer the Kautz Estate funds to the IOLTA. ODC-5(c), Bates 1727-1813; ODC-7, lines 180-188.
52. On June 24, 2019, Respondent issued check number 1663 from his IOLTA, payable to Ms. Kautz, in the amount of \$5,472.05. ODC-7, Bates 2739.
53. On the memo line of check number 1663, Respondent wrote "Final Distribution." ODC-7, Bates 2739.
54. At the time Respondent issued check number 1663, Respondent's IOLTA did not contain any funds belonging to the Kautz Estate.
55. Respondent improperly utilized other IOLTA funds to cover his \$5,472.05 payment to Ms. Kautz.

Pennsylvania Lawyers Fund for Client Security Awards

56. On the following dates, the Pennsylvania Lawyers Fund for Client Security ("Client Security Fund") adjudicated 10 claims against Respondent, resulting in a combined award of \$38,834.59:
 - a. June 17, 2020 - \$1,650.00 award to Margaret Stolar; \$2,500.00 award to Gary Smith; \$2,000.00 award to Paul Columbus and Kenda Mull; and \$2,500.00 award to Steve Juzbasic;

- b. September 10, 2020 - \$8,000.00 award to Brenda Kramer; \$3,084.00 award to Dewayne McCardell; and \$862.50 award to Robert and Renee Hardy;
- c. December 3, 2020 - \$9,237.69 award to Marlene T. Sloat; \$5,000 award to Gregory and Erica Leonard; and
- d. March 24, 2023 - \$4,000.00 award to Steven Ruby.

ODC-8; N.T. 85-86.

- 57. The Client Security Fund approved the awards based on Respondent's dishonest conduct in wrongfully taking funds entrusted to him by the recipients of the awards. See Pa.R.D.E. 513, 514(a)(1)(i)(a).
- 58. Respondent has not made any reimbursement to the Client Security Fund for the awards issued to his former clients. Pet. Disc., ¶ 39; Answer, ¶ 39; ODC-8; N.T. p. 86-87.

Respondent's Temporary Suspension

- 59. On May 29, 2019, Petitioner filed a Petition for Emergency Temporary Suspension and Related Relief pursuant to Pa.R.D.E. 208(f)(1) & (f)(5) seeking Respondent's temporary suspension.
- 60. On June 7, 2019, the Court issued a Rule to Show Cause directing Respondent to, within 10 days, *inter alia*, provide to Petitioner "the records required to be maintained by RPC 1.15(c), for the period of December 1, 2018, to the present." ODC-1(b).
- 61. On June 17, 2019, Respondent submitted a Response to the Rule to Show Cause.

62. Respondent failed to provide Petitioner with complete records as required to be maintained by RPC 1.15(c) for the period of December 1, 2018 through June 7, 2019, as directed by the June 7, 2019 Rule to Show Cause. ODC-1(d), Bates 79-81; N.T. 115.
63. By Order dated July 11, 2019, effective August 10, 2019, the Court placed Respondent on temporary suspension and further directed Respondent to comply with Pa.R.D.E. 217. ODC-1(f).
64. On October 11, 2019, Respondent filed a "Statement of Compliance" with the Board. ODC-1(g), Bates 97.
65. Respondent's "Statement of Compliance" stated, "I have not fully complied with the applicable provisions of Pa.R.D.E. 217. ... There are additional clients and others I need to notify in accordance with Pa.R.D.E. [217] (a), (b), and (c)." ODC-1(g), Bates 98; N.T. 182 ("It was not a complete filing.")
66. During Respondent's temporary suspension, Petitioner continued its investigation of Respondent and there were lengthy potential consent discipline discussions between Petitioner and Respondent. N.T. 133.
67. Between 2019 and prior to September 2023, Respondent did not file a Request for Accelerated Disposition of the disciplinary charges pursuant to Pa.R.D.E. 208(f)(6) ("a respondent-attorney who has been temporarily suspended pursuant to this rule ... shall have the right to request an accelerated disposition of the charges which form the basis for the temporary suspension by filing a notice with the Board and Disciplinary Counsel requesting accelerated disposition.")

