

IN THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 2760 Disciplinary Docket No. 3
: :
Petitioner : :
: : No. 161 DB 2020
v. : :
: :
: : Attorney Registration No. 1207
GORDON D. FISHER, : :
: :
Respondent : (Allegheny County)

ORDER

PER CURIAM

AND NOW, this 17th day of February, 2023, upon consideration of the Verified Statement of Resignation, Gordon D. Fisher is disbarred on consent from the Bar of this Commonwealth, retroactive to November 13, 2020. See Pa.R.D.E. 215. Respondent shall comply with all of the provisions of Pa.R.D.E. 217 and pay costs to the Disciplinary Board pursuant to Pa.R.D.E. 208(g).

Justice Wecht did not participate in the consideration or decision of this matter.

A True Copy Nicole Traini
As Of 02/17/2023

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,:	No. 161 DB 2020
Petitioner	:
	:
v.	:
	:
GORDON D. FISHER,	Atty. Reg. No. 1207
Respondent	:
	(Allegheny County)

RESIGNATION
UNDER Pa.R.D.E. §215

Gordon D. Fisher hereby tenders his resignation from the practice of law in the Commonwealth of Pennsylvania in conformity with Pa.R.D.E. ("Enforcement Rules") §215 and further states as follows:

1. He is an attorney admitted in the Commonwealth of Pennsylvania, having been admitted to the bar on or about March 22, 1971. His attorney registration number is 1207.

2. He was placed on temporary suspension by Order of the Supreme Court of Pennsylvania dated November 13, 2020.

3. He desires to submit his resignation as a member of said bar.

4. His resignation is freely and voluntarily rendered, he is not being subjected to coercion or duress, and he is fully aware of the implications of submitting the within Resignation statement.

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The Disciplinary Board of the
Supreme Court of Pennsylvania

5. He acknowledges that he has not consulted with or followed the advice of counsel in connection with his decision to execute the within Resignation statement.

6. He is aware that there is presently pending a Petition for Discipline filed in the above-captioned matter, setting forth allegations that he has been guilty of misconduct as set forth in the Petition for Discipline, a true and correct copy of which is attached hereto as Exhibit "A."

7. He prepared and sent to the Prothonotary of the Disciplinary Board an Answer to Petition for Discipline and Request to Be Heard in Mitigation; however, the aforesaid Answer to Petition for Discipline and Request to Be Heard in Mitigation was received several days beyond the due date, and was therefore refused for filing by the Prothonotary. See Disciplinary Board Rules §89.3(b) and Enforcement Rules §208(b)(3). Thereafter, he filed a Motion to Permit Filing Nunc Pro Tunc of Answer to Petition for Discipline and Request to Be Heard in Mitigation, however that Motion was denied by an Order dated December 13, 2022, specifically holding that all factual allegations in the Petition for Discipline are deemed admitted pursuant to Disciplinary Board Rules §89.54 (d). Accordingly, he acknowledges that the material

facts upon which the Petition for Discipline is predicated are deemed to be true.

8. He submits the within Resignation statement because he knows that pursuant to the provisions of the Order dated December 13, 2022, and under Disciplinary Board Rules §89.3(b) and §89.54(d) and Enforcement Rules §208(b)(3), he could not successfully defend himself against the charges of professional misconduct set forth in the Petition for Discipline.

9. He is fully aware that the submission of the within Resignation statement is irrevocable and that he can only apply for reinstatement to the practice of law pursuant to the provisions of Enforcement Rules §218(b) and (c).

10. He is aware that, pursuant to Enforcement Rules §215(c), the fact that he has tendered his resignation shall become a matter of public record immediately upon delivery of the within Resignation statement to Disciplinary Counsel or the Board.

11. Upon entry of the order disbaring him on consent, he will promptly comply with the notice, withdrawal, resignation, trust account, and cease-and-desist provisions of Enforcement Rules §217 (a), (b), (c) and (d).

12. After entry of the order disbaring him on consent, he will file a verified statement of compliance as required by Enforcement Rules §217(e)(1).

13. He is aware that the waiting period for eligibility to apply for reinstatement to the practice of law under Enforcement Rules §218(b) shall not begin until he files the verified statement of compliance required by Enforcement Rules §217(e)(1), and if the order of disbarment contains a provision that makes the disbarment retroactive to an earlier date, then the waiting period will be deemed to have begun on that earlier date.

14. He requests that his disbarment be made retroactive to the date of his temporary suspension. He understands that the Office of Disciplinary Counsel does not oppose his request and that the decision whether to grant retroactivity is solely within the discretion of the Supreme Court of Pennsylvania.

15. He understands and is advised by the Office of Disciplinary Counsel that the filing of the within Resignation statement terminates the hearing scheduled in the above-captioned matter for February 2, 2023, and terminates the temporary suspension proceedings filed at No. 2760 Disciplinary Docket No. 3, File No. C4-19-503.

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

Signed this 31st day of January, 2023.



Gordon D. Fisher

WITNESS: Wesley A. Smith

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	
	:	
Petitioner	:	No. 161 DB 2020
v.	:	
	:	
GORDON D. FISHER,	:	Attorney Registration
	:	No. 1207
	:	
Respondent	:	(Allegheny County)

CERTIFICATE OF COMPLIANCE

I, Gordon D. Fisher, Respondent, hereby certify that the foregoing Resignation Under Pa.R.D.E. §215 complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania, Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.



