

**IN THE SUPREME COURT OF PENNSYLVANIA**

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 2617 Disciplinary Board No. 3
	:	
Petitioner	:	No. 11 DB 2019
	:	
v.	:	Attorney Registration No. 22536
	:	
JEFF LEE LEWIN,	:	(Delaware County)
	:	
Respondent	:	

**ORDER**

**PER CURIAM**

**AND NOW**, this 1<sup>st</sup> day of July, 2019, upon consideration of the Recommendation of the Three-Member Panel of the Disciplinary Board, the Joint Petition in Support of Discipline on Consent is granted, and Jeff Lee Lewin is suspended on consent from the Bar of this Commonwealth for a period of two years. Respondent shall comply with all the provisions of Pa.R.D.E. 217, and pay costs to the Disciplinary Board pursuant to Pa.R.D.E. 208(g).

A True Copy Patricia Nicola  
As Of 07/01/2019

Attest:   
Chief Clerk  
Supreme Court of Pennsylvania

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

OFFICE OF DISCIPLINARY COUNSEL.	:	No. 11 DB 2019
Petitioner	:	
	:	
v.	:	
	:	Attorney Reg. No. 22536
JEFF LEE LEWIN.	:	
Respondent	:	(Delaware County)

**JOINT PETITION IN SUPPORT  
OF DISCIPLINE ON CONSENT  
PURSUANT TO Pa.R.D.E. 215(d)**

Petitioner, the Office of Disciplinary Counsel (hereinafter, "ODC") by Paul J. Killion, Chief Disciplinary Counsel, and Krista K. Beatty, Disciplinary Counsel and Respondent, Jeff Lee Lewin (hereinafter, "Respondent"), through his counsel James C. Schwartzman, Esquire, respectfully petition the Disciplinary Board in support of discipline on consent, pursuant to Pennsylvania Rule of Disciplinary Enforcement ("Pa.R.D.E.") 215(d), and in support thereof state:

1. ODC, whose principal office is situated at Pennsylvania Judicial Center, 601 Commonwealth Ave., Suite 2700, P.O. Box 62485, Harrisburg, Pennsylvania, is invested, pursuant to Pa.R.D.E. 207, 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 aforesaid Enforcement Rules.

2. Respondent, Jeff Lee Lewin, was born April 17, 1951, was admitted to practice law in the Commonwealth of Pennsylvania on February 25, 1976, and maintains his office at 25 W. Second St., Media, Pennsylvania 19063.

<b>FILED</b> <b>05/13/2019</b> <b>The Disciplinary Board of the</b> <b>Supreme Court of Pennsylvania</b>
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3. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

4. Respondent's affidavit stating, *inter alia*, his consent to the recommended discipline is attached hereto as Exhibit "A."

### **SPECIFIC FACTUAL ALLEGATIONS ADMITTED**

#### CHARGE I

#### Susan Rosso/Margaret Mathes matter

5. On or about June 10, 2016, Respondent received a telephone call from Lois Mathes regarding possibly representing her mother-in-law, Margaret Mathes, in drafting new estate planning documents.

6. At that time, Margaret Mathes' daughter, Susan Rosso, was Agent under a Durable General Power of Attorney for her 96-year-old mother, Margaret Mathes.

7. Susan Rosso and Michael Mathes are children of Margaret Mathes.<sup>1</sup>

8. Lois Mathes stated to Respondent that Margaret Mathes was concerned about some of the decisions Susan Rosso was making, but was afraid to confront her.

9. On or about June 17, 2016, Respondent scheduled and confirmed a meeting with Margaret Mathes by telephone call with Lois Mathes.

10. On or about June 21, 2016, Respondent met with Margaret Mathes, her son, Michael Mathes, and her daughter-in-law, Lois Mathes.

11. During the June 21, 2016 meeting, Respondent presented Margaret Mathes with a fee agreement outlining the scope of his representation and fees; Margaret Mathes signed the fee agreement.

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<sup>1</sup> Margaret Mathes passed away in October 2017.

12. At the conclusion of the meeting, Michael Mathes gave Respondent a check for legal services in the amount of \$600.00.

13. At the June 21, 2016 meeting, Respondent provided contact information for Natalie Landro, a principal in the firm of "Only Senior Matters."

14. The following day, Respondent contacted Ms. Landro about Margaret Mathes, and explained that Margaret may be in need of Ms. Landro's services.

15. On June 30, 2016, Respondent again met with Margaret, Michael and Lois Mathes to discuss revising Margaret's will and estate planning documents.

16. During the meeting on June 30, 2016, Respondent recommended that Margaret Mathes meet with Ms. Landro for the purpose of possibly taking over management of her financial matters and/or assuming the role of legal agent through a power of attorney.