68. On September 13, 2023, Petitioner filed a Petition for Issuance of a Rule to Show Cause why an Order of Disbarment should not be Issued Pursuant to Pa.R.D.E. 208(f)(8).
69. On October 19, 2023, the Court issued a Rule to Show Cause, to which Respondent filed an Answer on November 13, 2023.
70. Petitioner filed a Reply to Respondent's Answer on November 15, 2023.
71. On April 1, 2024, the Court discharged the Rule and denied Petitioner's request for disbarment under Pa.R.D.E. 208(f)(8).

The Disciplinary Proceeding at No. 106 DB 2019

72. On April 5, 2024, Respondent filed a Request for Accelerated Disposition of the disciplinary charges pursuant to Pa.R.D.E. 208(f)(6).
73. On May 1, 2024, Petitioner filed a Petition for Discipline against Respondent.
74. Respondent filed an Answer to Petition for Discipline on May 13, 2024.
75. A Hearing Committee ("Committee") was appointed and a pre-hearing conference was held on August 21, 2024.
76. A disciplinary hearing was originally scheduled for October 1, 2024; however, on September 30, 2024, Petitioner filed a Motion for Continuance of the hearing due to Respondent's report of a medical event. By Order dated September 30, 2024, the Board granted the continuance and scheduled a second pre-hearing conference for December 9, 2024, and a disciplinary hearing for January 31, 2025.
77. On December 6, 2024, in lieu of convening the second pre-hearing conference, the Committee Chair issued an order setting forth deadlines

applicable to the proceedings. This order stated that all motions were required to be filed by January 8, 2025.

78. On January 9, 2025, Respondent filed an untimely Motion for a Second Day of Hearing to Accommodate Testimony of Robert H. Davis Jr., Esq. He argued that testimony by Mr. Davis, Respondent's counsel in the 2019 temporary suspension proceeding, was essential to his disciplinary case; Mr. Davis was unavailable for the January 31, 2025 hearing; and therefore, a second date was necessary. Petitioner filed a letter response in opposition to the motion on January 13, 2025. Respondent also filed an untimely Motion in Limine/Objection to Witnesses on January 9, 2025. Petitioner filed an Answer in opposition to the motion on January 13, 2025.
79. By Order dated January 25, 2025, the Committee Chair denied Respondent's Motion for a Second Day of Hearing and Motion in Limine.
80. The Committee convened a hearing on January 31, 2025.
81. Petitioner presented testimony from Suzanne Kreider, an auditor with the Office of Disciplinary Counsel, and Kathryn Morgan, Executive Director of the Pennsylvania Lawyers Fund for Client Security. Petitioner presented exhibits ODC-1 through ODC-9, ODC-A and ODC-B.
82. Respondent appeared pro se. He presented his own testimony and exhibits R-2, R-3, R-6, R-19, and R-11.
83. Respondent testified that as a sole practitioner, he was "just trying to do trials, hearings, and I was not really fully aware, it's my own fault, of all the requirements" as to IOLTA obligations. N.T. 110.

84. When asked what steps he took to understand why his accounts were not in trust or to avoid being out of trust, Respondent testified, “my focus at that point, as a sole practitioner, was just meeting my responsibilities to my clients, which was pretty overwhelming at that time, and I relied on my then paralegal working with Attorney Davis [ethics counsel] to handle anything like that.” N.T. 116-117, 119.
85. In reference to a check for a retainer fee that was deposited into his operating account, which had a negative balance, Respondent testified, “I don’t think I’m vicariously liable for what my paralegal did.” N.T. 122, 123.
86. Respondent maintained that “no client went without their money.” N.T. 118.
87. Respondent testified concerning his partial compliance with Pa.R.D.E. 217. As to required notices sent to clients, he testified “I know that my paralegal at that time...told me she sent them all out to everyone...But she also misrepresented the filing and told me that she had made that filing when in fact she never made that filing.” N.T. 183. He further testified, “I think if a paralegal tells you she made a filing, it’s not my obligation to check and make sure she made the filing.” *Id.*
88. Although Respondent admitted that he committed misconduct, he did not accept full responsibility and failed to express genuine remorse.
89. Respondent testified in mitigation that he performed extensive pro bono work and was actively involved in the Cumberland County Bar Association when he was a licensed lawyer. N.T. 189-193.