Gordon D. Fisher, Respondent

January 31, 2023

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL,	:	
	:	
Petitioner	:	No. 161 DB 2020
v.	:	
	:	
GORDON D. FISHER,	:	Attorney Registration
	:	No. 1207
	:	
Respondent	:	(Allegheny County)

CERTIFICATE OF SERVICE

I, Gordon D. Fisher, Respondent hereby certify that a true and correct copy of the foregoing Resignation Under Pa.R.D.E. §215 was emailed on January 31, 2023, to the attorney of record for the Petitioner addressed as follows:

Daniel S. White, Esquire
Office of Disciplinary Counsel
Frick Building, Suite 1300
437 Grant Street
Pittsburgh, Pennsylvania 15219
Danny.White@pacourts.us
dboard.d4@pacourts.us

and to the Special Counsel, Disciplinary Board addressed as follows:

Kimberly M. Henderson, Esquire
The Disciplinary Board of the Supreme Court

of Pennsylvania
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 5600
P. O. Box 62625
Harrisburg, Pennsylvania 17106-2625
Kimberly.Henderson@pacourts.us

and to the Board Prothonotary addressed as follows:

Marcee D. Sloan, Board Prothonotary,
The Disciplinary Board of the Supreme Court
of Pennsylvania
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 5600
P. O. Box 62625
Harrisburg, Pennsylvania 17106-2625
PADBoardfilings@pacourts.us
Marcee.Sloan@pacourts.us

and to the Hearing Coordinator addressed as follows:

Melanie L. Biting, Hearing Coordinator
The Disciplinary Board of the Supreme Court
of Pennsylvania
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 5600
P. O. Box 62625
Harrisburg, Pennsylvania 17106-2625
Melanie.Bitting@pacourts.us

and to the Hearing Committee addressed as follows:

Jason Louis Ott, Esquire
Frost Brown Todd LLC
501 Grant Street, Suite 800
Pittsburgh, Pennsylvania 15219
jott@fbtlaw.com

Joseph Regis Froetschel, Esquire
310 Grant Street
Pittsburgh, Pennsylvania 15219
joe@baldwinmatzus.com

Ryan D. Very, Esquire
Very Law PLLC
500 Grant Street, Suite 2900
Pittsburgh, Pennsylvania 15219
rv@verylaw.com



Gordon D. Fisher, Respondent

January 31, 2023

EXHIBIT A

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. 161 DB 2020
Petitioner :
v. : Attorney Reg. No. 1207
GORDON D. FISHER, :
Respondent : (Allegheny County)

PETITION FOR DISCIPLINE

Petitioner, the Office of Disciplinary Counsel (hereinafter "ODC"), by Thomas J. Farrell, Chief Disciplinary Counsel, and Daniel S. White, Disciplinary Counsel, files the within Petition for Discipline and charges Respondent, Gordon D. Fisher, with professional misconduct in violation of the Rules of Professional Conduct and the Rules of Disciplinary Enforcement as follows:

1. Petitioner, whose principal office is situated at Pennsylvania Judicial Center, 601 Commonwealth Avenue, Suite 2700, P.O. Box 62485, Harrisburg, Pennsylvania 17106 is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement (hereinafter "Pa.R.D.E."), with the power and duty to investigate all matters involving alleged misconduct of any attorney admitted to practice law in the Commonwealth of Pennsylvania

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The Disciplinary Board of the
Supreme Court of Pennsylvania

and to prosecute all disciplinary proceedings brought in accordance with the various provisions of said Rules.

2. Respondent, Gordon D. Fisher, was born in 1945, was admitted to practice law in the Commonwealth of Pennsylvania on March 22, 1971, and has a registered mailing address of 2901 Shady Avenue, Pittsburgh, Pennsylvania 15217.

3. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court of Pennsylvania.

CHARGE

Estate of Caroline R. Brayley

4. On February 29, 2016, Caroline R. Brayley died testate leaving assets in excess of one million five hundred thousand dollars (\$1,500,000.00).

5. The Last Will and Testament of Caroline R. Brayley bequeathed twenty-six percent (26%) of the residue of her estate to charitable organizations.

6. The Last Will and Testament of Caroline R. Brayley appointed Richard Allison as executor.

7. In or about March of 2016, Mr. Allison engaged Respondent to represent him in connection with the administration of the Estate of Caroline R. Brayley.

8. In or about March of 2016, Mr. Allison opened an account at Dollar Bank entitled "Caroline R. Brayley Estate, Estate-Dec, Richard L. Allison, Exec," account number ending in 0926 (hereinafter the "Brayley Estate Account").

9. Respondent was not an authorized signatory on the Brayley Estate Account.

10. Periodic statements regarding the Brayley Estate Account were sent directly to Respondent.

11. Periodic statements regarding the Brayley Estate Account were not sent to Mr. Allison.

12. By check number 93, drawn against the Brayley Estate Account on March 2, 2016, Mr. Allison paid Respondent five thousand dollars (\$5,000.00) for "Retainer for Estate."

13. On March 2, 2016, Respondent deposited this check into an account Respondent maintains at Dollar Bank entitled "Gordon D. Fisher or Wesley B. Scott," account number ending in 0224 (hereinafter "Respondent's Personal Account").

14. Respondent's Personal Account is not a Trust Account or IOLTA.

15. By check number 524, drawn against the Brayley Estate Account on April 1, 2016, Mr. Allison paid Respondent two thousand and five hundred dollars (\$2,500.00) for "Attorney Fees."

16. On April 1, 2016, Respondent deposited this check into Respondent's Personal Account.

17. By letter to Mr. Allison dated April 8, 2016, Respondent indicated that, *inter alia*, he would charge for this representation "on an hourly rate of \$350.00 per hour."

18. On April 13, 2016, Mr. Allison signed this letter.

19. By check number 562, drawn against the Brayley Estate Account on June 8, 2016, Mr. Allison paid Respondent five thousand dollars (\$5,000.00) for "Retainer."

20. On June 13, 2016, Respondent deposited this check into Respondent's Personal Account.

21. On August 15, 2016, Respondent transferred three thousand and five hundred dollars (\$3,500.00) from the Brayley Estate Account to Respondent's Personal Account.