17. At that time, Respondent was aware that Margaret Mathes had already designated her daughter, Susan Rosso, as her agent through a power of attorney.

18. On July 12, 2016, Michael, Lois and Margaret Mathes met with Ms. Landro at Margaret Mathes' home. Ms. Landro obtained copies of estate documents from Margaret Mathes during her visit, which she forwarded to Respondent later that same day.

19. Before she left the home, Ms. Landro stated to Margaret Mathes that her fee for the visit was \$200.00.

20. On July 15, 2016, Margaret Mathes, accompanied by Susan Rosso, terminated Respondent's services in a telephone conversation with Respondent.

21. On August 15, 2016, Margaret Mathes, acting through her agent and daughter, Susan Rosso, filed a complaint with the Better Business Bureau ("BBB") against Only Senior Matters, LLC and Ms. Landro.

22. One of the matters raised in the BBB complaint was that Ms. Landro charged \$200 for her visit to Margaret Mathes, in contravention of her published literature which refers to a "free home visit."

23. On August 30, 2016, Respondent, stating that he was acting as counsel for Ms. Landro and Only Senior Matters, LLC, answered the Mathes/Rosso BBB complaint. Respondent's written answer to the BBB complaint filed by his former client, Mathes/Rosso, against his current client, Only Senior Matters, revealed confidential information which Respondent obtained in the course of representing Margaret Mathes.

24. Respondent's written response to the BBB complaint also contained disparaging statements regarding his former client's agent, Susan Rosso.

25. Respondent did not seek Margaret Mathes' permission before agreeing to represent Ms. Landro and Only Senior Matters, LLC in the BBB matter adverse to Ms. Mathes, nor did Respondent seek Margaret Mathes' permission to reveal information relating to his representation of her to the BBB.

26. On October 4, 2016, Margaret Mathes (through her agent, Susan Rosso) wrote Respondent and requested copies of specific papers relating to Respondent's representation of her.

27. Respondent did not answer Ms. Mathes' letter and did not provide copies of the requested documents.

28. After persistent requests from Ms. Rosso, Respondent offered to collect the requested documents only if he was paid for his time.

29. Respondent eventually produced some of the requested materials to Ms. Rosso at no cost, after Disciplinary Counsel strongly suggested he do so.

CHARGE II  
Complaints of Nancy Windsor and Dominic Colella

30. On October 15, 2012, Respondent was named Executor and attorney for the Estate of Marie A. (Mazza) Small ("Estate"), who passed away October 10, 2012.

31. The sole beneficiaries of the Estate are Nancy J. Windsor and Domenic G. Colella<sup>2</sup>. The Estate included two real estate parcels: one property located in Wallingford, Pennsylvania and one property located in Atlantic City, New Jersey.

32. Between October 2012 and December 2013, while cleaning out the Wallingford, property to prepare for sale, U.S. Savings Bonds ("Bonds") with an approximate market value of \$90,000 were located in the home.

33. On or about December 12, 2013, Respondent coordinated the sale of the Wallingford property.

34. On or about December 18, 2013, Respondent redeemed some of the Bonds, in the amount of \$46,980.00, and on December 18, 2013, Respondent distributed \$12,000.00 to Ms. Windsor, and \$12,000.00 to Mr. Colella.

35. On or about March 20, 2014, Respondent redeemed additional Bonds, in the amount of \$27,021.20.

36. In March 2014, Respondent hired a New Jersey attorney to prepare deed paperwork in order to transfer the Atlantic City property to Mr. Colella. On March 27, 2014, referring to the Atlantic City property, Respondent emailed Ms. Windsor and Mr. Colella stating, "Once the deed is recorded, I can make a distribution of \$20,000 apiece." The deed was recorded in or about April 2014.

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<sup>2</sup> Domenic Colella's wife, Theresa Colella ("Mrs. Colella"), at times acted on behalf of and at the direction of her husband.

37. On June 24, 2014, Ms. Windsor emailed Respondent, inquiring about the \$20,000 distribution Respondent stated he would make once the Atlantic City real estate transaction was complete.

38. Respondent did not reply.

39. On July 14, 2014, Ms. Windsor sent another email request to Respondent, again inquiring about finalizing the estate. In Ms. Windsor's emails, she asked: (1) whether Mr. Colella sent checks for the Atlantic City property, and whether the \$20,000 distribution would be made; (2) whether Respondent filed paperwork to complete redemption of the remaining Bonds; and (3) for a general update on the status of finalizing the estate.