90. At the conclusion of the hearing, Respondent again requested a second day of hearing be scheduled to accommodate testimony from Robert H. Davis, Jr., Esquire. The Committee denied Respondent's request. N.T. 198.
91. On April 1, 2025, Petitioner filed a post-hearing brief to the Committee and requested that the Committee recommend to the Board that Respondent be disbarred.
92. On May 2, 2025, Respondent filed a post-hearing brief to the Committee and recommended that in light of the length of his temporary suspension since 2019, any further suspension should not exceed a six month period.
93. By Report filed on June 30, 2025, the Committee concluded that Respondent violated the ethical rules charged in the Petition for Discipline and recommended that Respondent be disbarred retroactive to the effective date of his temporary suspension on August 10, 2019. In making its recommendation, the Committee considered in aggravation Respondent's prior disbarment, lack of remorse and lack of responsibility for his actions. The Committee found no mitigation, concluding that Respondent's arguments concerning his ADHD diagnosis were not persuasive as he produced no evidence that he suffered from a psychiatric disorder that caused his misconduct.
94. On July 16, 2025, Respondent filed a brief on exceptions to the Committee's report and recommendation and raised several objections. Respondent contended the matter should be remanded to the Committee to receive testimony of an additional witness; the Committee wrongly

concluded there was no mitigation; the Committee overreached in its conclusions on aggravation; and Petitioner failed to meet its burden of proof that any of the transfers from Respondent's IOLTA were of unearned funds. Finally, Respondent requested that the Board overturn the Committee's recommendation for disbarment and instead recommend a six month period of suspension.

95. The deadline for Petitioner to file a brief opposing exceptions was August 5, 2025. On October 1, 2025, Petitioner filed a Motion to Accept Brief Opposing Exceptions *Nunc Pro Tunc* with attached brief. The Board granted the motion over Respondent's objection. Petitioner requested that the Board reject Respondent's exceptions and adopt the Committee's findings and recommendation of disbarment.
96. The Board adjudicated this matter at the meeting on October 24, 2025.

II. CONCLUSIONS OF LAW

By his conduct as set forth above, Respondent violated the following Rules of Professional Conduct ("RPC") and Pennsylvania Rules of Disciplinary Enforcement ("Pa.R.D.E."):

1. RPC 1.15(b) – A lawyer shall hold all Rule 1.15 Funds and property separate from the lawyer's own property. Such property shall be identified and appropriately safeguarded.
2. RPC 1.15(c) – Complete records of the receipt, maintenance and disposition of Rule 1.15 Funds and property shall be preserved for a period of five years after termination of the client-lawyer or Fiduciary relationship

or after distribution or disposition of the property, which is later. A lawyer shall maintain the writing required by Rule 1.5(b) (relating to the requirement of a writing communicating the basis or rate of the fee) and the records identified in Rule 1.5(c) (relating to the requirement of a written fee agreement and distribution statement in a contingent fee matter). A lawyer shall maintain books and records for each Trust Account and any other account in which Fiduciary Funds are held pursuant to Rule 1.15(l), as specified in subparts (1) through (4) of this Rule.

3. RPC 1.15(e) – Except as stated in this Rule or otherwise permitted by law or by agreement with the client or third person, a lawyer shall promptly deliver to the client or third person any property, including but not limited to Rule 1.15 Funds, that the client or third person is entitled to receive and, upon request by the client or third person shall promptly render a full accounting regarding the property; Provided, however, that the delivery, accounting, and disclosure of Fiduciary Funds or property shall continue to be governed by the law, procedure and rules governing the requirements of Fiduciary administration, confidentiality, notice and accounting applicable to the Fiduciary entrustment.
4. RPC 1.15(h) – A lawyer shall not deposit the lawyer’s own funds in a Trust Account except for the sole purpose of paying service charges on that account, and only in an amount necessary for that purpose.
5. RPC 8.4(c) – It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation, except that a lawyer may advise, direct, or supervise others, including clients, law

enforcement officers, and investigators, who participate in lawful investigative activities.