22. By check number 638, drawn against the Brayley Estate Account on November 4, 2016, Mr. Allison paid Respondent five thousand dollars (\$5,000.00) for "Fees."

23. On November 4, 2016, Respondent deposited this check into Respondent's Personal Account.

24. By check number 52950 dated November 4, 2016, Elite Closings, LLC, paid Respondent two thousand seven hundred and sixty-five dollars (\$2,765.00) for "Seller Attorney Fee," which was generated from the sale of real estate belonging to the Estate of Caroline R. Brayley.

25. On November 4, 2016, Respondent deposited this check into Respondent's Personal Account.

26. On November 10, 2016, Respondent transferred five thousand dollars (\$5,000.00) from the Brayley Estate Account to Respondent's Personal Account.

27. On December 8, 2016, Respondent transferred six thousand and five hundred dollars (\$6,500.00) from the Brayley Estate Account to Respondent's Personal Account.

28. On December 16, 2016, Respondent transferred three thousand and five hundred dollars (3,500.00) from the Brayley Estate Account to Respondent's Personal Account.

29. On January 27, 2017, Respondent transferred six thousand and five hundred dollars (\$6,500.00) from the Brayley Estate Account to Respondent's Personal Account.

30. On February 10, 2017, Respondent transferred five thousand and two hundred dollars (\$5,200.00) from the Brayley Estate Account to Respondent's Personal Account.

31. On March 13, 2017, Respondent transferred four thousand seven hundred and fifty dollars (\$4,750.00) from the Brayley Estate Account to Respondent's Personal Account.

32. On April 11, 2017, Respondent transferred five thousand seven hundred and seventy-five dollars (\$5,775.00) from the Brayley Estate Account to Respondent's Personal Account.

33. On May 12, 2017, Respondent transferred five thousand one hundred and twenty-five dollars (\$5,125.00) from the Brayley Estate Account to Respondent's Personal Account.

34. On June 7, 2017, Respondent transferred five thousand three hundred thirty-seven dollars and fifty cents (\$5,337.50) from the Brayley Estate Account to Respondent's Personal Account.

35. On July 12, 2017, Respondent transferred four thousand eight hundred and thirty dollars (\$4,830.00) from the Brayley Estate Account to Respondent's Personal Account.

36. On July 18, 2017, Respondent transferred four thousand eight hundred and thirty dollars (\$4,830.00) from the Brayley Estate Account to Respondent's Personal Account.

37. On August 8, 2017, Respondent transferred six thousand three hundred eighty-seven dollars and fifty cents (\$6,387.50) from the Brayley Estate Account to Respondent's Personal Account.

38. On August 25, 2017, Respondent transferred three thousand six hundred and seventy-five dollars (\$3,675.00) from the Brayley Estate Account to Respondent's Personal Account.

39. On September 7, 2017, Respondent transferred six thousand two hundred twelve dollars and fifty cents (\$6,212.50) from the Brayley Estate Account to Respondent's Personal Account.

40. Mr. Allison did not authorize the transactions set forth in paragraphs 21 and 26-39 *supra*.

41. Respondent did not execute the transactions set forth in paragraphs 21 and 26-39 *supra* for the benefit of the Estate of Caroline R. Brayley or the beneficiaries thereof.

42. Respondent executed the transactions set forth in paragraphs 21 and 26-39 *supra* for his own personal benefit.

43. The sum of the transactions set forth in paragraphs 21 and 26-39 *supra* is seventy-seven thousand one hundred twenty-two dollars and fifty cents (\$77,122.50).

44. Dollar Bank has reimbursed the Estate of Caroline R. Brayley for the unauthorized transactions set forth in paragraphs 21 and 26-39 *supra*.

45. By check number 660, drawn against the Brayley Estate Account on May 15, 2018, Mr. Allison paid Respondent twenty-one thousand seven hundred and fifty dollars (\$21,750.00) for "Retainer on Estate."

46. On May 15, 2018, Respondent deposited this check into Respondent's Personal Account.

47. In October of 2019, Mr. Allison terminated Respondent's representation.

48. By Subpoena *Duces Tecum* dated August 6, 2020, which was issued by ODC, Respondent was commanded to, *inter alia*:

For the time period beginning March 1, 2016, through and including to the present date, provide any and all trust/fiduciary account ledger(s) or other documents (either in hard copy form or electronic) maintained by you relating to the Estate of Caroline Brayley, including but not limited to individual client ledgers, documents evidencing monthly reconciliations of individual client trust ledger(s) to monthly balances of fiduciary account(s) which account for any funds entrusted to you on behalf of the Estate of Caroline Brayley and disbursements made therefrom.

49. By letter to ODC dated August 18, 2020, Respondent provided a "Response to Subpoena Duces Tecum."

50. Respondent represented therein that "[n]o trust/fiduciary accounts were maintained by me in connection with the Estate of Caroline Brayley."

51. Respondent failed to produce any of the periodic statements regarding the Brayley Estate Account that were sent directly to him.

52. Respondent provided no meaningful services in exchange for the payments set forth in paragraphs 12-13, 15-16, 19-23, 26-39 and 45-46 *supra*.

53. On October 14, 2020, ODC filed with the Supreme Court of Pennsylvania a Petition for Emergency Temporary Suspension Order and Related Relief Pursuant to Rule 208(f)(1), Pa.R.D.E., seeking, *inter alia*, Respondent's immediate suspension for violations of RPC 1.15(b), RPC 1.15(i), RPC 8.4(b) and RPC 8.4(c) in connection with the Estate of Caroline R. Brayley.