40. Respondent did not answer Ms. Windsor's July 14, 2014 email.

41. On July 22, 2014, Ms. Windsor emailed Respondent asking Respondent to call her; Respondent did not reply.

42. On March 15, 2016, Mr. Colella emailed Respondent, stating he had not heard from Respondent for over a year, and the estate had yet to be finalized.

43. In his March 15, 2016 email, Mr. Colella asked Respondent to report on the status of the Bonds.

44. On March 22, 2016, Ms. Windsor emailed Respondent, inquiring about K-1 distribution statements for her 2015 taxes.

45. Respondent replied to Mr. Colella's and Ms. Windsor's emails on March 25, 2016, stating, "It has been far too long since I communicated with you, and I apologize for not responding promptly. . . ." Respondent's email to the beneficiaries stated he planned to prepare a preliminary accounting over that weekend "based on the original tax return, the supplemental tax return, and the receipts and costs associated with the New Jersey property." Respondent also stated, "As soon

as I receive approval of the informal accounting, I will make substantial additional distributions to both of you of essentially the entire remaining balance in the Estate's two accounts, holding back a reserve for payment of my fees."

46. Respondent blamed Mr. Colella for the delay, and stated in his March 25, 2016 email:

My long delay in moving the Estate forward primarily reflected my frustration with Domenic's failure to carry out his obligations with respect to the New Jersey property despite my having made extraordinary efforts to prepare and transmit the deed and other documents within a time-frame imposed by Domenic at the last minute.

47. In a response email on March 25, 2016, Ms. Windsor sought information as to why she would not be receiving a K-1 distribution statement for 2015, and also inquired about the status of the Bond redemption.

48. Respondent answered Ms. Windsor's email that same day, stating, he was "wrong" about not issuing K-1 statements for 2014. Respondent further commented, "doubly so, because I insisted that the accountants were wrong about the necessity of K-1s for your use in preparing your tax returns for 2014."

49. In his March 25, 2016 email, Respondent also admitted that because of his own error in not issuing K-1s for 2014, either (1) the Estate would have to pay tax on the \$20,000 distribution, or (2) Ms. Windsor and Mr. Colella would each have to file amended returns for 2014, reflecting additional income of \$10,000.00 each.

50. As a concession for his error, Respondent's stated in his email that he would "personally pay the cost of preparing amended returns and [would] pay any interest [Ms. Windsor and Mr. Colella] would owe." Alternatively, if the Estate ended up paying the tax, Respondent



agreed to reimburse the Estate for some of those taxes to the extent they exceed the amount Ms. Windsor and Mr. Colella would have paid if they had received timely K-1s for 2014.

51. In his March 25, 2016 email, Respondent also offered Ms. Windsor an apology "for the inconvenience and for my stubbornness last Spring."

52. On March 28, 2016, Respondent emailed Ms. Windsor regarding Estate income for 2015, stating: "I did not complete the accounting over the weekend. I will work on it tonight and tomorrow. Thank you for your patience."

53. On April 11, 2016, Respondent sent an email to Ms. Windsor and Mr. and Mrs. Colella enclosing (1) K-1 forms from the Estate's 2013 tax return; and (2) indicating he would send K-1 forms to amend the 2014 tax returns. Once again, Respondent affirmed he would personally "absorb the cost associated with preparing the amended returns and with any interest or penalties for the delay." Respondent also stated he wasn't sure whether the estate would prepare a return for 2015, but he should have an answer by Tuesday (the tax filing deadline).

54. On May 6, 2016, Ms. Windsor emailed Respondent stating she never heard back from him, and assumed there would not be a K-1 form for 2015.

55. On May 10, 2016, Respondent emailed Ms. Windsor and Mr. Colella, confirming there was no K-1 form for 2015 and stated, "My tax person is away this week, and I will be away next week. By the end of this month we should have the amended tax returns ready for filing."

56. On July 15, 2016, Mrs. Colella emailed Respondent inquiring about the \$20,000 distribution which Respondent stated on April 1, 2016 he would be sending "shortly," and which she reminded Respondent about on May 9, 2016. Respondent did not answer any of these emails.

57. On August 18, 2016, Respondent mailed a \$20,000 distribution check to Mr. Colella, who deposited the check into his personal bank account. Mr. Colella was notified shortly

thereafter by his bank that the check was being returned unpaid, because there were insufficient funds in the account to cover the check.

58. On August 23, 2016, Respondent emailed Mr. Colella and apologized for "failing to make the transfer from the Money Market account to the checking account to cover the \$20,000 check." Respondent further stated that he received notice of the check being returned the day before, and went to the bank to complete the deposit.

59. In his August 23, 2016 email to Mr. Colella, Respondent stated he was sending by overnight mail a replacement check from the Estate, along with a \$50.00 check from his own personal account to cover any NSF fee imposed by Mr. Colella's bank.