6. Pa.R.D.E. 217(a) – A formerly admitted attorney is required to notify their clients in matters other than litigation or administrative proceedings of their temporary suspension.
7. Pa.R.D.E. 217(b) – A formerly admitted attorney is required to notify all clients and opposing counsel in pending litigation and administrative proceedings of their temporary suspension.
8. Pa.R.D.E. 217(c) – A formerly admitted attorney is required to notify persons to whom fiduciary duties were owed and persons with whom they had professional contacts under circumstances where there is a reasonable probability others may infer they continue as an attorney in good standing of their temporary suspension.
9. Pa.R.D.E. 217(e) – Within ten days after the effective date of the temporary suspension, a formerly admitted attorney shall file with the Board a verified statement certifying compliance with Pa.R.D.E. 217.

III. DISCUSSION

This matter is before the Board on Respondent's exceptions to the Committee's Report that unanimously recommended Respondent's disbarment retroactive to August 10, 2019, the effective date of his temporary suspension. For the reasons set forth below, we find no merit to Respondent's exceptions and conclude that disbarment is warranted.

Preliminarily, we address Respondent's request in his brief on exceptions to remand the matter to the Committee to receive testimony from his former counsel, Mr. Davis. On January 9, 2025, Respondent filed a motion requesting a second day of hearing to take Mr. Davis' testimony, which Petitioner opposed. The Committee denied the motion. Respondent orally renewed his motion at the end of the hearing on January 31, 2025; the Committee again denied the motion. After review, we decline to remand this matter. We find the Committee properly denied Respondent's motion, as he failed to establish that the proffered testimony was relevant and necessary, failed to explain why a one day hearing was insufficient, and further failed to explain why the witness was unavailable to testify on January 31, 2025, by a mode other than in-person testimony.

We turn to the substance of this matter. Petitioner bears the burden of proving professional misconduct by clear and convincing evidence. *Office of Disciplinary Counsel v. Anonymous Attorney*, 331 A.3d 523 (Pa. 2025). Upon our independent review,¹ we conclude that Petitioner met its burden to establish that Respondent violated RPC 1.15(b), 1.15(c), 1.15(e), 1.15(h), and 8.4(c) and Pa.R.D.E. 217(a), 217(b), 217(c), and 217(e).

The record evidence demonstrates that Respondent is a previously disbarred lawyer who operated a solo practice after his reinstatement to the bar in 2007. Despite having spent nearly 20 years on disbarment, Respondent did not fully comply with ethical rules after his reinstatement and was placed on temporary suspension by the Court in 2019. The overwhelming evidence established that for

¹ Pursuant to Pa.R.D.E. 208(d)(2), the Board may change the Committee's recommendation.

approximately two and a half years, Respondent failed to maintain required records under RPC 1.15(c), mishandled and misappropriated entrusted client funds, and mismanaged his IOLTA. He freely utilized the funds of his clients as if they were his own, withdrawing entrusted funds as needed to meet his own business and personal expenses. On many occasions, Respondent overdrew his personal and business accounts and used client funds from his IOLTA to cover the shortages. Respondent not only misappropriated client funds that were in his IOLTA, but on occasion skipped any pretense of safeguarding his clients' funds in his IOLTA and instead deposited entrusted funds received on behalf of clients straight into his operating account to use for his own benefit. Respondent's IOLTA was significantly out of trust during the majority of the two and a half year period in question. To replenish the entrusted funds that he had indiscriminately misappropriated, Respondent deposited substantial amounts of personal funds into the IOLTA.

Respondent's Misconduct

RPC 1.15 establishes through its various subparts minimum standards for attorneys to ensure safekeeping of client funds. Respondent failed to meet these standards.