54. By Order and Rule to Show Cause dated October 26, 2020, the Supreme Court of Pennsylvania, *inter alia*, directed Respondent "to prepare and deliver within ten days of the date of this Order a list of the names and addresses of all clients and other entities he is currently representing in which he is a fiduciary, showing the dates, amounts and circumstances of the

entrustment and current balance thereof, as well as the banks and account numbers in which such funds are currently maintained.”

55. Respondent failed to provide such information to ODC.

56. On November 4, 2020, the Office of the Attorney General filed a Petition for Citation to Show Cause Why Attorney Gordon D. Fisher Should Not Reimburse His Attorney Fees to the Estate and Pay Statutory Interest and Punitive Damages, seeking, *inter alia*, Respondent’s return of the forty-two thousand and fifteen dollars (\$42,015.00) set forth in paragraphs 12-13, 15-16, 19-20, 22-25 and 45-46 *supra*.

57. Respondent entered into a confidential settlement resolving this Petition.

58. Respondent has otherwise failed to return any portion of the one hundred nineteen thousand one hundred thirty-seven dollars and fifty cents (\$119,137.50) that he misappropriated from the Estate of Caroline R. Brayley, as set forth in paragraphs 12-13, 15-16, 19-39 and 45-46 *supra*.

59. By Order dated November 13, 2020, the Supreme Court of Pennsylvania, *inter alia*, placed Respondent on temporary suspension and directed him to “comply with the provisions of Pa.R.D.E. 217” (hereinafter the “Suspension Order”).

60. By letter to Respondent dated November 13, 2020, the Board Prothonotary, *inter alia*, enclosed copies of the Suspension Order and Rule 217, Pa.R.D.E.

61. Respondent received this letter.

62. On November 17, 2020, Respondent filed a Petition for Dissolution or Amendment of Order for Temporary Suspension, challenging service of both the Petition for Emergency Temporary Suspension and Related Relief Pursuant to Rule 208(f)(1), Pa.R.D.E., and the October 26, 2020 Order and Rule to Show Cause.

63. On December 2, 2020, a hearing was conducted regarding this Petition before a designated member of the Disciplinary Board.

64. By Order dated December 23, 2020, the Supreme Court of Pennsylvania denied this Petition.

65. Respondent failed to file a verified statement with the Disciplinary Board averring that he has fully complied with the provisions of the Suspension Order.

66. By letter to Respondent dated December 23, 2020, the Board Prothonotary advised that, *inter alia*, "you have not complied with a specific requirement of the November 13, 2020 Order entered by the Supreme Court. We have not received the verified statement required by Rule 217, Pa.R.D.E."

67. Respondent received this letter.

68. Respondent did not thereafter file a verified statement with the Disciplinary Board averring that he has fully complied with the provisions of the Suspension Order.

69. Respondent failed to notify any clients of his temporary suspension and his consequent inability to act as an attorney after the effective date thereof.

70. The 2020-2021 PA Attorney's Annual Fee Form that Respondent submitted to the Attorney Registration Office on July 1, 2020, indicated that he was admitted and on active status in the following jurisdictions:

- (a) the United States District Court for the Western District of Pennsylvania;
- (b) the United States Court of Appeals for the Third Circuit;
- (c) the Supreme Court of the United States; and
- (d) the United States Tax Court.

71. Respondent failed to notify the United States District Court for the Western District of Pennsylvania of his temporary suspension.

72. Respondent failed to notify the United States Court of Appeals for the Third Circuit of his temporary suspension.

73. Respondent failed to notify the Supreme Court of the United States of his temporary suspension.

74. Respondent failed to notify the United States Tax Court of his temporary suspension.

Estate of Ann Power Wardrop

75. On May 2, 2012, Ann Power Wardrop executed a Trust Agreement creating the Ann Power Wardrop Trust for the benefit of her three (3) daughters, in which she named Respondent and Ralph Roe as Trustees.

76. This Trust Agreement provided for "annual compensation" to Respondent as Trustee "in accordance with the schedule of PNC Bank in Pittsburgh, Allegheny County, Pennsylvania in effect when the services are performed, but not in excess of such compensation as would be approved by a court of competent jurisdiction."

77. A December 2013 auction of Ms. Wardrop's personal property resulted in net proceeds for the Ann Power Wardrop Trust in the amount of thirty-five thousand four hundred fifty-three dollars and forty-six cents (\$35,453.46).

78. In December of 2013, the Ann Power Wardrop Trust received twelve thousand nine hundred fifty-eight dollars and sixty-five cents

(\$12,958.65) from the sale of stock in H.J. Heinz Company, which had been purchased by 3G Capital and Berkshire Hathaway.

79. In addition to the funds set forth in paragraphs 77-78 *supra*, Respondent was entrusted with an additional six thousand seven hundred ninety-two dollars and forty-four cents (\$6,792.44) on behalf of the Ann Power Wardrop Trust representing, *inter alia*, stock dividends.

80. As set forth in paragraphs 77-79 *supra*, Respondent was entrusted with fifty-five thousand two hundred four dollars and fifty-five cents (\$55,204.55) on behalf of the Ann Power Wardrop Trust (hereinafter the "Wardrop Entrusted Funds").

81. Respondent maintained the Wardrop Entrusted Funds in an account at Dollar Bank entitled "The Ann Power Wardrop Trust, Trust, Gordon D. Fisher, Trustee, Ralph Roe, Trustee, UTA Dated May 2, 2012," account number ending in 6767 (hereinafter the "Wardrop Account").

82. By check number 504 dated July 1, 2015, Respondent distributed two thousand and five hundred dollars (\$2,500.00) of the Wardrop Entrusted Funds to himself.

83. By check number 505 dated July 21, 2015, Respondent distributed three hundred three dollars and thirty cents (\$303.30) of the Wardrop Entrusted Funds to himself.