60. In another email on August 23, 2016, Respondent advised Mr. Colella and Ms. Windsor that "I will get moving on the death certificates for the bond redemption by the end of this week."

61. On September 12, 2016, Mrs. Colella forwarded to Respondent a delinquent tax notice from the State of New Jersey. Mrs. Colella informed Respondent that he needed to fill out and send a form L-9NR, or Inheritance/Estate Tax return, to the New Jersey Division of Taxation. Respondent answered, stating that Mrs. Colella should forward the notice to him by fax or mail, which she did.

62. On October 17, 2016, Ms. Windsor emailed Respondent about the "loose ends" in the Estate. As of that date, Respondent still had not provided a K-1 statement for 2014 or 2015, nor had he filed a corrected Estate return for 2014, or personally paid the penalties and interest for his error, as he previously stated he would.

63. On October 18, 2016, Respondent replied to Ms. Windsor by email stating, "Your concern is understandable and justified. I will have some results shortly."

64. On November 14, 2016, Ms. Windsor emailed Respondent again, following up on her previous requests for information.

65. Respondent did not respond to Ms. Windsor's email.

66. On January 23, 2017, Ms. Windsor and Mr. Colella each filed separate disciplinary complaints against Respondent.

67. On or about February 7, 2017, Mrs. Colella emailed Respondent, attaching a notice from the New Jersey Department of Treasury, Division of Taxation and tax bill in the estimated amount of \$383,465.75, due to Respondent's failure to file an inheritance tax return.

68. On or about February 16, 2017, ODC sent Respondent a DB-7 Request for Statement of Respondent's Position, notifying him of his lack of diligence with regard to the Estate.

69. In October 2018, Respondent emailed Ms. Windsor and Mr. and Mrs. Colella: (1) stating the New Jersey Department of Revenue was conducting an audit and challenged the \$8,000 sales price of the Atlantic City property, believing the actual market value was higher, and also requesting Mr. Colella make his \$8,000 payment owed to the estate; (2) reporting that the Bonds held in the name of Leonard Mazza had been sold, and the proceeds transferred to the estate; and (3) reporting that he still had not obtained a death certificate for Leonardo Mazza, and had not redeemed \$13,000 in remaining Bonds, but planned to hire a New Jersey attorney to complete this work.

70. Respondent's October 2018 email also states: "Before the end of this month [October 2018], I plan to send you a preliminary informal accounting with more accurate figures."

71. Respondent did not do so.

72. Respondent attempted to redeem the remaining Bonds in March 2019. At that time, Respondent learned that these Bonds were reported lost many years ago, and duplicate Bonds had been issued and redeemed long ago, while the testator, Ms. Small, was still alive.

73. Respondent has not made additional distributions to beneficiaries or finalized the Marie Small estate.

CHARGE III  
Maryann Libertz matter

74. In or about February 2015, Respondent was retained by Maryanne Libertz to represent her with regard to inheritance tax issues concerning the death of her mother, Olga Wrzesniewski, and with regard to the sale and transfer of real estate located at 118 Beechwood Road, Brookhaven, PA ("Property"), which Ms. Libertz owned jointly with her sister, Florence Clark.

75. Respondent was hired only to represent Ms. Libertz; Ms. Clark retained separate counsel from the Rothberg Federman law firm to administer the estate of their late mother, Ms. Wrzesniewski.

76. Respondent agreed to accept a \$3,000.00 retainer, to be drawn from proceeds from the sale of the Property. The retainer would be "refundable to the extent not spent."

77. Prior to settlement on the Property, Respondent advised Ms. Libertz that some of the sale proceeds were going to be placed in an account to settle any outstanding issues from probate of her mother's estate.

78. On June 19, 2015, the Property was sold for \$101,000. At settlement, Ms. Libertz was issued a check in the amount of \$29,514.03 and an additional check in the amount of \$17,500.00 was made out to "Jeff Lewin, IOLTA."

79. Respondent did not timely file an Inheritance Tax Return for Ms. Libertz.

80. Between June 2015 and November 2017, Ms. Libertz attempted to contact Respondent by telephone multiple times, but he did not return her telephone calls.

81. Respondent did not forward to Ms. Libertz the remaining proceeds from sale of the Property until after a disciplinary complaint was filed, in November 2017.

82. In early November 2017, Disciplinary Counsel alerted Respondent to the complaint while discussing the Windsor/Colella matter. Only then did Respondent respond to Ms. Libertz's attempts to contact him.

83. On November 13, 2017, Respondent wrote to Ms. Libertz and apologized for his more than two-year delay in completing distribution of the proceeds from the sale of Ms. Libertz's mother's home.