RPC 1.15(b)

Over a period of approximately two and a half years, from January 1, 2017, through June 7, 2019, Respondent misappropriated as much as \$73,346.21 in entrusted funds by "utiliz[ing] client funds in an inappropriate manner, more specifically to cover costs of doing business or for the benefit of another client" ODC-1(a), Bates 11 (¶ 26); ODC-1(c), Bates 51 (¶ 26). Respondent further misappropriated \$19,029.69 belonging to the Kautz Estate and \$1,500.00 belonging to Essis & Sons by

placing the same in his Operating Account and utilizing the funds for office and/or personal expenses. Respondent admits that “there have been deficiencies for clients” and “candidly admit[s] violation of [RPC] 1.15(b).” ODC-1(c), Bates 46.

RPC 1.15(c)

From at least January 1, 2017, through June 7, 2019, Respondent failed to create and preserve complete records of his receipt, maintenance, and disposition of Rule 1.15 Funds and failed to perform any reconciliations of his IOLTA. Respondent admits he failed to maintain records and admits his violation of RPC 1.15(c). The IOLTA records Respondent provided to Petitioner were deplorably deficient, in that he failed to keep records of the client matter, payor/payee, and purpose related to each transaction. Between February 2017 and September 2018, Respondent transferred or withdrew \$122,738.00 from his IOLTA for which he provided no corresponding records supporting his entitlement to those funds. At the disciplinary hearing, Respondent unapologetically and somewhat cavalierly testified, “If they didn’t [*sic*] exist, we couldn’t [*sic*] provide them.” N.T. 115.

RPC 1.15(e)

Respondent had a duty under RPC 1.15(e) to promptly deliver funds to those entitled to receive them. He failed to promptly deliver unearned fees to 10 clients, prompting claims with the Client Security Fund that resulted in a combined award of \$38,834.59.

RPC 1.15(h)

To cover the deficiencies in his IOLTA created by his misappropriation, between February 2017 and March 2018, Respondent transferred or deposited

personal funds into his IOLTA on five occasions, totaling \$130,063.94. Respondent admits his deposit of personal funds into the IOLTA violated RPC 1.15(h).

As to Respondent's RPC 1.15 violations, he suggests that Petitioner bore the burden of demonstrating that the amounts he withdrew from his IOLTA were unearned and that Petitioner failed to meet that burden. Here, Respondent admitted that he deposited large amounts of personal funds into his IOLTA because it was out of trust due to his withdrawals and he also admitted that he failed to maintain the required records that would demonstrate his entitlement to withdraw the client funds. These admissions viewed together point to the conclusion that Respondent withdrew funds from the IOLTA that were unearned.

RPC 8.4(c)

The funds Respondent withdrew from his IOLTA had been placed in his care by clients who trusted and expected that Respondent would scrupulously safeguard and use those funds only for their benefit. Respondent was dishonest and deceitful in violation of RPC 8.4(c), when, from on or about January 1, 2017, through June 7, 2019, he misappropriated entrusted funds for his own benefit.

Pa.R.D.E. 217(a)-(c) and (e)

Following the Court's July 11, 2019 Order placing Respondent on temporary suspension, Respondent failed to notify his clients and third parties of his suspended status, as required by Pa.R.D.E. 217(a)-(c). On October 11, 2019, Respondent filed a "Statement of Compliance" in which he stated, "I have not fully complied with the applicable provisions of Pa.R.D.E. 217. ... There are additional clients and others I need to notify in accordance with Pa.R.D.E. [217] (a), (b), and (c)." ODC-1(g), Bates 98. Respondent has not supplemented or amended his "Statement

of Compliance.” Respondent’s failure to file a verified statement certifying full compliance with the provisions of Pa.R.D.E. 217 within 10 days of the effective date of his suspension violated Pa.R.D.E. 217(e).