84. On August 17, 2015, Respondent transferred two thousand and five hundred dollars (\$2,500.00) of the Wardrop Entrusted Funds to Respondent's Personal Account.

85. By check number 507 dated October 14, 2015, Respondent distributed two thousand and five hundred dollars (\$2,500.00) of the Wardrop Entrusted Funds to himself.

86. On October 21, 2015, Respondent transferred two thousand and five hundred dollars (\$2,500.00) of the Wardrop Entrusted Funds to Respondent's Personal Account.

87. On November 6, 2015, Respondent transferred two thousand and five hundred dollars (\$2,500.00) of the Wardrop Entrusted Funds to Respondent's Personal Account.

88. On November 16, 2015, Respondent transferred three thousand dollars (\$3,000.00) of the Wardrop Entrusted Funds to Respondent's Personal Account.

89. On November 18, 2015, Respondent transferred one thousand dollars (\$1,000.00) of the Wardrop Entrusted Funds to Respondent's Personal Account.

90. On November 20, 2015, Respondent transferred one thousand and five hundred dollars (\$1,500.00) of the Wardrop Entrusted Funds to Respondent's Personal Account.

91. On November 23, 2015, Respondent withdrew one thousand and five hundred dollars (\$1,500.00) of the Wardrop Entrusted Funds and deposited such funds into an account Respondent maintains at Dollar Bank entitled "Gordon D. Fisher or Wesley B. Scott," account number ending in 0173 (hereinafter the "Fisher/Scott Account").

92. The Fisher/Scott Account is not a Trust Account or IOLTA.

93. On February 1, 2016, Respondent transferred two thousand and five hundred dollars (\$2,500.00) of the Wardrop Entrusted Funds to Respondent's Personal Account.

94. On February 11, 2016, Respondent transferred two thousand dollars (\$2,000.00) of the Wardrop Entrusted Funds to Respondent's Personal Account.

95. On February 29, 2016, Respondent transferred one thousand and five hundred dollars (\$1,500.00) of the Wardrop Entrusted Funds to Respondent's Personal Account.

96. On July 5, 2016, Respondent transferred four thousand and five hundred dollars (\$4,500.00) of the Wardrop Entrusted Funds to the Fisher/Scott Account.

97. On July 12, 2016, Respondent transferred two thousand and five hundred dollars (\$2,500.00) of the Wardrop Entrusted Funds to Respondent's Personal Account.

98. On August 11, 2016, Respondent transferred two thousand and five hundred dollars (\$2,500.00) of the Wardrop Entrusted Funds to Respondent's Personal Account.

99. On August 31, 2016, Respondent transferred two thousand dollars (\$2,000.00) of the Wardrop Entrusted Funds to Respondent's Personal Account.

100. On September 20, 2016, Respondent transferred one thousand seven hundred and fifty dollars (\$1,750.00) of the Wardrop Entrusted Funds to Respondent's Personal Account.

101. On November 23, 2016, Ms. Wardrop died testate.

102. The Will of Ann Power Wardrop appointed Respondent and Mr. Roe as executors of Ms. Wardrop's estate.

103. The Will of Ann Power Wardrop bequeathed Ms. Wardrop's "Residuary Estate" to the Ann Power Wardrop Trust.

104. By check number 510 dated February 8, 2017, Respondent distributed six hundred dollars (\$600.00) of the Wardrop Entrusted Funds to himself.

105. On May 23, 2017, Respondent and Mr. Roe were granted letters testamentary for the Estate of Ann Power Wardrop.

106. On April 6, 2018, Respondent transferred three thousand six hundred and fifty dollars (\$3,650.00) of the Wardrop Entrusted Funds to Respondent's Personal Account.

107. On May 11, 2018, Respondent transferred five hundred dollars (\$500.00) of the Wardrop Entrusted Funds to Respondent's Personal Account.

108. On June 13, 2018, Respondent withdrew two thousand dollars (\$2,000.00) of the Wardrop Entrusted Funds.

109. On July 2, 2018, Respondent transferred two thousand dollars (\$2,000.00) of the Wardrop Entrusted Funds to Respondent's Personal Account.

110. On July 10, 2018, Respondent transferred one thousand dollars (\$1,000.00) of the Wardrop Entrusted Funds to Respondent's Personal Account.

111. Respondent did not execute the transactions set forth in paragraphs 82-91, 93-100, 104 and 106-110 *supra* for the benefit of the Ann Power Wardrop Trust or the beneficiaries thereof.

112. Respondent did not execute the transactions set forth in paragraphs 82-91, 93-100, 104 and 106-110 *supra* for the benefit of the Estate of Ann Power Wardrop or the beneficiaries thereof.

113. Respondent executed the transactions set forth in paragraphs 82-91, 93-100, 104 and 106-110 *supra* for his own personal benefit.

114. The sum of the transactions set forth in paragraphs 82-91, 93-100, 104 and 106-110 *supra* is forty-eight thousand eight hundred three dollars and thirty cents (\$48,803.30).

115. Respondent provided no meaningful services in exchange for the payments set forth in paragraphs 82-91, 93-100, 104 and 106-110 *supra*.

116. Respondent has failed to return any portion of the forty-eight thousand eight hundred three dollars and thirty cents (\$48,803.30) that he misappropriated from the Ann Power Wardrop Trust or the Estate of Ann Power Wardrop.

Estate of Thomas A. Smith

117. At all times relevant hereto Respondent maintained an IOLTA at Dollar Bank entitled "PA Interest on Lawyers Trust Account, Gordon Fisher," account number ending in 7995 (hereinafter the "IOLTA").