84. In his November 13, 2017 letter to Ms. Libertz, Respondent stated: "The proceeds of \$17,500 have been sitting in my escrow account since the summer of 2015, and I have taken no steps since that time." Respondent's letter further stated he will "pay any interest due for the untimely filing of the [inheritance tax] Return."

85. Respondent's November 13, 2017 letter to Ms. Libertz also stated:

As a sign of good faith, I am enclosing a check from my trust account in the amount of \$5,000 as a partial distribution of your share of the proceeds. Once the Return has been filed, I will give you another check for \$5,000.00. (If you hand-deliver the signature page, I can hand-deliver that check.) By then I will have a statement for my fees, with an appropriate discount for the delay, and we can distribute the remainder of the funds from my trust account.

86. On November 18, 2017, Respondent again wrote to Ms. Libertz, and enclosed a second check, which he referred to as "your second distribution."

87. Respondent's letter also stated that "we had agreed that my fees would be \$3,000."

88. Contrary to statements made in Respondent's November 13, 2017 letter, Respondent did not give Ms. Libertz "an appropriate discount for the delay."

89. Despite acknowledging Ms. Libertz was entitled to an additional \$1,242.50, Respondent did not immediately forward these funds to her. In his November 18, 2017 letter to Ms. Libertz, Respondent stated he would "settle up" with her when he returned from an out-of-town trip.

90. On November 29, 2017, Respondent emailed Ms. Libertz again, enclosing a check for \$1,242.50.

91. Respondent retained \$3,000.00 of the escrowed fees for himself, as payment for legal fees.

92. On February 14, 2018, ODC sent to Respondent, a Form DB-7 Request for Statement of Respondent's Position based on Ms. Libertz's complaint. In addition, Respondent was asked to provide copies of required records described in RPC 1.15(c) (governing recordkeeping and safekeeping of client property).

93. On March 22, 2018, Respondent provided a Statement of Position, produced some but not all requested documents, and "objected" to production of additional documents "on the grounds that production would be unduly burdensome and costly."

#### Subpoena directed to Respondent

94. On April 4, 2018, ODC served a subpoena on Respondent, demanding production of documents and records which RPC 1.15(c) requires him to maintain.

95. On June 19, 2018, following receipt of the transcript from the May 14, 2018 subpoena return, ODC sent Respondent a DB-7A, putting him on notice of additional allegations.

96. Respondent maintains an IOLTA account at Citizens Bank.

97. Between June 2015 and May 14, 2018, Respondent did not maintain a check register or separately maintained ledger, identifying the purpose of each check, withdrawal and transfer, and the matter involved for each transaction for each trust account, as required under RPC 1.15(c)(2).

98. Between June 2015 and May 14, 2018, Respondent's individual ledger for each trust client also did not reflect the source or nature of all funds received from or on behalf of each client, and did not always include a description of the charges or withdrawals from each account, as required under Rule 1.15(c)(2).

99. Between June 2015 and May 14, 2018, Respondent deposited checks into his IOLTA, and wrote checks against the funds before checking to ensure the deposited funds were credited to the account. For example:

(a) In a matter Respondent described as "Carter Estate," Respondent deposited a \$49,342.85 check into his IOLTA. Without waiting for the deposited check to clear, Respondent immediately wrote checks on uncollected funds.

(b) In a matter Respondent described as "Bertha Laudenbergger Estate," Respondent deposited a check into his IOLTA on March 16, 2016, and distributed checks on the uncollected balance on March 18, 2016.

100. With regard to some client matters, funds have been sitting, undistributed, in Respondent's IOLTA account for years. For example:

(a) With regard to a matter Respondent describes as "Brooks Estate Medicaid Escrow," funds have remained undistributed in Respondent's IOLTA since 2016.

(b) With regard to a matter Respondent describes as "Shaffer Guardianship," a check in the amount of \$8,986.00 was deposited into Respondent's IOLTA on July 20,

2011 and checks were written on that amount. As of May 14, 2018, a balance remained in Respondent's IOLTA, undistributed, since April 4, 2013.

101. Respondent failed to promptly transfer earned fees from IOLTA/client accounts to his operating account.

102. Between June 30, 2015 and May 14, 2018, Respondent did not reconcile each separate client account on a monthly basis.

103. Between June 30, 2015 and May 14, 2018, Respondent did not retain copies of checks written from his IOLTA account.

104. Between June 30, 2015 and May 14, 2018, Respondent failed to balance client accounts, and did not diligently account for client funds.

105. Respondent did not appropriately supervise employees to whom he delegated his responsibilities to comply with RPC 1.15.