Appropriate Discipline

Having concluded that Respondent engaged in professional misconduct, this matter is ripe for the determination of discipline. Disciplinary sanctions serve the dual role of protecting the interests of the public while maintaining the integrity of the bar. *Office of Disciplinary Counsel v. John Keller*, 506 A.2d 872, 875 (Pa. 1986). In assessing the appropriate quantum of discipline, the Board must weigh any aggravating and mitigating circumstances. *Office of Disciplinary Counsel v. Brian J. Preski*, 134 A.3d 1027, 1031 (Pa. 2016).

Considering this record, we find significant aggravating factors. Chiefly, Respondent failed to accept full responsibility for his misconduct and failed to show remorse. See *Office of Disciplinary Counsel v. Matthew James Marcello*, No. 56 DB 2024 (D. Bd. Rpt. 7/8/2025) (S. Ct. Order 9/4/2025) (the Board found in aggravation of discipline that Marcello failed to assume personal responsibility, blamed others for his noncompliance with the rules, and showed little understanding why his ethical violations were of concern). While Respondent conceded he failed to properly segregate and safeguard client funds, failed to maintain required records, deposited non-client funds into his IOLTA, and did not fully comply with Pa.R.D.E. 217 following his temporary suspension, we do not accord great weight to these admissions as a full-throated acknowledgment of wrongdoing. Throughout these disciplinary proceedings, Respondent refused to acknowledge the full extent of his misconduct, falling back on his explanation that he was a sole practitioner and was busy “handling things in court”

and “meeting my responsibilities to clients.” N.T. 117, 119. The record further shows that during his testimony Respondent cast blame on his former paralegal and former ethics attorney before eventually admitting responsibility.

Respondent’s testimony demonstrated an overall lack of insight and appreciation as to his obligations to clients and the consequences of his unethical actions. He continued to advance his self-serving contention that no client was deprived of funds due to his misconduct, clearly a fallacious position considering the evidence that the Lawyers Fund for Client Security paid awards totaling \$38,834.59 to 10 of Respondent’s former clients. Regarding the Fund, we note Respondent’s continuing failure to reimburse that entity for the 10 awards it paid on his behalf. These awards were made in June 2020, September 2020, December 2020, and March 2023. There is no evidence of record that Respondent has reimbursed any of the moneys or made any effort to contact the Fund about reimbursement. Respondent’s refusal to acknowledge these debts further illustrates his failure to accept responsibility for his serious misconduct.

Another weighty aggravating factor is Respondent’s record of discipline. *See Office of Disciplinary Counsel v. William D. Hobson*, No. 154 DB 2019 (D. Bd. Rpt. 11/24/2021) (S. Ct. Order 2/11/2022) (the Board gave weight in aggravation to Hobson’s prior disbarment for criminal conduct that occurred 25 years before his later unrelated misconduct). Here, Respondent was admitted to practice in 1977 and one year after admission knowingly engaged in criminal activity that led to his 1984 conviction of 139 criminal counts related to a job selling scheme in the Pennsylvania Office of Auditor General. Respondent was placed on temporary suspension in 1985 and disbarred on consent in 1988. Respondent was reinstated in 2007. This

disciplinary history reveals that from 1978 until 2007, a period of nearly 30 years, Respondent was either engaged in criminal conduct, engaged in criminal proceedings, or removed from the practice of law by court order.

The record makes plain that this concerning history of discipline did not cause Respondent any deeper appreciation for complying with his ethical duties upon reinstatement in 2007. Instead, within 10 years of reinstatement from disbarment, Respondent engaged in dishonest conduct that breached his fiduciary duties to clients and within 12 years was once again on temporary suspension from practice.