118. Respondent is the sole authorized signatory on the IOLTA.

119. On January 15, 2019, Thomas Smith died testate.

120. The Will of Thomas A. Smith appointed Respondent as executor of Mr. Smith's estate.

121. The Will of Thomas A. Smith bequeathed Mr. Smith's "Residuary Estate" to The Congregation of the Servants of Christ-St. Augustine's House and to the Thomas A. Smith Scholarship Fund in the Department of Dairy and Animal Science in the College of Agricultural Sciences at The Pennsylvania State University.

122. On January 31, 2019, Respondent was granted letters testamentary for the Estate of Thomas A. Smith.

123. By Official Check number 2244648 dated February 1, 2019, First Commonwealth Bank paid Thomas A. Smith four thousand nine hundred seventy-two dollars and seventy-six cents (\$4,972.76).

124. On February 5, 2019, Respondent deposited this check into the IOLTA.

125. By Official Check number 028427186 dated February 5, 2019, KeyBank paid "Gordon D. Fisher Extr., Estate of Thomas A. Smith," fifty thousand dollars (\$50,000.00).

126. On February 6, 2019, Respondent deposited this check into the IOLTA.

127. On or before February 7, 2019, Respondent received five hundred sixty-one dollars and ninety-eight cents (\$561.98) in cash on behalf of the Estate of Thomas A. Smith.

128. On February 7, 2019, Respondent deposited these funds into the IOLTA.

129. By check number 657993 dated March 5, 2019, Publishers Clearing House paid Mr. Smith twenty-four dollars and ninety-eight cents (\$24.98).

130. On March 20, 2019, Respondent deposited this check into the IOLTA.

131. By Official Check number 028427244 dated May 9, 2019, KeyBank paid "Gordon D. Fisher, Exec for the Estate of Thomas A. Smith," sixty-eight thousand eight hundred fourteen dollars and seventy-nine cents (\$68,814.79).

132. On May 9, 2019, Respondent deposited this check into the IOLTA.

133. By Official Check number 400416824 dated May 16, 2019, KeyBank paid Thomas A. Smith seventy-six cents (\$0.76).

134. On May 23, 2019, Respondent deposited this check into the IOLTA.

135. By check number 511814 dated February 26, 2020, the FTC v. Office Depot Refund Administrator paid Thomas Smith fifty-four dollars and ten cents (\$54.10).

136. By check number 001438759 dated March 5, 2020, Portico Benefit Services paid the Estate of Thomas A. Smith six thousand dollars (\$6,000.00).

137. On March 10, 2020, Respondent deposited the checks set forth in paragraphs 135-136 *supra* into the IOLTA.

138. By check number K174245 dated March 9, 2020, Thrivent Financial paid the Thomas A. Smith Estate fourteen thousand fifty-eight dollars and sixty-nine cents (\$14,058.69).

139. On March 12, 2020, Respondent deposited this check into the IOLTA.

140. By check number 6160012734 dated October 21, 2019, Citibank, N.A. paid Thomas A. Smith eleven dollars and fifty-seven cents (\$11.57).

141. On April 13, 2020, Respondent deposited this check into the IOLTA.

142. By check number 137640 dated April 13, 2020, Victory Funds paid Thomas A. Smith two thousand four hundred thirty-three dollars and fifty-six cents (\$2,433.56).

143. On April 24, 2020, Respondent deposited this check into the IOLTA.

144. By check number 154212 dated June 22, 2020, the Sirius XM DNC Settlement Administrator paid Thomas Smith thirty-eight dollars and forty-five cents (\$38.45).

145. On July 23, 2020, Respondent deposited this check into the IOLTA.

146. As set forth in paragraphs 123-145 *supra*, between February of 2019 and July of 2020, Respondent was entrusted with one hundred forty-six thousand nine hundred seventy-one dollars and sixty-four cents (\$146,971.64) on behalf of the Estate of Thomas A. Smith (hereinafter the "Smith Entrusted Funds").

147. On February 9, 2019, Respondent transferred five thousand dollars (\$5,000.00) of the Smith Entrusted Funds to Respondent's Personal Account.

148. On February 19, 2019, Respondent transferred five thousand dollars (\$5,000.00) of the Smith Entrusted Funds to Respondent's Personal Account.

149. On March 6, 2019, Respondent transferred ten thousand dollars (\$10,000.00) of the Smith Entrusted Funds to Respondent's Personal Account.

150. On March 12, 2019, Respondent transferred eight thousand one hundred five dollars and thirty-one cents (\$8,105.31) of the Smith Entrusted Funds to Respondent's Personal Account.

151. On April 10, 2019, Respondent transferred eight thousand eight hundred and seventy-five dollars (\$8,875.00) of the Smith Entrusted Funds to Respondent's Personal Account.

152. On May 1, 2019, Respondent transferred six thousand six hundred and twenty-five dollars (\$6,625.00) of the Smith Entrusted Funds to Respondent's Personal Account.

153. On May 13, 2019, Respondent transferred seven thousand and five hundred dollars (\$7,500.00) of the Smith Entrusted Funds to Respondent's Personal Account.

154. On May 29, 2019, Respondent transferred eleven thousand three hundred and seventy-five dollars (\$11,375.00) of the Smith Entrusted Funds to Respondent's Personal Account.

155. On June 11, 2019, Respondent transferred eight thousand seven hundred and sixty-five dollars (\$8,765.00) of the Smith Entrusted Funds to Respondent's Personal Account.

156. On June 24, 2019, Respondent transferred five thousand four hundred and twenty-five dollars (\$5,425.00) of the Smith Entrusted Funds to Respondent's Personal Account.

157. On July 3, 2019, Respondent transferred seven thousand two hundred and fifty dollars (\$7,250.00) of the Smith Entrusted Funds to Respondent's Personal Account.

158. On July 11, 2019, Respondent transferred seven thousand and five hundred dollars (\$7,500.00) of the Smith Entrusted Funds to Respondent's Personal Account.