#### **SPECIFIC RULES OF PROFESSIONAL CONDUCT VIOLATED**

106. By his conduct as alleged in Paragraphs 5 through 105 above, Respondent violated the following Rules of Professional Conduct:

A. RPC 1.1, which states that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation;

B. RPC 1.3, which states that a lawyer shall act with reasonable diligence and promptness in representing a client;

C. RPC 1.4(a)(2), which states that a lawyer shall reasonably consult with the client about the means by which the client's objectives are to be accomplished;



D. RPC 1.4(a)(3), which states that a lawyer shall keep the client reasonably informed about the status of the matter:

E. RPC 1.4(a)(4), which states that a lawyer shall promptly comply with reasonable requests for information:

F. RPC 1.9(a), which states that a lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent:

G. RPC 1.9(c)(1), which states that an attorney who has formerly represented a client in a matter shall not thereafter use information relating to the representation to the disadvantage of the former client:

H. RPC 1.9(c)(2), which states that an attorney who has formerly represented a client in a matter shall not thereafter reveal information relating to the representation:

I. RPC 1.15(b), which states that 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:

J. RPC 1.15(c)(2), which states that a lawyer shall maintain a check register to include the payee, date, purpose and amount of each check, withdrawal and transfer, the payor, date and amount of each deposit and the matter involved for each transaction:

K. RPC 1.15(c)(4), which states that a lawyer shall maintain a regular trial balance of the individual client trust ledgers, and on a monthly basis, conduct a reconciliation for each fiduciary account:

L. RPC 1.15(e), which states in pertinent part that 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:

M. RPC 1.15(f), which states that when a lawyer is in possession of funds or property in which two or more persons, one of whom may be the lawyer, claim an interest, the funds shall be kept separate by the lawyer until the dispute is resolved and that the lawyer shall promptly distribute all portions of the funds or property as to which the interests are not in dispute:

N. RPC 1.15(h), which states that a lawyer shall not deposit his own funds in a Trust Account except for the sole purpose of paying service charges on that account:

O. RPC 1.15(k), which states that “[a]ll Nonqualified Funds which are not Fiduciary Funds shall be placed in a Non-IOLTA Account or in another investment vehicle specifically agreed upon by the lawyer and the client or third person which owns the funds”:

P. RPC 1.16(a)(1), which states that “a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if the representation will result in violation of the Rules of Professional conduct or other law”:

Q. RPC 1.16(d), which states that upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client’s interests, such as surrendering papers and property to which the client is entitled:

R. RPC 5.3(a), which states that with respect to a non-lawyer employed by or associated with a lawyer, the lawyer shall make reasonable efforts to ensure the firm has in effect measures giving reasonable assurance that the person’s conduct is compatible with the professional obligations of the lawyer:

S. RPC 5.3(b), which states that a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure the person's conduct is compatible with professional obligations of the lawyer:

T. RPC 5.3(c)(1), which states that a lawyer shall be responsible for conduct of a person that would be a violation of the Rules of Professional Conduct if engaged by the lawyer if "the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved"; and

U. RPC 5.3(c)(2), which states that a lawyer shall be responsible for conduct of a person that would be a violation of the Rules of Professional Conduct if engaged in by the lawyer if the lawyer has direct supervisory authority over the person and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

#### **SPECIFIC RECOMMENDATION FOR DISCIPLINE**

107. ODC and Respondent jointly recommend that the appropriate discipline for Respondent's admitted misconduct is a two-year suspension.

108. Respondent hereby consents to that discipline being imposed upon him by the Supreme Court of Pennsylvania. Attached to this Petition is Respondent's executed Affidavit required by Rule 215(d), Pa.R.D.E., stating that he consents to the recommended discipline and including the mandatory acknowledgements contained in Rule 215(d)(1) through (4), Pa.R.D.E.

109. In support of ODC and Respondent's joint recommendation, it is respectfully submitted that there are mitigating circumstances:

a) Respondent has demonstrated remorse and acceptance of responsibility by acknowledging he engaged in misconduct; admitting in his Answer to the Petition for Discipline

and this Consent Petition to violating the charged Rules of Professional Conduct; and by consenting to a two-year suspension; and

b) Respondent is sixty-eight (68) years old and has no record of prior discipline in over forty-two (42) years as a member of the bar.

110. Precedent in similar matters involving lack of diligence, lack of competence, failure to communicate, failure to maintain client accounts and refund unearned fees, and breach of duty to former clients supports the joint recommendation that Respondent be suspended for two years.