Respondent offers several mitigating factors for consideration. He testified that he provided pro bono services and was actively involved in the Cumberland County Bar Association prior to his temporary suspension. We assess some weight in mitigation to these activities. See *Office of Disciplinary Counsel v. Anthony Charles Mengine*, No. 66 DB 2017 (D. Bd. Rpt. 9/24/2019) (S. Ct. Order 11/26/2019). Respondent referred to a medical diagnosis of ADHD but failed to put forth evidence in mitigation that he suffered from a psychiatric condition that caused his misconduct, pursuant to *Office of Disciplinary Counsel v. Seymour Braun*, 553 A.2d 894 (Pa. 1989). Respondent further contends as mitigation that there was a delay in disciplinary proceedings during his temporary suspension attributable to Office of Disciplinary Counsel. On review, we find no delay that would merit mitigation. While nearly five years passed between Respondent's temporary suspension in 2019 and Petitioner's filing of the Petition for Discipline in 2024, the record reveals that Petitioner continued its investigation and its discussions with Respondent during this time frame. As well, Respondent never exercised his right to request accelerated disposition of the

matter until 2024.² Finally, Respondent argues in mitigation that his prior discipline is remote and not related in kind to his current matter. This is not a mitigating factor. As discussed above, precedent establishes that Respondent's prior disbarment, though imposed many years ago based on criminal conduct, remains relevant as an aggravating factor.

We turn to the guiding precedent. While there is no per se rule that mandates disbarment when an attorney misappropriates client funds, the precedent supports disbarment where respondents continually misuse their trust accounts, misappropriate client funds, fail to maintain required records, and otherwise engage in dishonest and deceitful behavior. The Court has held that misappropriation is a serious offense that may warrant disbarment. *Office of Disciplinary Counsel v. Peter James Quigley*, 161 A.3d 800, 808 (Pa. 2017). “[P]roper handling of client money goes to the heart of a lawyer’s obligations to a client and to mishandle such funds abuses the trust between the lawyer and the client.” *Office of Disciplinary Counsel v. John T. Olshock*, 29 DB 2002 (D. Bd. Rpt. 7/30/03) (S. Ct. Order 10/24/2003). An attorney’s misappropriation of client funds “clearly shows that he lacks the most fundamental qualifications and fitness necessary to practice law in this Commonwealth.” *Office of Disciplinary Counsel v. Arlin Ray Thrush*, 160 DB 2011 (D. Bd. Rpt. 8/9/2012) (S. Ct. Order 1/10/2013).

Disbarment is an extreme sanction properly reserved for only the most egregious matters, as it constitutes a termination of the privilege to practice law without

² We disagree with the Committee’s finding that “[t]here is no obligation for ODC to file a Petition for Discipline until Respondent filed for accelerated discipline.” HC Rpt., p. 9 at A. A respondent is not required to request accelerated proceedings; rather, a respondent has the “right” to do so. See Pa.R.D.E. 208(f)(6).

any promise of ultimate reinstatement. *Office of Disciplinary Counsel v. Anthony Cappuccio*, 48 A.3d1231, 1238 (Pa. 2012). The facts and circumstances of this matter are egregious and support disbarment. Considered on its own, Respondent's conduct is entirely inconsistent with the ethical standards of the legal profession in this Commonwealth and indicates his untrustworthiness, dishonesty, and blatant disregard for his fiduciary duties to clients and for the Rules of Professional Conduct. Respondent's lack of accountability, absence of remorse, and prior disbarment in 1988 for criminal conduct that encompassed dishonest activity provide additional sound bases to disbar Respondent in the interests of protecting the public and the integrity of the profession. Respondent's mitigating evidence related to pro bono service and bar association activities is not sufficiently weighty to reduce the need for substantial discipline.

We further recommend that the disbarment be made retroactive to the date of Respondent's temporary suspension imposed on July 11, 2019. Respondent has been removed from the practice of law for more than six years; a prospective sanction would be unduly harsh and without precedent considering the circumstances of the instant matter.

IV. RECOMMENDATION

The Disciplinary Board of the Supreme Court of Pennsylvania unanimously recommends that the Respondent, John M. Kerr, be Disbarred from the practice of law in this Commonwealth, retroactive to July 11, 2019, the date of his temporary suspension from the practice of law.

It is further recommended that the expenses incurred in the investigation and prosecution of this matter are to be paid by the Respondent.

Respectfully submitted,

THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

By: _____
Joshua M. Bloom, Member

Date: _____