159. On July 22, 2019, Respondent transferred three thousand seven hundred and fifty dollars (\$3,750.00) of the Smith Entrusted Funds to Respondent's Personal Account.

160. On August 13, 2019, Respondent transferred eight thousand five hundred and seventy-five dollars (\$8,575.00) of the Smith Entrusted Funds to Respondent's Personal Account.

161. On August 29, 2019, Respondent transferred one thousand six hundred and ten dollars (\$1,610.00) of the Smith Entrusted Funds to Respondent's Personal Account.

162. On March 11, 2020, Respondent transferred five thousand dollars (\$5,000.00) of the Smith Entrusted Funds to Respondent's Personal Account.

163. On March 13, 2020, Respondent transferred five thousand dollars (\$5,000.00) of the Smith Entrusted Funds to Respondent's Personal Account.

164. On April 6, 2020, Respondent transferred four thousand seven hundred sixty-four dollars and eight-six cents (\$4,764.86) of the Smith Entrusted Funds to Respondent's Personal Account.

165. On June 5, 2020, Respondent transferred six thousand eight hundred and seventy-five dollars (\$6,875.00) of the Smith Entrusted Funds to Respondent's Personal Account.

166. Respondent did not execute the transactions set forth in paragraphs 147-165 *supra* for the benefit of the Estate of Thomas A. Smith or the beneficiaries thereof.

167. Respondent executed the transactions set forth in paragraphs 147-165 *supra* for his own personal benefit.

168. The sum of the transactions set forth in paragraphs 147-165 *supra* is one hundred twenty-six thousand nine hundred ninety-five dollars and seventeen cents (\$126,995.17).

169. Respondent provided no meaningful services in exchange for the payments set forth in paragraphs 147-165 *supra*.

170. Respondent has failed to return any portion of the one hundred twenty-six thousand nine hundred ninety-five dollars and seventeen cents (\$126,995.17) that he misappropriated from the Estate of Thomas A. Smith.

171. Following the issuance of the Suspension Order, Respondent failed to resign his appointment as Personal Representative of the Estate of Thomas A. Smith.

172. On April 8, 2021, Respondent filed, in his capacity as Personal Representative of the Estate of Thomas A. Smith, a Status Report Under Rule 10.6 with the Register of Wills of Allegheny County, reporting that, *inter alia*, Respondent did not reasonably believe that his administration of the Estate of Thomas A. Smith would be complete until April 5, 2022.

173. On February 9, 2022, Respondent appeared before the Honorable Joseph K. Williams, III, in the matter of *In re: Estate of Thomas A. Smith a/k/a*

Thomas Avery Smith, Deceased, docket number 0689 of 2019 (Court of Common Pleas of Allegheny County, Orphans' Court Division), at which time Respondent had the following exchange with Judge Williams:

THE COURT: Will Counsel identify themselves for the record?

...

MR. FISHER: I'm Gordon Fisher, the Executor of the estate.

...

MR. JOHNS: Your Honor, there is one thing I'd like to bring to the Court's attention. It's the Supreme Court of Pennsylvania, when they placed Gordon D. Fisher on suspension, as part of their order -- the fourth part of their order, where all financial institutions which are -- fiduciary funds shall --

COURT REPORTER: I'm sorry. Slow down.

THE COURT: Yes, slow down and take your mask off. We can't hear you.

MR. JOHNS: I apologize. As part of the order, the fourth part of the order states specifically, all financial institutions in which Respondent, Gordon D. Fisher, holds fiduciary funds shall freeze such accounts pending further action.

THE COURT: Right. So what do you -- how do you plan to deal with that issue?

MR. FISHER: Your Honor, I am -- there's no restriction on me continuing to serve as an executor. And those are not deemed to be part of those funds.

THE COURT: What do you think --

MR. FISHER: My IOLTA account is frozen.

THE COURT: What do you think of that?

MR. JOHNS: Your Honor, this is a fiduciary position. I would argue, and we would argue that the order extends to any fiduciary role Gordon D. Fisher assumes especially in light of the reasons for this order.

THE COURT: Right. I believe that an executor is a fiduciary. I believe they're acting on the behalf of, if nothing else, the estate. They're a fiduciary of the estate.
What do you think?

MR. FISHER: The rules clearly provide that I am to continue to act as an executor and do all that is required as an executor.

174. Respondent's representations that "there's no restriction on me continuing to serve as an executor" and "[t]he rules clearly provide that I am to continue to act as an executor and do all that is required as an executor" are false. Rule 217(d)(3)(i)(ii), Pa.R.D.E.

175. Respondent's implication that he maintained the Smith Entrusted Funds in a separate Trust Account or Non-IOLTA account is false.

176. By Order dated March 10, 2022, Respondent was removed as executor of the Estate of Thomas A. Smith.

177. By letter to Respondent dated February 10, 2022, ODC requested Respondent's Statement of Position regarding allegations that he, *inter alia*, misappropriated one hundred twenty-six thousand nine hundred ninety-five

dollars and seventeen cents (\$126,995.17) from the Estate of Thomas A. Smith and failed to resign as executor of the Estate of Thomas A. Smith following the issuance of the Suspension Order.

178. By letter to ODC dated April 13, 2022, Respondent represented that "the information provided to me by the Supreme Court of Pennsylvania in connection with its Order dated November 11, 2020, indicated that lawyers placed on temporary suspension could continue to serve in a fiduciary capacity such as executor."

179. This representation is false.

Criminal Proceedings

180. On February 8, 2022, Respondent was arrested and charged with, *inter alia*, three (3) counts of theft by failure to make required disposition of funds received in violation of 18 Pa.C.S. § 3927, felonies of the third degree, in connection with the Estate of Caroline R. Brayley, the Ann Power Wardrop Trust and the Estate of Thomas A. Smith.