Recently, in *Office of Disciplinary Counsel v. Matthew T. Croslis*, 171 DB 2018 (S.Ct. Order 4/15/19), the Supreme Court granted a joint consent petition for two-year suspension where respondent exhibited similar misconduct including lack of competence, neglect, lack of communication and failure to hold fiduciary funds in a Trust account, in multiple matters. Croslis' severe neglect of one client matter caused the civil action to be dismissed. In another matter, Croslis failed to place fiduciary funds in a Trust account. Similarly, in this case Respondent Lewin has admitted severe lack of diligence, lack of competence, poor client communication, and severe deficiencies with regard to record keeping and practice management. *See also Office of Disciplinary Counsel v. Robert B. MacIntyre*, 104 DB 2018 (S.Ct. Order 11/2/18)(the Supreme Court granted the Joint Consent Petition for MacIntyre's one-year and one-day suspension where MacIntyre failed to act with reasonable diligence and failed to communicate in representing two clients). Like Croslis and MacIntyre, Respondent Lewin exhibited a similar lack of diligence and lack of communication with his clients, and admittedly failed to comply with his obligation to properly maintain records for his professional practice.

In *Office of Disciplinary Counsel v. Michael P. Halcovage*, 93 DB 2017 (S.Ct. Order 1/5/18), the Supreme Court accepted the Disciplinary Board's recommendation and granted the

Joint Petition for Halcovage's one-year and one-day suspension on consent for his neglect of an estate matter, misuse of estate assets, failure to respond to Court orders and failure to respond to ODC inquiries. Halcovage failed to respond to numerous rules to show cause and failed to file an accounting, at the court's direction. In another estate matter, Halcovage took an excessive fee, and failed to make disbursement to the heir causing funds to escheat to the state. Like the mitigation in Lewin's matter, mitigation in Halcovage's case included lack of any prior discipline and his demonstrated, albeit belated, acceptance of responsibility by consenting to discipline.

In *Office of Disciplinary Counsel v. Kevin Mark Wray*, 19 DB 2017 (S.Ct. Order 7/6/17), the Supreme Court accepted the Disciplinary Board's recommendation and granted a Joint Consent Petition suspending respondent for one-year and one-day, for his criminal contempt, neglect, failure to communicate, and retention of unearned fees over multiple matters.

In *Office of Disciplinary Counsel v. Michael J. Viscuso*, 108 DB 2016 (S.Ct. Order 4/27/17), the Supreme Court accepted the Disciplinary Board's recommendation and granted the Joint Petition for Viscuso's one-year and one-day suspension. Viscuso failed to satisfy a client's settlement obligation; failed to communicate; and failed to cooperate with ODC's investigation in that Viscuso failed to respond to the DB-7 and Petition for Discipline, and to attend the pre-hearing conference.

In *Office of Disciplinary Counsel v. Perry Lynn Flaugh*, No. 112 DB 2015 (D.Bd. Rpt. 6/15/16)(S.Ct. Order 8/12/16), Flaugh's lack of diligence and communication in representing his client and her parents over a period of eight years culminated with abandonment of his client and her claims, and mishandling approximately \$1,000.00 of funds entrusted to him. The Disciplinary Board weighed Flaugh's lack of previous discipline with the aggravating factor of his misrepresentation to ODC that he had made the \$1,000.00 check out to his client's father, when

he had in fact made it out to himself and negotiated it. Additional aggravating factors were that Flaugh had not reimbursed his client nor shown remorse for his actions. Despite the aggravating factors, Flaugh received a one-year and one-day suspension.

111. The parties agree that the particular facts of this case warrant a two-year suspension. After completing his suspension, Respondent will be required to petition for reinstatement and demonstrate his fitness and competency prior to resuming practice, thus protecting the public and meeting the goals of the disciplinary system.


WHEREFORE, Petitioner and Respondent respectfully request that, pursuant to Pennsylvania Rules of Disciplinary Enforcement 215(e) and 215(g), a three-member panel of the Disciplinary Board review and approve the Joint Petition in Support of Discipline on Consent and file a recommendation with the Supreme Court of Pennsylvania that Respondent receive a two-year suspension and that pursuant to Pa.R.D.E. 215(i), Respondent be ordered to pay all necessary expenses incurred in the investigation and prosecution of this matter pursuant to Pa.R.D.E. 208(g).

Respectfully submitted,

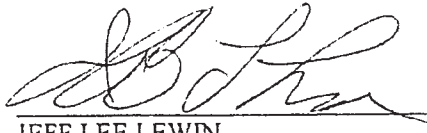
OFFICE OF DISCIPLINARY COUNSEL

PAUL J. KILLION,  
Chief Disciplinary Counsel  
Attorney Reg. No. 20955

Date: 5/13/19

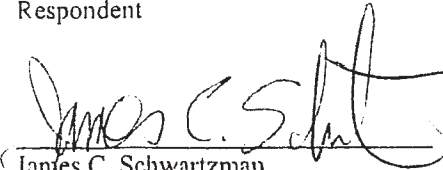
  
KRISTA K. BEATTY  
Disciplinary Counsel  
Attorney Reg. No. 75211  
District II Office  
820 Adams Avenue, Suite 170  
Trooper, PA 19403  
(610) 650-8210

Date: 5/10/2019



JEFF LEE LEWIN  
Respondent

Date: 5/10/2019



James C. Schwartzman  
Counsel for Respondent  
Stevens & Lee  
1818 Market Street, 29<sup>th</sup> Floor  
Philadelphia, PA 19103

**VERIFICATION**

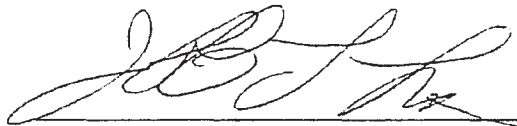
The statements contained in the foregoing *Joint Petition In Support of Discipline on Consent Discipline* are true and correct to the best of my knowledge or information and belief and are made subject to the penalties of 18 Pa.C.S.A. §4904, relating to unsworn falsification to authorities.

5/13/19  
Date



KRISTA K. BEATTY  
Disciplinary Counsel

5/10/2019  
Date



JEFF LEE LEWIN  
Respondent



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

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 11 DB 2019
Petitioner	:	
	:	
v.	:	
	:	Attorney Reg. No. 22536
JEFF LEE LEWIN,	:	
Respondent	:	(Delaware County)

AFFIDAVIT  
UNDER RULE 215(d), Pa.R.D.E.

COMMONWEALTH OF PENNSYLVANIA:  
COUNTY OF DELAWARE:

JEFF LEE LEWIN, being duly sworn according to law, deposes and hereby submits this affidavit consenting to the recommendation of discipline in the form of a two-year suspension in conformity with Pa.R.D.E. 215(d) and further states as follows:

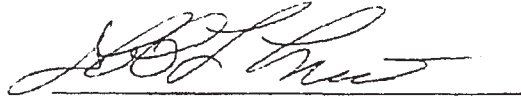
1. He is an attorney admitted to the bar of the Commonwealth of Pennsylvania, on or about February 25, 1976. His license is currently active.
2. He desires to submit a Joint Petition in Support of Discipline on Consent Pursuant to Pa.R.D.E. 215(d).
3. His consent is freely and voluntarily rendered; he is not being subjected to coercion or duress; and he is fully aware of the implications of submitting this affidavit.
4. He is aware that there is presently pending a proceeding involving allegations that he has been guilty of misconduct as set forth in the Joint Petition in Support of Discipline on Consent.
5. He acknowledges that the material facts set forth in the Joint Petition are true.
6. He submits the within affidavit because he knows that if charges predicated upon the matter under investigation were filed, or continued to be prosecuted in the pending proceeding,

he could not successfully defend against them.

7. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant proceeding. He has retained, consulted and acted upon the advice of counsel in connection with his decision to execute the within Joint Petition.

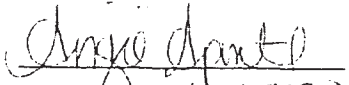
It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S.A. §4904 (relating to unsworn falsification to authorities).

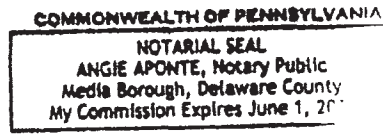
Signed this 10<sup>th</sup> day of May, 2019.



JEFF LEE LEWIN  
Respondent

Sworn to and subscribed  
before me this 10 day  
of May, 2019.

  
Notary Public 6-1-2020



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

OFFICE OF DISCIPLINARY COUNSEL,	:	No. 11 DB 2019
Petitioner	:	
	:	
v.	:	
	:	Attorney Reg. No. 22536
JEFF LEE LEWIN,	:	
Respondent	:	(Delaware County)


**CERTIFICATE OF SERVICE**

I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 204 Pa. Code §89.22 (relating to service by a participant).

By electronic mail, as follows:

James C. Schwartzman, Esquire  
Stevens & Lee  
1818 Market Street, 29<sup>th</sup> Floor  
Philadelphia, PA 19103  
[JCSC@stevenslee.com](mailto:JCSC@stevenslee.com)

Dated: 5-13-19

  
KRISTA K. BEATTY  
Disciplinary Counsel  
Attorney Reg. No. 75211

Office of Disciplinary Counsel  
District II Office  
820 Adams Avenue, Suite 170  
Trooper, PA 19403  
(610) 650-8210

**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Office of Disciplinary Counsel

Signature: *Krista K. Beatty*

Name: Krista K. Beatty

Attorney No. (if applicable): 75211