181. This matter is currently pending in Magisterial District Court 05-0-03 (Allegheny County) at docket number MJ-05003-CR-0006947-2021.

182. By his conduct as alleged in Paragraphs 4 through 181 above, Respondent violated the following Rules of Professional Conduct and Rules of Disciplinary Enforcement:

- (a) RPC 1.1, which provides 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 provides that “[a] lawyer shall act with reasonable diligence and promptness in representing a client”;
- (c) RPC 1.5(a), which provides, in pertinent part, that “[a] lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee”;
- (d) RPC 1.15(b), which provides 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”;
- (e) RPC 1.15(e), which provides, 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”;

- (f) RPC 1.16(d), which provides, in pertinent part, that “[u]pon 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 and refunding any advance payment of fee or expense that has not been earned or incurred”;
- (g) RPC 3.3(a)(1), which provides that “[a] lawyer shall not knowingly make a false statement of material fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer”;
- (h) RPC 4.1(a), which provides that “[i]n the course of representing a client a lawyer shall not knowingly make a false statement of material fact or law to a third person”;
- (i) RPC 8.1(a), which provides, in pertinent part, that “a lawyer...in connection with a disciplinary matter[] shall not knowingly make a false statement of material fact”;
- (j) RPC 8.1(b), which provides, in pertinent part, that “a lawyer...in connection with a disciplinary matter[] shall

not...knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority”;

- (k) RPC 8.4(b), which provides that “[i]t is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects”;
- (l) RPC 8.4(c), which provides that “[i]t is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation”;
- (m) RPC 8.4(d), which provides that “[i]t is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice”;
- (n) Pa.R.D.E. 203(b)(3), which provides that “[w]illful violation of any other provision of the Enforcement Rules” is a ground for discipline;
- (o) Pa.R.D.E. 203(b)(4), which provides that “[f]ailure by a respondent-attorney without good cause to comply with any order under the Enforcement Rules of the Supreme Court, the Board, a hearing committee or special master” is a ground for discipline;

(p) Pa.R.D.E. 217(a), which provides, in pertinent part, that “[a] formerly admitted attorney shall promptly notify, or cause to be promptly notified, all clients being represented in pending matters, other than litigation or administrative proceedings, of the disbarment, suspension, administrative suspension or transfer to inactive status and the consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status and shall advise said clients to seek legal advice elsewhere”;

(q) Pa.R.D.E. 217(b), which provides, in pertinent part, that “[a] formerly admitted attorney shall promptly notify, or cause to be promptly notified, all clients who are involved in pending litigation or administrative proceedings, and the attorney or attorneys for each adverse party in such matter or proceeding, of the disbarment, suspension, administrative suspension or transfer to inactive status and consequent inability of the formerly admitted attorney to act as an attorney after the effective date of the disbarment, suspension, administrative suspension or transfer to

inactive status. The notice to be given to the client shall advise the prompt substitution of another attorney or attorneys in place of the formerly admitted attorney. In the event the client does not obtain substitute counsel before the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status, it shall be the responsibility of the formerly admitted attorney to move in the court or agency in which the proceeding is pending for leave to withdraw. The notice to be given to the attorney or attorneys for an adverse party shall state the place of residence of the client of the formerly admitted attorney”;

- (r) Pa.R.D.E. 217(c)(3), which provides that “[a] formerly admitted attorney shall promptly notify, or cause to be promptly notified, of the disbarment, suspension, administrative suspension or transfer to inactive status any other tribunal, court, agency or jurisdiction in which the attorney is admitted to practice”;
- (s) Pa.R.D.E. 217(d)(3)(i), which provides, in pertinent part, that “[i]n cases of...temporary suspension under Enforcement

Rule 208(f)...a formerly admitted attorney shall also promptly resign all appointments as personal representative, executor, administrator, guardian, conservator, receiver, trustee, agent under a power of attorney, or other fiduciary position"; and

- (t) Pa.R.D.E. 217(e)(1), which provides, in pertinent part, that "[w]ithin ten days after the effective date of the disbarment, suspension, administrative suspension or transfer to inactive status order, the formerly admitted attorney shall file with the Board a verified statement and serve a copy on Disciplinary Counsel. In the verified statement, the formerly admitted attorney shall:...(i) aver that the provisions of the order and these rules have been fully complied with;...(vi) in cases of...temporary suspension under Enforcement Rule 208(f)...aver that he or she has complied with the requirements of paragraph (3) of subdivision (d) of this Rule, and aver that he or she has attached proof of compliance, including resignation notices, evidence of the closing of accounts, copies of cancelled checks and other instruments demonstrating the proper distribution of client and fiduciary

funds, and requests to cancel advertisements and telecommunication listings.”

WHEREFORE, Petitioner prays that your Honorable Board appoint, pursuant to Rule 205, Pa.R.D.E., a Hearing Committee to hear testimony and receive evidence in support of the foregoing charges and upon completion of said hearing to make such findings of fact, conclusions of law, and recommendations for disciplinary action as it may deem appropriate.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

THOMAS J. FARRELL
Chief Disciplinary Counsel



BY:

Daniel S. White
Attorney Registration No. 322574
Disciplinary Counsel
Frick Building, Suite 1300
437 Grant Street
Pittsburgh, PA 15219

VERIFICATION

The statements contained in the foregoing Petition for 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. §4904, relating to unsworn falsification to authorities.

9/14/22
Date



Daniel S. White
Disciplinary Counsel

CERTIFICATE OF COMPLIANCE

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

Submitted by: Office of Disciplinary C

Signature: 

Name: Daniel S. White

Attorney No. (if applicable): 322574